Specific Instance Under OECD Guidelines for Multinational Enterprises

Complainants hereby file a Specific Instance concerning Daewoo International's breaches to the OECD Guidelines for Multinational Enterprises (Guidelines) in relation to its operation of cotton processing facilities in Uzbekistan.

Complainants:

1. Korean Trans National Corporations Watch (South Korea)

KTNC Watch is a network of NGOs based in Korea working in various fields ranging from human rights and corporate social responsibility to energy/climate policy and labor rights. The network was formed with the view to bring together various expertise and experience to monitor transnational corporations registered in Korea and address issues arising from their operations.

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Tel: + 82-2-3478-0529 Fax: + 82-2-3478-0527 Email: sychung@apil.or.kr

2. Cotton Campaign

The Cotton Campaign is a coalition of human rights organisations, trade unions, socially responsible investors and business organizations who are working together to end forced labor of children and adults in the cotton industry in Uzbekistan. Since 2007, the Cotton Campaign has advocated with governments, companies and investors to use their leverage in Uzbekistan to end this continuous and systematic human rights violation.

Contact: Matthew M. Fischer-Daly, Cotton Campaign Coordinator

Tel: +1(347) 2661351; Email: cottoncampaigncoordinator@gmail.com

3. Anti-Slavery International

Anti-Slavery International, founded in 1839, is the world's oldest international human rights organisation and the only charity in the United Kingdom to work exclusively against slavery. We work at local, national and international levels to eliminate all forms of slavery around the world by: supporting research to assess the scale of slavery in order to identify measures to

end it; working with local organisations to raise public awareness of slavery; educating the public about the realities of slavery and campaigning for its end; lobbying governments and intergovernmental agencies to make slavery a priority issue and to develop and implement plans to eliminate slavery.

Contact: Klara Skrivankova, Europe Programme and Advocacy Coordinator

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oecdncp@mfa.no, www.responsiblebusiness.no

Corporations Concerned:

1. Daewoo International

Daewoo International Corporation is Korea's largest trading company and a subsidiary of POSCO.

Jeon ByeongEal, President & CEO
Daewoo International Corporation
10, Tongil-ro, Jung-gu, Seoul 100-753, Korea
Tel: 82-2-759-2114 Fax: 82-2-753-9489

2. POSCO

POSCO (formerly Pohang Iron and Steel Company) is a South Korea-based company engaged in the manufacture of steel products. It is the sixth largest steel company in the world. POSCO

Kwon Ohjoon, Chairman & CEO

POSCO

1, Goedong-Dong, Nam-Gu, POHANG, 790-300, South Korea

Tel: +82-54-220-0114 Fax: +82-54-220-6000 Email: webmaster@posco.co.kr

3. National Pension Service

The National Pension Service(NPS) of Korea has contributed to improving the quality of life for Korean people who need social benefits due to old-age, disability or death, by providing pension benefits.

Choi Kwang, Chairman & CEO

Kumin-Yeonkum Building, 13, Olympic-Ro 35da-Gil, Songpa-Gu, Seoul, Korea

Tel: 1355

4. Norges Bank Investment Management (Norway)

Norges Bank Investment Management manages the fund on behalf of the Ministry of Finance, which owns the fund on behalf of the Norwegian people.

The Government Pension Fund Global

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I. Executive Summary

In Uzbekistan, children and adults are systematically mobilized to produce state-established quotas of cotton under the state-sponsored systems of forced labor. Authorities penalize those who refused to participate in cotton production, and penalties included fines, expulsion from school, job loss, denial of public benefits, and even physical violence. International institutions such as UN Committees and World Bank Inspection Panel and other bilateral governments such as the US and EU have severely condemned Uzbek government's use of forced labor. After a decade of global pressure, the Uzbek government began to reduce the number of children under age 16 forced to pick cotton in 2012 and accepted monitoring by the International Labor Organization in 2013.

However, in 2013, the government continued to use forced labor and forced child labor. Children aged 16 to 17 were still forced to work in the cotton fields, and more adult workers were mobilized. Furthermore, as teachers were forced to work at the cotton fields, students' right to learn was infringed. Some children were even hired by the adult workers for cheaper wages. While allowing ILO monitors into the country, the ILO's mandate was restricted to child labor, and the government hindered monitoring. The Government insisted on the presence of its representatives with all monitors, moved people around to avoid inspections, and instructed people to lie to the monitors.

In 2014, the government of Uzbekistan continued its systematic use of forced labor. Authorities coercively mobilized farmers to meet production quotas and citizens to fulfill harvest quotas, under threat of penalty. The government forced more adults to pick cotton than previous years, including over 50% of most public-sector workers, thereby leaving schools and hospitals understaffed. While officials did not force children to pick cotton nationwide, this year officials forced children to pick cotton in at least three areas, apparently when the officials feared losing their jobs if they did not complete their portion of the national cotton production plan.

Daewoo International has been operating cotton-processing facilities in Uzbekistan through two textile companies, Daewoo Textile Fergana and Daewoo Textile Bukhara, and a joint venture, Global Komsco Daewoo. Despite its awareness of on-going state-sponsored forced labor in the Uzbek cotton sector, Daewoo International has continued to purchase the tainted cotton. This amounts to breaches to the OECD Guideline by failing to: 1) seek to prevent and mitigate human rights abuses directly linked to their operations, not caused by the corporation (violation of Chapter IV. 3 and Chapter II A.12); 2) conduct comprehensive human rights due diligence in its supply chain (violation of Chapter IV. 5 and Chapter II. A. 10); 3) respect human rights of affected persons (violation of Chapter II. A. 2, Chapter IV. 1, Chapter V.1.c., and Chapter V.1.d); and4) avoid causing or contributing to adverse human rights impacts and address such impacts when they occur (violation of Chapter IV. 2 and Chapter II A.11).

In order to comply with the Guidelines, Daewoo International should 1) issue a public statement that states Daewoo International opposes and condemns the use of force labor of children and adults under any circumstances; 2) stop purchasing cotton from Uzbekistan and halt all in-country cotton operations until the International Labor Organisation (ILO) can

verify that the Government of Uzbekistan has ended its forced labor cotton production system; 3) allow an independent third-party to assess and publically report on human rights risks and violations in Daewoo's cotton supply chain in Uzbekistan; 4) use all available means to urge the Uzbek government to stop the use of child labor, including by coalescing companies operating in the textile sector in Uzbekistan to jointly advocate to the Uzbek government to end forced labor in the cotton sector; 5) pay for all costs of remediation, including "reparations" and the costs of monitoring; and 6) not control the payment; instead payments should go into a fund, like a "Human Rights Fund."

POSCO, as a parent corporation of Daewoo International, should seek to prevent or mitigate the real and potential adverse impacts directly linked to its operations through its relationships with Daewoo International. To do so, it should 1) ensure its subsidiary Daewoo International fulfill its human rights due diligence duties by implementing the actions stated herein; 2) guarantee payment of all costs of remediation by Daewoo; and 3) report on progress to its investors.

National Pension Service of Korea and Norges Bank Investment Management, institutional investors of Daewoo International, also have obligation to seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations through their financial relationships with Daewoo International. Therefore, NPS and NBIM should develop, in consultation with the complainants, a clear and credible mitigation strategy that includes: 1) steps to exercise their leverage; 2) if necessary, steps to increase their leverage; and3) the public disclosure of minimum criteria for the continuation of the investment.

II. Daewoo International's Admission and Inadequate Responses

Daewoo International has made public statements acknowledging forced labor in the Uzbek cotton sector and the Uzbek government's total control over the sector. In its on-line statement on Business & Human Rights Resource Center in February 19, 2013, it stated that "To our knowledge and information, as the 90% of the harvested cotton are produced by not the machine but the hand-picking, the Uzbek government had taken advantage of the child labor during the harvest season, from September to November," and "Uzbek children under 15 years old have been hardly forced and however, teenagers over 15 years old have seemed partially forced, as far as we heard. In the countryside where is hardly affected by the government, there has been partially the forced child labor."[1]

In June 11, 2013, Daewoo International also confirmed in a response letter to the Cotton Campaign that "it cannot be free from the issue of alleged forced labor in Uzbekistan."[2] In

[1] http://www.business-humanrights.org/Documents/CottonCampaignHandM

[2] The Cotton Campaign sent the letter to Daewoo International in September 5, 2012, asking to meet its human rights due diligence duties by 1) Stopping purchases of cotton from Uzbekistan until the ILO verifies that the government of Uzbekistan has ended its forced-labor cotton production system, and 2) Establishing independent monitoring and public reporting on human rights risks and violations in Daewoo's cotton supply chain in Uzbekistan (See Appendix H). Daewoo International sent the

August 2014, in its interview with Wall Street Journal, Daewoo International again admitted that "the company is aware of the use of forced labor and child labor during harvests and confirmed that it acquired cotton picked by such workers."[3]

Fully aware of forced labor in their Uzbek cotton supply chains, Daewoo International has continued its operation in Uzbekistan, sourcing forced-labor cotton. It has steadfastly refused to cease purchasing forced-labor cotton and to conduct independent human rights monitoring of its supply chain in Uzbekistan, which are the minimum standard required by the OECD Guidelines. In fact, numerous organizations and companies have engaged Daewoo International to abide the Guidelines by sending letters, removing Daewoo International from their supply chains, and delivering a petition signed by nearly 230,000 people from more than 190 countries asking to stop profiting from the forced labor.[4] However, Daewoo International has not changed its position, claiming inability to influence the Uzbek government to end the practice.

Thus, Daewoo International failed to exercise due diligence regarding human rights violations in the supply chain as well as failed to prevent or mitigate practices that violate human rights; thus, it is in breach of the Guidelines(See *Part V.Breaches to the Guideline*).

III. Forced Labor of Children and Adults in Uzbekistan's Cotton Industry

A. Cotton Production in Uzbekistan

Uzbekistan is one of the largest exporters of cotton in the world. The government of Uzbekistan considers cotton to be strategically important resource for the country. As such, the central government controls every aspect of the cotton production from the very beginning stage of the cotton production:[5]The government requires farmers to fulfill annual state-established cotton production quotas, and sell cotton to state-controlled corporations, under threat of punishment, including the loss of their lease to farm the land, criminal charges and physical abuse. Authorities force children and adults to weed and prepare the cotton fields and, during the harvest, to pick cotton and meet state-established quotas, under threat of punishment, including expulsion from school, loss of employment, docked pay, physical abuse and fines. The only legally allowed infrastructure for the sale and purchase of cotton is the state-run firm (Uzkhlopkoprom, UKP). Then, three state-owned corporations (Uzprommashimpeks, Uzmarkazimpeks, Uzinterimpeks) under the Minister for Foreign Business Relationships, Investments and Trade, sell raw cotton as exports, approximately

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response letter in June 11, 2013 (See Appendix I).

[3] "Posco Unit Admits Using Cotton From Forced and Child Labor," The Wall Street Journal, Aug. 13, 2014, available at http://online.wsj.com/articles/daewoo-faces-criticism-for-use-of-uzbekistan-cotton-made-with-forced-labor-1407918539

[4] The movie clip recording the delivery of petition can be watched at https://www.youtube.com/watch?v=4bXx8QKRJtU

[5] Uzbek-German Forum For Human Rights, "Forced Labor in Uzbekistan: Report on the 2013 Cotton Harvest", May 2014, p.11.

75%, and domestically for processing into yarn and textiles.[6] The Selkozfond, an extra-budgetary fund housed in the Ministry of Finance, controls all financial transactions in the cotton sector. Only the highest-level government officials have access and knowledge of cotton income. The Selkozfond does not even report cotton income and expenditures to the Uzbek Supreme Assembly (OliyMajlis).

B. State-Led Organization of Forced Labor

The widespread and systematic use of forced labor in the cotton sector is a serious and systematic human rights violation by the government of Uzbekistan. Under the state-controlled system of cotton production, the government forcibly mobilizes farmers to cultivate and the general population to harvest cotton. In addition, authorities force children and adults to weed the cotton fields during the springtime. Students are sent to the cotton fields through the education system under the threat of expulsion from school, forced to work under the indecent conditions without proper compensation. Adults are not exempted from the forcible mobilization: farmers, workers in public and private sector, and beneficiaries of the social welfare system are massively mobilized to contribute to the national cotton production plan, with threats to lose their jobs, salaries, and social welfare support.

Due to the continuous international condemnation, mass mobilization of children younger than 16 during the harvest was not observed in 2012 and 2013; however, the government used forced labor of children aged 16 to 17 systematically throughout the country. Moreover, the government shifted heavier burden to adult population to cover the lack of labor force, and workers from different sectors were massively mobilized for the harvest.[7]In 2012 and 2013, as the Uzbek Government shifted the burden of the cotton harvest from children under age 16 to older children and adults, it forced over five million citizens to pick cotton.[8] This number

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[6] Environmental Justice Foundation, "White Gold, The True Cost of Cotton, Uzbekistan, Cotton and the crushing of a Nation", 2005, p.14, 33.

[7] Ibid., p.13.

[8] Two methodologies to estimate the total persons mobilized produce an estimate of over 4 million adults. The estimated cost of the Uzbek government's mobilization of public-sector workers to pick cotton is $211- $291 million, depending on the exchange rate, official or unofficial.

A. According to the Labor Demand:

Assumptions-

1. The annual production target for raw cotton is 3.5 million tons.
2. Almost all cotton is harvested manually. The amount of cotton harvested by machinery is negligible.
3. Over last two years, in 2012 and 2013, the school kids of the age up to 14 years old were released from forced labor in cotton fields. In the previous years, they had to work in cotton fields 45 days in average each season.
4. In 2012 and 2013 the government had to compensate for the loss of school children as the main labor force for harvesting cotton by dramatically increasing the number of adults and university students mobilized for harvest. The number of mobilized high school (colleges and lyceums) students remained unchanged – most of them have been and still are subject to forced labor. According to the Uzbek-German Forum for Human Rights, not less than 1.4 lm high school and university students are being mobilized for cotton harvest each year [See "Cotton — it's not a plant, it's politics": The system of forced labor in Uzbekistan's cotton sector, Berlin: Uzbek-German Forum for Human Rights, 2012, p. 35.]
5. While the high school and university students would stay in the cotton fields for the whole season, 45 days in average, the employees of organizations and enterprises have been mobilized on a rotation

of persons represents over 16% of Uzbekistan's population and far exceeds the total worldwide estimate of persons subjected to state-sponsored forced labor in 2012, of 2.2 million persons.[9]

In 2014, in continuation of changes that began two years ago, the government did not systematically and forcibly mobilize children to harvest cotton, yet it increased forced labor of adults to pick cotton, apparently to compensate for reduced numbers of children. Furthermore, the government failed to end the use of child labor in cotton production as in some regions local authorities forcibly mobilized children, particularly in the later weeks of the harvest, to meet quotas assigned by the same central government authorities that simultaneously decreed that children should not be forced to pick cotton.[10]

C. International Reactions

The United Nations (UN), international institutions and bilateral governments have severely criticized the government of Uzbekistan for its use of forced labor of children and adults.

The Universal Periodic Reviews of Uzbekistan, in 2008 and 2013, highlighted state-sponsored forced labor and forced child labor in cotton industry and recommended that the government eliminate the practice.[11]

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base, for 10 days each round.
6. Although the daily norm of picking cotton for each pickers has varied between 50 – 70kg, in reality productivity has been 30 kg in average.
Taking into account the above assumption, we made the following calculations according to the labor demand:
National production target, kg 3,500,000,000
No of high school and university students mobilized for cotton harvest 1,400,000
No of days the students work in the cotton fields 50
Daily productivity per person, kg 30
The volume of cotton the students would pick over a harvest season, kg 2,100,000,000
Remaining cotton1,400,000,000
10 days productivity (adults), kg 300
No of adults required to pick 1.4 million tons 4,666,667
B. According to the citizens available to the Government to mobilize through state institutions:
Assumptions-
1. This is based on the observations that suggest the universal character of mobilization for cotton wherein the authorities make no exclusion to any category of organizations and enterprises.
2. According to official statistics, there were 12,523,000 people employed in the economy and public institutions in 2013. [Uz24.Uz, March 19, 2014, http://www.uz24.uz/society/chislennosty-naseleniya-uzbekistanauvelichilasy-na-4951-tis.-chelovek.]
According to these assumptions, it would fair to suggest that at least third of this number, approximately four million adults, have been subject to compulsory mobilization for cotton and each worked at least ten days in the cotton field on a rotation base.

[9] International Labor Organisation, Profits and Poverty: The Economics of Forced Labor, Geneva, 2014, page 7

[10] Uzbek-German Forum for Human Rights, "Preliminary Report on Forced Labor During Uzbekistan's 2014 Cotton Harvest," 7 November 2014, http://uzbekgermanforum.org/wp-content/uploads/2014/11/Forced-Labor-During-Uzbekistans-2014-Cotton-Harvest.pdf.

[11] Korean government was one of those countries that commented and recommended Uzbek

The UN Committee on the Rights of the Child expressed concerns regarding forced child labor in cotton sector in terms of right to education as well as economic exploitation in June 2013. It stated "the cotton industry still directly impacts the right to education for children due to the continued involvement of school teachers and children above the age of 16 years". It also noted "the lack of mechanisms for effectively enforcing the permanent prohibition of child labor, particularly in the context of the cotton industry; the continued involvement of children above the age of 16 years in forced labor in the cotton industry; and the lack of positive responses to the recommendation contained in the observations issued in 2011 by the Committee of Experts on the Application of Conventions and Recommendations of the International Labor Organisation (ILO) to accept a high-level tripartite mission and avail itself to ILO technical assistance".

In November 2013, the Committee against Torture (CAT) highlighted forced labor and child labor among the "principle subjects of concern" in Uzbekistan.[12] The CAT recommended "that the State party should end the practice of using forced labor of adults and children in the cotton sector, and permit international and independent national nongovernmental organizations and activists to conduct regular independent monitoring," citing the Uzbek government's duty to prevent acts of degrading treatment or punishment through the effective application of the law and regardless of any public authority's orders.[13]

In December 2013, the World Bank Inspection Panel issued their report on the Request for Inspection of the World Bank's Second Rural Enterprise Support Project (RESP II).[14]The Panel visited with civil society activists and victims of forced labor in Uzbekistan and concluded that the plausible link between bank financing for the agricultural sector and the perpetuation of forced labor raises serious policy compliance issues. Further action by the Inspection Panel depends on progress in the World Bank's policy dialogue with the Uzbek government about ending the use of forced labor in cotton production and the Bank establishing third-party labor rights monitoring of its project activities.

In 2011, the European Parliament voted near-unanimously (603 to 8) to postpone consent to the EU-Uzbekistan textile protocol. The protocol would include textiles in the EU-Uzbekistan Partnership and Cooperation Agreement, leading to most favoured nation status for both parties. The European Parliament concluded: "Parliament will only consider the consent if the ILO observers, have been granted access by the Uzbek authorities to undertake close and unhindered monitoring and have confirmed that concrete reforms have been implemented and yielded substantial results in such a way that the practice of forced labor and child labor is

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government's use of forced labor. Its recommendation, to eliminate possibility of forced child labor in cotton production, was accepted by Uzbek government.

[12] United Nations Committee against Torture, "Concluding observations on the fourth periodic report of Uzbekistan," November 2013, http://tbinternet.ohchr.org/Treaties/CAT/Shared%20Documents/UZB/CAT_C_UZB_CO_4_15833_E.doc.

[13] Ibid.

[14] The World Bank Inspection Panel, "Report and Recommendation: Republic of Uzbekistan- Second Rural Enterprise Support Project (P109126) and Additional Financing for Second Rural Enterprise Support Project (P126962), 9 December 2013, http://siteresources.worldbank.org/EXTINSPECTIONPANEL/Resources/PanelReport_Uzbekistan_SRESP_Dec9_2013.pdf

effectively in the process of being eradicated at national, viloyat and local level."

The United States annual Trafficking in Persons (TIP) Report placed Uzbekistan in the lowest category, Tier 3 in 2013, and maintained the placement in the 2014 report. Tier 3 is reserved for governments that do not comply with minimum standards to combat human trafficking and fail to take adequate steps to address the problem, and it carries the possibility of sanctions. The report confirmed that even after the Uzbek government issued various decrees that reiterated the national laws prohibiting forced labor and child labor, it maintained the forced labor system intact.

In October 2013, the U.S. Customs and Border Protection applied the Tariff Act prohibition on the entry of goods produced with forced labor into the United States. The action reminded the Uzbek government that its continued practice of forced labor to produce cotton prevents companies around the world from legally importing goods into the U.S. that contain Uzbek cotton.

In 2013, after a decade of global pressure, the Uzbek government for the first time granted access to an ILO mission to monitor for the application of ILO Convention No. 182 on the Worst Forms of Child Labor, yet hindered the monitoring. The Government insisted on the presence of its representatives with all monitoring teams and undermined the monitoring, including by moving people around to avoid inspections and instructing people to lie to the monitors. In addition, the ILO mission's mandate was restricted to child labor, leaving aside the broader problem of forced labor. Despite the limitations under which the ILO observed the harvest, their mission report noted the use of child labor, emphasized concerns about the use of forced labor for the cotton harvest, and recommended that the government take action to implement ILO Convention No. 105.[15]

Since signing the Decent Work Country Programme with the ILO in 2014, the Government has not permitted the ILO to conduct the survey of forced labor committed to therein.

D. 2013 Harvest Report

Based on the reports from the civil society groups who visited the Uzbek cotton field during the harvest, it was confirmed that the state-sponsored use of forced labor of child and adults

[15] See International Labor Organization, "ILO High Level Mission Report on the Monitoring of Child Labor During 2013 Cotton Harvest in Uzbekistan," 19 November 2013, Though ILO monitoring mission concluded "forced child labor has not been used on a systematic basis in Uzbekistan to harvest cotton in 2013," this contradicts its own report. The ILO monitors reported that in 8 of 9 high schools ("colleges") they visited, classes were not in session due to cotton picking, and school officials provided no attendance registers or other evidence to support the reasons given to monitors, e.g. that students were engaged in extra-curricular activities. Moreover, the monitoring was not comprehensive to assess the use of forced labor due to methodological limitations: first of all, it did not include observation on pre-harvest stages of work such as sowing and weeding the cotton. Also, all the members in the monitoring team were from representatives of government of Uzbekistan and quasi-governmental or government-controlled organizations. In addition, it was reported that school children were transferred to the fields and classrooms back and forth to evade the ILO's mission. See UGF, "Forced Labor in Uzbekistan: Report on the 2013 Cotton Harvest", pp.17-19.

was widespread and systematic.[16]The policy to mobilize the population from the central government was systematically implemented by regional and local officials throughout the harvest season, commenced in early September and until the end of October in 2013.[17]

1. Continued Forced Child Labor

Though there was no mass mobilization of the children younger than 15, children aged 16 to 17 were taken to the cotton field under the supervision of the school officials in 2013 harvest. It was also reported that children younger than 15 were also present at the field, forced to pick cotton.

The whole procedure of mobilization of the children was systematically organized by the state: parents were forced to agree to send their children to the work at the cotton harvest; in some cases, sending children was a condition to be accepted to the educational institution.[18] Students were taken to the fields in buses from the school in a group. Students were then assigned anywhere close to the field for accommodation: in case where the field was close to the school, schools turned to dormitory[19], but if no school is near the field, cattle shed, containers, tents, or even on the bare ground were assigned.[20]

Most regions have an average daily quota of 60kg per person, although there were some differences by area. In order to complete these daily quotas, students toiled from 7am to 6pm, while in certain occasions, work starts at 6am.[21]Authorities punished students who could not fulfil the quotas with physical abuse, threats of low grades and expulsion from school, and extra work.[22] Some students were even held in custody in case failed to meet the quota.[23]

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[16] Uzbek-German Forum for Human Rights has conducted field research and monitoring during the cotton harvest in Uzbekistan since 2009. They also visited Uzbekistan in 2013 harvest and released "Forced Labor in Uzbekistan: Report on the 2013 Cotton Harvest" in May 2014. The report is available at http://uzbekgermanforum.org/wp-content/uploads/2014/06/Forced-Labor-in-Uzbekistan-Report-2013.pdf; Korean researchers also visited Uzbekistan during 2013 harvest and conducted monitoring. It was a part of research on human rights violations by Korean companies operated oversea, mandated by National Human Rights Commission of Korea. The result of the monitoring was published in the report, "Research on Human Rights Violations by Korean Companies Operated Oversea and Improvement of Related Legislation". Though the whole report is available only in Korean, field investigation report regarding Uzbekistan's cotton sector is available in English, "2013 Field Investigation Report: Uzbekistan."(See Appendix C)

[17] UGF, "Forced Labor in Uzbekistan: Report on the 2013 Cotton Harvest", p.20.

[18] There were some cases that students were able to evade the harvest by making payments of 300,000-600,000soum (approximately $100-$200 USD) in lie of harvesting. It is not clear how the money was used for up to date. See Ibid., pp.26-27.

[19] Video clip taken at an Uzbekistan school turned to dormitory in 2013 harvest is available at http://www.apil.or.kr/1413

[20]Jong Chul Kim, Sejin Kim and Il Lee, "2013 Field Investigation Report: Uzbekistan", December 2013, p.14.

[21] Ibid., p.15.

[22] UGF, "Forced Labor in Uzbekistan: Report on the 2013 Cotton Harvest", p.27.

[23]Jong Chul Kim, Sejin Kim and Il Lee , p.17.

2.Intensification of Forced Labor of Adults

In 2012 and 2013, Uzbek government intensified the use of adult forced labor to make up for insufficient labor. The government's systematic use of adult forced labor affected farmers, public-sector workers, private-sector workers, unemployed citizens and those receiving public welfare benefits.

Employees of state-funded agencies are the most frequently mobilized group because the government can directly dismiss them from their job or dock pay for refusal or failure to meet the daily picking quotas. Teachers, medical workers, postal workers, bank employees, and employees of regional and municipal agencies, such as departments of water and sanitation, are included in this group. Employees not sent to harvest cotton had to overwork to compensate for their colleagues' absence without any extra compensation.[24]

Employees of private companies, such as factories, shops, and restaurants, were also recruited by the tax service or other regulatory agency.[25]Mandatory "contributions" is the only way to be exempted from forced mobilization. The contributions generally ranged from around 500,000-700,000 soum (approximately $185-$260 USD), and were used to cover food and other expenses for the workers. Sanctions such as intrusive inspections, tax collections, refusal to grant necessary permits, cutting off the electricity, or inventory confiscation, were used to punish those who refused to contribute.[26]

3. Forced Labor of Teachers and the Infringement of Children's Right to Learn

Among employees of state agencies, teachers were mobilized the most. From elementary school to college, teachers were indiscriminately mobilized to work in the cotton fields.

While teachers were out harvesting cotton, classes could not be taught. In some cases, teachers from other classes filled in for the missing instructor, significantly disrupting learning. It was also reported that students were simply left at the classroom without the instructor and did nothing during the class hours. As a result, children's right to education was severely infringed by massive mobilization of teachers.[27]

4. Emergence of a New Form of Paid Child Labor

To evade the forcible mobilization, some workers hired mardikors, (local seasonal and day laborers) to harvest cotton in their place and some business owners hired mardikors instead of sending their own employees.[28] However, this caused the emergence of a new form of child labor: in some region, children were hired as mardikors for cheap labor. It was reported that the adults mobilized from Tashkent, especially public officials, hired students in Jizzak as

[24] UGF, "Forced Labor in Uzbekistan: Report on the 2013 Cotton Harvest ", p.28.
[25] Ibid., p.29.
[26] Ibid., p.30.
[27] Jong Chul Kim, Sejin Kim and Il Lee, pp.19-20.
[28] UGF, "Forced Labor in Uzbekistan: Report on the 2013 Cotton Harvest ",p.31.

mardikors.[29]

E. 2014 Harvest Report

In 2014 the government continued a forced labor system of cotton production. The authorities coerced farmers to fulfill cotton production quotas and coerced other citizens to fulfill harvest quotas under threat of penalty. Despite a reduction in the use of child labor in 2014, the government did not cease its use of forced labor, and some authorities continued forced child labor through the school system. The system of forced labor cotton production remained fundamentally unchanged.

1. Failure to End the Child Labor

Though the government appears not to have forcibly mobilized school-aged children to harvest cotton on a mass scale as previous years, independent human rights monitors documented state-sponsored forced mobilization of school-aged children mostly from 7th-9th grades (13-15 years old) harvesting cotton in the Kashkadarya, Jizzakh, and Samarkand regions. The mobilization of the school-aged children by the local government officials using the education system was documented in several regions, especially toward the later part of the harvest.[30] The incidents of forced child labor confirmed that the government has not changed the policies that lead to the use of forced child labor. Despite a national law that prohibits child labor and forced labor, when faced with the decision to fulfill their cotton quota or follow the law against child labor, officials sent children to the fields, knowing failure to deliver their quota would cost their job.

2. Increased Forced Labor of Adults

In 2014 the Uzbek government forcibly mobilized more adults, apparently to compensate for reduced numbers of children forced to pick cotton. Authorities coerced parents of school children, staff of public organizations, and private companies to contribute labor and/or payments to the harvest. Public organizations, including schools and hospitals, sent 30-60% of their personnel for the duration of the harvest, a significant increase from the 2013 harvest. This resulted in the serious understaffing of the organizations and disruption to public services, including education and medical services.[31]

3. Forced Payments

The government extorted payments from individuals and businesses. Citizens who were unable to harvest cotton, including for health reasons or to care for young children, were forced to pay for workers to replace them. Individuals or institutions such as schools or

[29] Jong Chul Kim, Sejin Kim and Il Lee, pp.20-21.

[30] Uzbek-German Forum for Human Rights, "Preliminary Report on Forced Labor During Uzbekistan's 2014 Cotton Harvest," 7 November 2014, p.3

[31] Ibid., p. 4

hospitals that failed to meet their harvest quotas were obligated to use their own money to purchase cotton to rectify the deficit.

Entrepreneurs and business were forced to make payments in the form of mandatory "contributions" to the cotton harvest. This included small companies and multinational companies, as reported by the Swedish telecommunications company TeliaSonera.[32]Businesses made these payments under threat of penalty such as increased inspections or forcing the business to close. Businesses also suffered lost business and reduced productivity because they were forced to provide workers to the harvest or pay for food for workers.[33]

At the end of the season many public sector employees in the Tashkent region were forced to stay in the cotton fields to attempt to meet harvesting quotas of 30 kilograms per day. Many workers reported that with so little cotton remaining in the fields it was impossible to pick more than 20 kilograms in a 10-hour workday. With no cotton available to buy at the end of the season to make up the difference, local officials instead demanded the cash equivalent but there was no evidence how these payments were recorded or accounted for.[34]

IV. Daewoo International's Operation in Uzbekistan and Its Awareness of the Use of Force Labor.

A. Daewoo International's Operation in Uzbekistan

Daewoo International (formerly, Daewoo Corporation) has been engaged in the textile business in Uzbekistan since 1996 and is currently involved in the operation of three Uzbekistan textile companies. It owns 100% stakes in two of the textile companies (Daewoo Textile Buhkara LLC and Daewoo Textile Fergana LLC; collectively, "Daewoo Textiles") and has a 35% stake in Global Komsco Daewoo.[35]Cotton processed in Daewoo Textiles accounts for around 20% of all cotton processed in the country, which makes Daewoo International the largest cotton processor in Uzbekistan.

1. Daewoo Textile Fergana

Specializing in textile production of cotton fabric and yarn, Daewoo International established the company Daewoo Textile Fergana in 1996 with the investment of 100 million USD.

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[32] "Узбекистан: «Телиасонера» «откупилась» отсборахлопказа 50 тысячдолларов," Fergana Information Agency, September 15, 2014, available at: http://www.fergananews.com/news/22623.

[33] Ibid., p.7

[34]Tashkent region monitor's report.

[35] "Daewoo International re purchasing cotton produced in Uzbekistan with child & forced labor," Business & Human Rights Resource Centre, 19 February 2013, available at http://www.business-humanrights.org/Documents/ CottonCampaignHandM

Daewoo Textile Fergana has three industrial factories located in Fergana, Tashlak, and Kumtepa. It is a member of "Uzbekengilsanoat", the State Joint Stock company, which unifies cotton, silk, knitting, clothing and other enterprises in Uzbekistan. Its annual production capacity of yarn is 34,500 tons of single yarn and 4,000 tons of double yarn; the annual production capacity of the cotton fabric is more than 35 million running meters.[36]It exports yarns mostly to China, Turkey, Western Europe, and CIS countries and fabrics to Eastern Europe, Western Europe, CIS countries, and China.[37]

2. Daewoo Textile Bukhara

Daewoo Textile Bukhara was founded in 2008 with investment of 52,500 USD by Daewoo International. Located in Bukhara city, Daewoo Textile Bukhara sources raw cotton from Bukhara, Navainskogo, and Samarkand regions. Its facility can process 16,000 tons of cotton a year and can produce 15,000 tons of 100% cotton yarn annually.[38]It exports yarn to European companies as well as companies in Eastern Asia.[39]

3. Global Komsco Daewoo

In 2010, Daewoo International and the state-run Korea Minting & Security Printing Corp. (KOMSCO) set up a joint venture registered as Global Komsco Daewoo (GKD) to acquire cotton pulp in Uzbekistan. GKD produces cotton pulp used for specialized paper such as currencies, bank notes, gift certificates and passport pages. Daewoo International controls 35% stake of GKD while KOMSCO has remaining 65%.

B. Daewoo International's Knowledge of the Use of Forced Labor

Daewoo International is fully aware that the widespread and systematic use of forced labor and child labor in Uzbekistan's cotton industry. In its public statements, it acknowledged that "To our knowledge and information, as the 90% of the harvested cotton are produced by not the machine but the hand-picking, the Uzbek government had taken advantage of the child labor during the harvest season, from September to November," and "Uzbek children under 15 years old have been hardly forced and however, teenagers over 15 years old have seemed partially forced, as far as we heard. In the countryside where is hardly affected by the government, there has been partially the forced child labor."[40] It also confirmed its

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[36] Daewoo Textile Fergana bought about 30,000 tons of cotton, and became the largest buyer of the raw cotton among the cotton processing companies in Uzbekistan in 2012. See Uzbek-German Forum for Human Rights and the Cotton Campaign, "A SYSTEMIC PROBLEM: State-Sponsored Forced Labor in Uzbekistan's Cotton Sector Continues in 2012", 2013, p. 56

[37] http://en.daewootextile.com/

[38] Daewoo Textile Bukhara was the second largest buyer of the cotton in 2012. See Uzbek-German Forum for Human Rights and the Cotton Campaign, "A SYSTEMIC PROBLEM: State-Sponsored Forced Labor in Uzbekistan's Cotton Sector Continues in 2012", 2013, p. 56

[39] http://www.daewoobukhara.com/en/

[40] http://www.business-humanrights.org/Documents/CottonCampaignHandM

awareness on the forced labor issue stating that "it cannot be free from the issue of alleged forced labor in Uzbekistan."[41] The admission was also made public via media report stating that "the company is aware of the use of forced labor and child labor during harvests and confirmed that it acquired cotton picked by such workers" in its interview with the Wall Street Journal.[42]

However, knowledge of the forced labor in its supply chain has no effect on Daewoo International's operation in Uzbekistan. Despite requests from various organizations and companies to meet its due diligence duties by stopping purchase of Uzbek cotton until the forced labor ends and conducting independent monitoring, Daewoo International constantly refuses such demands. What Daewoo International alleges to "its best efforts in resolving the issue" is communicating with Uzbek government officials regarding the issue. After the communication, Daewoo International ends up with reiterating the position of Uzbek government denying the existence of forced labor. Daewoo International has not made any changes in its operation; it continues to operate its facilities without ceasing; rather, it is expanding its operation in Uzbekistan by investing US $22 million in 2014 alone.[43]After all, Daewoo International encourages and supports the forced labor system in Uzbek cotton industry by maintaining and expanding its operation in Uzbekistan despite of acknowledging forced labor.

V. Breaches to the Guideline

A. Final Determination by the French NCP (Devcot case)

In 2010, six complaints against traders in Germany, the United Kingdom, France, and Switzerland, were filed to NCPs in each country. The complaints alleged that the traders breached the Guideline by purchasing Uzbek cotton produced through forced labor.

In the French procedure, the NCP made its final statement holding that "child labor and forced labor on Uzbek cotton fields, under all circumstances, constitute a flagrant and characterized violation of the OECD Guidelines". In general, the NCP recalled "that the trade

[41] The Cotton Campaign sent the letter to Daewoo International in September 5, 2012, asking to meet its human rights due diligence duties by 1) Stopping purchases of cotton from Uzbekistan until the ILO verifies that the government of Uzbekistan has ended its forced-labor cotton production system, and 2) Establishing independent monitoring and public reporting on human rights risks and violations in Daewoo's cotton supply chain in Uzbekistan (See Appendix H). Daewoo International sent the response letter in June 11, 2013 (See Appendix I).

[42] "Posco Unit Admits Using Cotton From Forced and Child Labor," The Wall Street Journal, Aug. 13, 2014, available at http://online.wsj.com/articles/daewoo-faces-criticism-for-use-of-uzbekistan-cotton-made-with-forced-labor-1407918539

[43] "Daewoo International to invest US$22m to modernize two textile plants," Daewoo Textile Fergana Official Website, 26 June 2014, available at http://en.daewootextile.com/news2?view=76453621

of products resulting from forced child labor, where ever it may occur, amounts to a flagrant and characterized violation of the OECD Guidelines".[44]

In the Devcot case, the issue was not whether Devcot has forcibly mobilized children to produce the cotton or not; the issue was whether they purchased the cotton produced with the forced child labor. Here, it was confirmed that Devcot did not purchase cotton from Uzbekistan after the NCP initiated the procedure; thus, Devcot was not in a violation of the Guidelines. However, the French NCP clearly stated that mere trading of products resulting from forced child labor in supply chain constituted the violation of the Guidelines.

In its response to Business & Human Rights Resource Center, Daewoo International stated that Daewoo Textiles have annually bought cotton from UZINTERIMPEX, the company controlled by Uzbek's Ministry for Foreign Economic Relations. In other words, Daewoo International has been trading cotton harvested by forced labor of children and adults. Under the standard set by Devcot case, Daewoo's trading of Uzbek cotton amounts to a flagrant and characterized violation of the OECD Guidelines. Thus, Daewoo International is in breach of the Guidelines according to French NCP's decision.

B. Failure to seek to prevent and mitigate human rights abuses directly linked to their operations, not caused by the corporation (Violation of Chapter IV. 3 and Chapter II A.12)

As the French NCP's decision in Devcot case, a company would be still in breach of the Guidelines even if it were not held directly responsible as a contributor to the adverse impacts. The Chapter IV.3 and Chapter II.A.12 of the Guidelines support this position.

Chapter IV. 3 require the enterprise to seek ways to prevent or mitigate adverse human rights impacts that are directly linked to their business operations, products or services by a business relationship, even if they do not contribute to those impacts. It is also stipulated that in Chapter II A.12, the enterprise should seek to prevent or mitigate an adverse impact where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship. This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship.

These two provisions indicate that corporation's obligation to seek to prevent or mitigate an adverse impact exists as long as it has a business relationship with an entity that contributed to the adverse impact. In other words, the corporation has to inspect its supply chain to see if its business partners caused the adverse impact including human rights violations; and if the adverse impact is discovered, the Guideline require the corporation to seek to prevent or mitigate such impact. The commentary to these provisions require an enterprise, acting alone or in co-operation with other entities, as appropriate, to use its leverage to influence the entity

[44] http://www.tresor.economie.gouv.fr/File/375194

causing the adverse human rights impact to prevent or mitigate that impact.[45]

Daewoo International alleged that it has "consistently suggested the changes in the policy of forced child labor toward Cabinet of Ministries of Uzbekistan(Uzbekengelsanoat)" since 2005 when the child labor issue was brought up.[46] The company also claims that it "has been making its best efforts in resolving this issue by, for example, asking the Uzbekistan government to make improvements in this regard through consistent and repeated communications on issues relating to human rights including forced labor."[47]In addition to the "communication with Uzbek government officials," it also "conducted its own monitoring and concluded that no forced child labor was found."[48] However, this was contrary to all independent reports: UN treaty bodies, international financial institutions and other governments confirmed that the forced labor continued in the 2012 and 2013 harvests.[49] As a result, contrary to Daewoo International's allegation that they have done "everything in its capacity to prevent forced labor and enhance environmental and human rights policies in Uzbekistan," it has not taken any adequate measure to prevent or mitigate human rights violation in the Uzbek cotton sector as the Guidelines require.

As stated by the French NCP, trading products obtained by means of forced and child labor constitutes a fragrant violation of the Guidelines, and Devcot, the French cotton trader, committed to refrain from purchasing Uzbek cotton until forced labor of children and adults is eradicated. This shows that the cessation of business relationships with the Uzbek cotton industry is the only adequate measure as it would apply further pressure on the Uzbek government and ensure that companies in its supply chains do not contribute to human rights violations in Uzbekistan. Therefore, as long as Daewoo International continues its operation in Uzbekistan, profiting from the forced-labor cotton, it has failed to take any measure to prevent or mitigate the state-sponsored forced labor system in the cotton industry in Uzbekistan, in breach of Chapter IV. 3 and Chapter II A.12 of the Guidelines.

C. Failure to conduct comprehensive human rights due diligence in its supply chain(Violation of Chapter IV. 5 and Chapter II. A. 10)

Chapter IV. 5 stipulates that enterprises should carry out human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts. It is also indicated in Chapter II. A. 10 that enterprises should carry out risk-based due diligence, for example by incorporating it into their enterprise risk management systems, to identify, prevent and mitigate actual and potential adverse impacts as described in paragraphs 11 and 12, and account for how these impacts are addressed. The

[45] Ibid.

[46] "Daewoo International re purchasing cotton produced in Uzbekistan with child & forced labor," Business & Human Rights Resource Centre, 19 February 2013, available at http://www.business-humanrights.org/Documents/ CottonCampaignHandM

[47] See Appendix I

[48] See Appendix I

[49] See Part II. Forced Labor of Children and Adults in Uzbekistan's Cotton Industry, C. International Reactions of this specific instance.

nature and extent of due diligence depend on the circumstances of a particular situation.

The commentary to these provisions defines due diligence as the process through which enterprises can identify, prevent, mitigate and account for how they address their actual and potential adverse impacts as an integral part of business decision-making and risk management systems. Due diligence can be included within broader enterprise risk management systems, provided that it goes beyond simply identifying and managing material risks to the enterprise itself, to include the risks of adverse impacts related to matters covered by the Guidelines.[50]

The severity of the risks of adverse human rights impacts is high in the Uzbek cotton industry since the entire population is affected by government's forced-labor system of cotton production. Therefore, any relationship with the Uzbek cotton industry presents enterprises with greater risk and need for correspondingly robust due diligence. Enterprises have taken different measures according to the size and the nature and context of operations. Devcot, the French cotton trader aforementioned decided to terminate the business relationship with Uzbek cotton industry as the Uzbek government maintains the forced labor system. In fact, this is the minimum threshold for the due diligence as French NCP determined the traders of Uzbek cotton to cease the trading of the cotton produced by forced labor.In the case of apparel companies, over 150 brands and retailers from around the world pledged to not knowingly source Uzbek cotton for the manufacturing of any of their products until the Uzbek government ends the practice of forced child labor in its cotton sector. As a part of implementing the pledge, companies including Nike, H&M and Ikea have removed companies that use cotton from Uzbekistan, such as Daewoo International, from their supply chains.

In fact, companies operated in Uzbekistan are constantly exposed to an unacceptable risk due to the state-sponsored forced labor system of cotton production.[51]Therefore, the risk of adverse human rights impact by Daewoo International's operation is inevitably higher than any other cotton processors as it is the largest processor of the cotton in Uzbekistan. Considering its size, the influence on the Uzbek cotton industry, and severity of violations in that sector, the human rights due diligence standard set for Daewoo International should be robust one. However, Daewoo International has not been able to take adequate and meaningful measures to resolve the forced labor issue thus far. Claiming inability to influence the Uzbek government's policy, it only reiterates Uzbek government's statements denying the existence of state-sponsored forced labor as shown above. Thus, Daewoo International has failed to carry out risk-based due diligence under the Guidelines as appropriate to its size, the nature and context of operation and the severity of the risk of adverse human rights impacts and has violated Chapter IV. 5 and Chapter II. A. 10 of the Guidelines.

[50] OECD Guidelines for Multinational Enterprises, Commentary on General Policies, p.17.

[51] For example, according to workers' reports, employees of the General Motors (GM) Uzbekistan factory in Asaka, Andijan region, were also forced to pick cotton in 2012. See Uzbek-German Forum for Human Rights and the Cotton Campaign, "A SYSTEMIC PROBLEM: State-Sponsored Forced Labor in Uzbekistan's Cotton Sector Continues in 2012", 2013, p. 31.

D. Failure to respect human rights of affected persons (Violation of OECD Guidelines for Multinational Enterprises, Chapter II. A. 2, Chapter IV. 1, Chapter V.1.c., and Chapter V.1.d)

According to Chapter II. A., the enterprise should respect the internationally recognized human rights of those affected by their activities (2), carry out risk-based due diligence to identify, prevent and mitigate actual and potential adverse impacts (10), and avoid causing or contributing to adverse impacts and address such impacts when they occur (11). In Chapter IV. 1, it is stated that the enterprise should respect human rights, which means they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.

Under these provisions, a corporation is to respect human rights of people who are impacted by its activities. Following these provisions, obligations of the corporation in different situations are enumerated. Chapter II. A. 11 and Chapter IV. 2 define responsibility of the company when it is the entity that caused the adverse impact; Chapter II. A. 12 and Chapter IV. 3, in turn, list obligations of the corporation when it does not cause the adverse impact but has a business relationship with the entity that caused the adverse impact. This implies that provisions cited above, Chapter II. A. 2 and Chapter IV. 1, should be broadly interpreted to cover all cases where adverse impacts can occur. Thus, it is in accordance with the Guidelines to consider all the entities in the supply chain as "those affected by the enterprises' activities."

Daewoo International buys its cotton only from UZINTERIMPEX which supplies the cotton produced from state-sponsored forced labor. Therefore, Uzbek citizens who are forcibly mobilized to work in the cotton fields should be considered to be in Daewoo International's scope of influence without direct employment relationships. In this sense, Daewoo International has failed to respect human rights of Uzbek citizens, as the use of forced labor of children and adults constitutes violation of numerous human rights norms, and the company has breached the Guidelines by failing to address the violations.

1.Child Labor

The long-term use of children and the subsequent school closures during cotton season violates both the right of children to education and the prohibition of child labor.

The prohibition of child labor and the right to education are maintained in numerous international human rights agreements, including those ratified by Uzbekistan:

• Article 26 (1) Universal Declaration of Human Rights (UDHR) provides the right of children to education.

• Art. 28 (e) of the UN Convention on the Rights of the Child (CRC): The State parties recognize the right of the child to education and take measures to encourage regular attendance at schools and the reduction of drop-out rates.

• Art. 31 of the UN Convention on the Rights of the Child (CRC): States Parties recognize the right of the child to rest and leisure.

• Article 32 of the UN Convention on the Rights of the Child (CRC): recognizes the right of the child " to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development."

• Article 24 (1) of the International Covenant on Civil and Political Rights (ICCPR) recognizes the protection of a child as required by his status as a minor.

• Article 10 (3) International Covenant on Economic, Social and Cultural Rights (ICESCR) contains special measures to protect and support all children. Children should be protected from economic and social exploitation. Child labor that damages the morale or health of children, that endangers their lives or which might impede their normal development, should be punished as a crime.

The Guidelines also require enterprises to contribute to the effective abolition of child labor, and take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labor as a matter of urgency (Chapter V. 1. c).

Therefore, Daewoo International is also in breach of Chapter V. 1. c the Guidelines.

2.Forced Labor

The government of Uzbekistan's centralized system of cotton production, under which adults and children are coerced into cultivating and harvesting cotton for economic purposes, is a gross violation of international law.

Under the ILO Convention concerning forced or compulsory labor is defined that "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."

Forced or compulsory labour is defined at Convention No. 29, Article 2.1, as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself [or herself] voluntarily."[52] According to the CEACR, "under menace of penalty" "should be understood in a very broad sense: it covers penal sanctions, as well as various forms of coercion, such as physical violence, psychological coercion, retention of identity documents, etc. The penalty here in question might also take the form of a loss of rights or privileges."[53]

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[52]ILO Convention No. 29 concerning Forced or Compulsory Labour (Forced Labour Convention), adopted June 28, 1930, 39 U.N.T.S. 55, entered into force May 1, 1932.

[53] International Labour Organization, "Giving Globalization a Human Face," 2012, ILC.101/III/1B, Para 308http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_174846.pdf, at paragraph 270.

Though Conv. No. 29 provides for exceptions that enable governments to legally compel labour, such as military service,[54] ILO Conv. No. 105 was adopted in 1957 specifically to end certain forms of government coerced labour that continued after the adoption of ILO Conv. No. 29, including the use of compulsory labour as a punishment for holding certain political views and compulsory labour for strictly economic activities that were nonetheless being justified as acceptable forms of compulsory labour such as "normal civic obligations of a citizen" or "communal labour."[55] To bring an end to these coercive economic systems, and to ensure that government compelled labour is not used for economic gain, ILO Conv. No. 105 specifically prohibited national governments from using "any form of forced labour or compulsory labour . . . as a method of mobilizing and using labour for purposes of economic development."[56]

Freedom from forced labor is also a guaranteed human right:

• Article 23 (1) of the Universal Declaration of Human Rights (UDHR) states that "Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment."

• The International Covenant on Economic, Social and Cultural Rights (ICESCR) also recognizes the right to work that has been freely chosen or accepted under just and favourable conditions of work.

It is also specified in the Guidelines that enterprises to contribute to the elimination of all forms of forced or compulsory labor and take adequate steps to ensure that forced or compulsory labor does not exist in their operations (Chapter V. 1. d). Thus, Daewoo International has also violated Chapter V. 1. d of the Guidelines.

E. Failure to avoid causing or contributing to adverse human rights impacts and address such impacts when they occur (Violation of Chapter IV. 2 and Chapter II A.11)

Under Chapter IV. 2, enterprises should avoid causing or contributing to adverse human rights impacts and address such impacts when they occur within the context of its own activities. Chapter II A.11 also stipulates that enterprises should avoid causing or contributing to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur.

According to the commentary of these provisions, it is stipulated in the commentary that "contributing to" an adverse impact should be interpreted as a substantial contribution, meaning an activity that causes, facilitates or incentivizes another entity to cause an adverse

[54] See ILO Convention No. 29 at ¶2(2)(b).
[55] See ILO Convention No. 29 at ¶2(2)(b)
[56] ILO Convention No. 105 concerning the Abolition of Forced Labour (Abolition of Forced Labor Convention), adopted June 25, 1957, entered into force January 17, 1959.

impact.[57]

The government of Uzbekistan's system of forced labor provides wholly-controlled income inflated by exploiting the disparity between domestic and international prices. The Uzbek state-owned companies purchase cotton at a very low price from farmers, forcibly mobilize the population to conduct field work that the farmers would otherwise have to hire, and thereby creates the gap between domestic raw cotton prices and international sales prices. This gives Uzbek companies a stake in the maintenance of the current procurement and forced-labor regime. Daewoo International's continued purchase of cotton incentivizes the Uzbek government to continue to forcibly mobilize its population, thus contributing to the adverse human rights impact, in breach of Chapter IV. 2 and Chapter II A.11 of the Guidelines.

VI. Complainants' Expectations

A. Expectations toward Daewoo International

In order to comply with the Guidelines, we believe Daewoo International should:
1) issue a public statement that states Daewoo International opposes and condemns the use of force labor of children and adults under any circumstances.
2) stop purchasing cotton from Uzbekistan and halt all in-country cotton operations until the International Labor Organisation (ILO) can verify that the Government of Uzbekistan has ended its forced labor cotton production system.
3) allow an independent third-party to assess and publically report on human rights risks and violations in Daewoo's cotton supply chain in Uzbekistan.) use all available means to urge the Uzbek government to stop the use of child labor, including by coalescing companies operating in the textile sector in Uzbekistan to jointly advocate to the Uzbek government to end forced labor in the cotton sector.
4) pay for all costs of remediation, including "reparations" and the costs of monitoring; and
5) not control the payment; instead payments should go into a fund, like a "Human Rights Fund."

B. Expectations toward POSCO

POSCO publicly acknowledged their connection to forced labor cotton in Uzbekistan,[58] but has not taken appropriate actions to fulfill their obligations under the UN Global Compact and the Guidelines for Multinational Enterprises of the Organization for Economic Cooperation and Development.

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[57] OECD Guidelines for Multinational Enterprises, Commentary on General Policies, p.17.
[58] "POSCO's response re POSCO subsidiary Daewoo International's purchasing of cotton produced in Uzbekistan with child & forced labor", Business & Human Rights Resource Centre, 19 February 2013, available at http://www.business-humanrights.org/Documents/ CottonCampaignHandM

As a parent company of Daewoo International, POSCO should:
1) ensure its subsidiary Daewoo International fulfill its human rights due diligence duties by implementing the five actions stated herein (See above Section VI.A).
2) guarantee payment of all costs of remediation by Daewoo; and
3) report on progress to its investors.

C. Expectations toward NPS

NPS has been the second largest shareholder of Daewoo International since 2010. In 2010, NPS owned 3.90% of the Daewoo International's shares, it has continuously increased its portions in the shares; at the end of 2013, NPS owns 9.29% of the shares. As a signatory of the UN Principles of Responsible Investment (UN PRI) since 2007, NPS has publicly stated to increase the socially responsible investment. However, as shown above, investment in Daewoo International is contrary to socially responsible investment as it leads to the infringement of freedom from forced labor.

Therefore, we request NPS to develop, in consultation with the complainants, a clear and credible mitigation strategy that includes:
1) steps to exercise their leverage;
2) if necessary, steps to increase their leverage; and
3) the public disclosure of minimum criteria for the continuation of the investment.

D. Expectations toward NBIM

As institutional investors of Daewoo International, NBIM should, consistent with their stated policy commitments to corporate social responsibility,[59] urge Daewoo International to address the breaches cited in this complaint. Specifically, we request NBIM to elaborate on the steps they will take to prevent, through their investments in Daewoo International, contributing to adverse impacts, to ensure compliance with the Guidelines and their own environmental, social and corporate governance (ESG) criteria.

It is also worthwhile to note that the Kommunal Landspensjonskasse (KLP), Norway's largest life insurance company, has just announced that they excluded POSCO, Daewoo International from their investment for buying Uzbek cotton as of December 2014 because companies buying cotton from Uzbekistan. This represents an unacceptable risk of KLP contributing to human rights and labor rights violations. KPL acknowledges that though the number of children mobilized has been reduced, the system of forced labor remains the same, which means the potential to contribute to such violations also remains the same. KLP considers that the inaction toward the forced labor issue by Daewoo International and POSCO amounts to

[59] NBIM publicly states in its website that "(a)s an investor in approximately 8,700 companies worldwide, NBIM expects companies to prevent the worst forms of child labor and promote children's rights in their operations and supply chains."
http://www.nbim.no/en/responsibility/responisble-investments/childrens-rights/childrens-rights-risk-assessment/

the reasonable reason to be excluded. [60]

Therefore, we request NBIM to develop, in consultation with the complainants, a clear and credible mitigation strategy that includes:
1) steps to exercise their leverage;
2) if necessary, steps to increase their leverage; and
3) the public disclosure of minimum criteria for the continuation of the investment.

E. Expectations toward NCP

We request the Korean and Norwegian NCPs to facilitate mediation or arbitration between all parties to this Specific Instance to address Daewoo International's breaches to the General Policies, Human Rights and Employment and Industrial Relations Chapters of the Guidelines. We request Korean NCP and Norwegian NCP to cooperate to the fullest extent possible, and ensure a consistent handling of this Specific Instance in the interest of functional equivalence.

We request the NCPs to jointly make an assessment of the facts and circumstances in a final statement, including whether the allegations contained herein constitute breaches of the Guidelines.

We look forward to a written confirmation of receipt of this complaint, and appreciate your assistance and leadership in resolving the issues raised herein.

Please send all correspondence to Shin Young Chung at sychung@apil.or.kr; Matthew M. Fischer-Daly at cottoncampaigncoordinator@gmail.com; and Klara Skrivankova at k.skrivankova@antislavery.org.

Sincerely,
Shin Young Chung
Matthew M. Fischer-Daly
Klara Skrivankova

[60] Press release, 31 new companies excluded, KLP, available at http://english.klp.no/about-klp/press-room/31-new-companies-excluded-1.29215

VII. Appendices

- [**Appendix A**] The Uzbek-German Forum for Human Rights, "Preliminary Report on Forced Labor During Uzbekistan's 2014 Cotton Harvest", November 2014
- [**Appendix B**] Uzbek-German Forum For Human Rights, "Forced Labor in Uzbekistan: Report on the 2013 Cotton Harvest", May 2014
- [**Appendix C**] Jong Chul Kim, Sejin Kim and Il Lee, "2013 Field Investigation Report: Uzbekistan", December 2013
- [**Appendix D**] Uzbek-German Forum for Human Rights and the Cotton Campaign, "A SYSTEMIC PROBLEM: State-Sponsored Forced Labor in Uzbekistan's Cotton Sector Continues in 2012", 2013, available at http://www.cottoncampaign.org/reports/
- [**Appendix E**] "Daewoo International re purchasing cotton produced in Uzbekistan with child & forced labor," Business & Human Rights Resource Centre, 19 February 2013, available at http://www.business-humanrights.org/Documents/ CottonCampaignHandM
- [**Appendix F**] "POSCO's response re POSCO subsidiary Daewoo International's purchasing of cotton produced in Uzbekistan with child & forced labor", Business & Human Rights Resource Centre, 19 February 2013, available at http://www.business-humanrights.org/Documents/ CottonCampaignHandM
- [**Appendix G**] "Posco Unit Admits Using Cotton From Forced and Child Labor," The Wall Street Journal, Aug. 13, 2014, available at http://online.wsj.com/articles/daewoo-faces-criticism-for-use-of-uzbekistan-cotton-made-with-forced-labor-1407918539
- [**Appendix H**] Letter from the Cotton Campaign to Daewoo International
- [**Appendix I**] Response from Daewoo International to the Cotton Campaign(Original Korean version, translated English version)