



**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PETITION TO EXCLUDE FROM ENTRY
INTO THE UNITED STATES COTTON YARN AND FABRIC IMPORTED FROM UZBEKISTAN**

BY

DAEWOO INTERNATIONAL

and

INDORAMA KOKAND TEXTILES

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I. Cotton yarn, fabric and garments imported from Uzbekistan contain “wholly or in part” cotton harvested by forced labor in Uzbekistan are a prohibited classes of merchandise under the Tariff Act of 1930, 19 USC §1307.

For a product to be a prohibited from entry into the United States pursuant to 19 C.F.R. 12.42 et seq. the Commissioner of Customs must find: (1) the product is made in whole or in part with forced labor; (2) the product is being, or is likely to be, imported into the United States, and (3) merchandise of the same class is being produced in the United States in such quantities as to meet the consumptive demands of the United States. See China Diesel Imports v. U.S., 855 F. Supp. 380, 386 (CIT 1994)

As described in detail below, First, Daewoo International, Indorama Kokand Textiles, and other cotton processors use only cotton produced with forced labor to manufacture its cotton yarn and cotton fabric. Second, Daewoo International, Indorama Kokand Textiles, and other not yet identified cotton processors in Uzbekistan have been consistently importing cotton products - including cotton yarn and cotton fabric- into the United States over the past five years, most recently in February 2013, and are likely to import more in the future. Third, and the final element required by 19 CFR 12.42 *et seq.*, we can demonstrate that domestic cotton processors in the US produce sufficient cotton yarn and cotton fabric to meet the US consumer demand.

A. Cotton yarn, fabric and garments manufactured in Uzbekistan are produced “wholly or in part” by forced adult and forced child labor, 19 USC §1307.

US law and Customs implementing regulations define a prohibited class of merchandise as, “All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by . . . forced labor . . .” 19 U.S.C. §1307. Therefore, §1307 requires that for a good to be a prohibited class of merchandise, it must (1) be made “wholly or in part” (2) by forced adult labor or forced child labor.

1. All cotton grown and harvested in Uzbekistan is produced by forced adult and forced child labor working in a Government compelled “state control system” for the economic development of cotton and cotton products.

§1307 defines forced labor as “all work or service which is exacted from any person under the menace of penalty for which he does not offer himself voluntarily.” 19 U.S.C. §1307. The evidence provided demonstrates that all cotton in Uzbekistan is grown and harvested by work of the adults and children exacted by the government officials responsible for implementing the “state control system” for development of the cotton sector. The “state control system” is a system of coercion enforced through both the menace and the actual imposition of penalties for those who refuse to participate when required by order of government officials.¹

¹ The definition of forced labor in the Tariff Act of 1930 was copied directly from the International Labor Organization’s (ILO) Forced Labour Convention, 1930 (No. 29), a treaty concluded by the ILO member states, including the United States, the same year. In 1957, ILO members states updated Convention 29 by adopting Abolition of Forced Labour Convention, 1957 (No. 105) to specifically prohibit certain forms of forced labor commonly being practiced at the time, including the systematic use of forced labor as a “method of mobilising and using labour for purposes of economic development” in place in the certain states of the Soviet Union at that time. *Id.* at art. 1(b).

a. Adults and children growing and harvesting cotton in Uzbekistan do not offer their labor voluntarily, but rather work under a government imposed and enforced “state order system”.

Adults and children in Uzbekistan who grow and harvest cotton under the Government’s command economy do not offer their labor voluntarily. Rather, farmers and laborers are mobilized for use by local government officials to grow and harvest cotton for government’s state-owned enterprise (SOE), which currently controls a monopoly on production and sale of cotton.²

According to the US Embassy in Tashkent, the Government of Uzbekistan is “clinging to a Soviet-era command economy for cotton,”³ where all decisions regarding economic development of the cotton sector are strictly controlled by President Karimov and his cabinet ministers. The US embassy has also reported that “virtually all farms in Uzbekistan . . . are still tied to the state order system.”⁴ In a 2009 report to the US Secretary of State, the US Embassy Tashkent describes in more detail how the “state order system” of coercion operates:

Uzbekistan’s Ministry of Agriculture and Water Resources (MOA), in consultation with regional advisors and local farm associations, mandates the amount of seed cotton to plant throughout the country. Each fall, local associations meet collectively to estimate the next season’s [sic] expected output and necessary inputs. District plans are submitted to the regional authorities, and regional plans are approved at the national level.⁵

The GOU sets its production target each spring. This number is then broken down by region, and district hokims (governors) are responsible for making sure that the delivery quota is filled, down to each individual plot’s share of the overall quota.⁶

Coercion begins at the top levels of the Karimov government, with each successive government official compelled by their superiors to participate under threat of penalty. To meet the quotas set by the Government, farmers are ordered by local government officials to grow a certain amount of

² U.S. Department of State. (Unclassified) Cable from US Embassy in Tashkent: *Uzbekistan: Information on Forced Labor and Child Labor for Mandatory Congressional Reporting Requirements*, at para. 8. (June 6, 2008) (“While virtually all farms in Uzbekistan are now classified as private, they are still tied to the state order system. Farmers are required to both seed a certain amount of their land with cotton each year and produce a certain quantity for the state purchase. As adult labor is often scarce . . . farmers and provincial officials resort to conscripting students to fulfill their quota.”).

³ US Department of State, Cable from AMEMBASSY TASHKENT to RUEHC/SECSTATE. *Uzbekistan’s Cotton Sector Still A Bastion of the Command Economy*, at para. 3. (November 3, 2009)(Unclassified)

⁴ Cable from US Embassy in Tashkent to [SCA/CEN, DRL, GTIP and DOL/ILAB] *Uzbekistan: Information on Forced Labor and Child Labor for Mandatory Congressional Reporting Requirements*, at para. 8. (June 6, 2008) (“While virtually all farms in Uzbekistan are now classified as private, they are still tied to the state order system. Farmers are required to both seed a certain amount of their land with cotton each year and produce a certain quantity for the state purchase. As adult labor is often scarce . . . farmers and provincial officials resort to conscripting students to fulfill their quota.”)

⁵ US Department of State, Cable from AMEMBASSY TASHKENT to RUEHC/SECSTATE. *Uzbekistan’s Cotton Sector Still A Bastion of the Command Economy*, at para. 3. (November 3, 2009)(Unclassified)

⁶ US Department of State, Cable from AMEMBASSY TASHKENT to RUEHC/SECSTATE. *Uzbekistan’s Cotton Sector Still A Bastion of the Command Economy*, at para. 4. (November 3, 2009)(Unclassified)

cotton on their land, and all Uzbekistan citizens, if called upon by the government, are required to harvest the cotton. Farmers are then required to sell the cotton back to the government at a rate set by the Government.⁷ As described more fully below, if anyone refuses to participate in the GOU's coercive business plan when ordered to by government officials, including farmers, adults, children, and lower government officials, they face the menace of significant penalties enforced by government officials who work within the "state order system" for cotton production at various levels.

The forced labor quota system is in effect nationwide, blanketing the entire cotton sector. Reports cited in support of this petition identify all of Uzbekistan's 13 administrative areas provinces where the forced labor quota system has been in effect at least since 2007. The administrative areas include the regions of Andijon, Bukhara, Fergana, Jizzak, Kashkadarya, Khorezm, Namangan, Samarkand, Surkhandarya, Syrdarya and Tashkent as well as Karakalpakstan Autonomous Republic and Tashkent City. Further, as noted before, the US embassy reported that "virtually all farms . . . are tied to the state control system," including "those now classified as private" by the Government.⁸

Adults and children in Uzbekistan who work in cotton have been compelled to labor for the Government for decades under the constant, real threat of penalty, a condition the ILO defines as "psychological compulsion."⁹ Psychological compulsion, as explained by the ILO, is "an order to work, backed up by a credible threat of a penalty for non-compliance," and anyone suffering from psychological compulsion, or any other form of coercion, cannot voluntarily consent to work.¹⁰

b. Adults and children who refuse to work face significant penalties imposed by the Uzbekistan government.

Any adult or child who refuses to participate when called upon to grow or harvest cotton is punished through one or more of the following ways:¹¹

- (1) The loss of employment^{12 13}
- (2) suspension, expulsion or other disciplinary action at school or work;¹⁴

⁷ US Department of State, Cable from AMEMBASSY TASHKENT to RUEHC/SECSTATE. *Uzbekistan's Cotton Sector Still A Bastion of the Command Economy*, (November 3, 2009)(Unclassified), at para. 1 ("The Government of Uzbekistan (GOU) continues to control the "commanding heights" of the cotton sector, exercising strict control over all aspects of cotton production and sale, from setting planting and harvest quotas to negotiating all ginning and export contracts on behalf of farmers."); para. 5 ("The Ministry of Finance has set the new average procurement price for seed cotton. . .").

⁸ Cable from US Embassy in Tashkent to [SCA/CEN, DRL, GTIP and DOL/ILAB] *Uzbekistan: Information on Forced Labor and Child Labor for Mandatory Congressional Reporting Requirements*, at para. 8. (June 6, 2008) ("While virtually all farms in Uzbekistan are now classified as private, they are still tied to the state order system. Farmers are required to both seed a certain amount of their land with cotton each year and produce a certain quantity for the state purchase. As adult labor is often scarce . . . farmers and provincial officials resort to conscripting students to fulfill their quota.")

⁹ ILO. *A Global Alliance Against Forced Labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work 2005* at Box 1.1, pg. 6.

¹⁰ ILO. *A Global Alliance Against Forced Labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work 2005* at Box 1.1, pg. 6.

¹¹ Centre for Contemporary Central Asia and the Caucasus, School of Oriental and African Studies (SOAS), University of London, *What has Changed?*, 2010, pg. 5; Environmental Justice Foundation (EJF) and Uzbek-German Forum for Human Rights (UGF), *Slave Nation*, 2010, pg. 9; Uzbek-German Forum for Human Rights (UGF), "*Cotton — it's not a plant, it's politics*", 2012 pages 9, 22, 26, 32, 44.

¹² SOAS 2010 Report, *supra* note 10, at 20; UGF 2012 pages 9, 26, 32, 44.

¹³ SOAS 2010 Report, *supra* note 10, at 14, 20-21, 29 (some report that wages were so insignificant that the clothes worn during the harvesting could not even be replaced by the salaries) *citing* Uzbekistan Human Rights Defenders Report at 2.

- (3) loss of state welfare payments;¹⁵
- (4) fines;¹⁶
- (5) social ostracization/verbal abuse/public humiliation,¹⁷
- (6) expulsion from farmland (loss of livelihood);¹⁸ and
- (7) physical abuse.¹⁹

Each province and region of Uzbekistan has an established infrastructure complete with police enforcement that monitors farmers and schools, and mandates teachers to mobilize schoolchildren. Reporting directly to the president, the prime minister produces the national plan for cotton production, which includes the national production target.²⁰ The prime minister then convenes the regional governors (hokim) and verbally dictates the cotton production quotas for each region.²¹ With his orders from the prime minister, the regional hokim convenes his deputies for each government service agency: education, health care, military, etc.²²

In most districts, the district hokimiyat functions as the headquarters for the mobilization of children and adults to harvest cotton and fulfill the national production plan. The headquarters includes the staff of the hokimiyat, the district prosecutor, the district police, the director of the district departments of public services – education, health, etc., and the directors of the agricultural input enterprises that have financial transactions with the farmers. The district hokim or deputy hokim convenes a meeting prior to the start of the harvest to issue orders for the mobilization of people to pick cotton. There is, however, some variance to the organizational structure in different regions of the country. In some regions, the regional hokim has deputies for each sector; in others he has district-level mayors (hokims rayona); and another variation reported is district-level directors of government sectors, e.g. school district administrators. Throughout the harvest, the prime minister conducts regular teleconferences with the regional hokims to ensure progress towards fulfilling the state order for cotton.

c. Findings and reports of US government agencies, US embassy officials in Uzbekistan, international organizations, and independent human rights organizations and the media support the conclusion that all cotton grown in Uzbekistan is grown and harvested under the forced labor system.

¹⁴ U.S. Department of State, *2009 Human Rights Report: Uzbekistan*, Section 7 Worker Rights (d), available at: <http://www.state.gov/g/drl/rls/hrrpt/2009/sca/136096.htm>. UNICEF Assessment: Cable from US Embassy in Tashkent to [SCA/CEN, DRL, GTIP and DOL/ILAB] *Uzbekistan: UNICEF Shares Results of Child Labor Assessment*, at paras. 1, 9. SOAS 2010, pg. 14. EJF and UGF 2010, pg. 9. UGF 2012, pg. 22.

¹⁵ SOAS 2010, pg. 29. EJF and UGF, 2010, pg. 14. UGF 2012, pg. 9, 26, 31.

¹⁶ SOAS 2010 pg. 24. EGF and UGF, pg. 14. UGF 2012, pages 32, 33, 35, 38, 41

¹⁷ Group of Human Rights Defenders in Uzbekistan, *Pick all the Cotton: Update on Uzbekistan's Use of Forced Child Labor in 2009 Harvest*, in collaboration with the International Labor Rights Forum, 25 (2009), available at: <http://www.laborrights.org/sites/default/files/publications-and-resources/UzbekCottonFall09Update.pdf> (describing a long-standing societal acceptance of government-compelled child labor as a method of cotton harvesting.). SOAS 2010, pg. 20. UGF 2012 pages 18, 21, 44.

¹⁸ SOAS, 2010, pg. 24. EGF and UGF, 2010, pg. 6, 7. UGF 2012 pages 39, 40, 44.

¹⁹ SOAS, 2010, pg. 14. EGF and UGF 2010, pg. 2, 12. UGF, 2012, pages 9, 14, 17, 18, 21, 26, 44.

²⁰ Uzbek human rights activists, names anonymous for personal safety. Personal Interviews by Matthew Fischer-Daly, 23 September – 6 October, 2012.

²¹ *Id.*

²² *Id.*

Findings and reports of US government agencies, US embassy officials in Uzbekistan, international organizations, independent human rights organizations and the media support the conclusion that adults and children working in the cotton sector are working within the “state control system” for economic development of the cotton sector.

Findings of US Government Agencies, including the Departments of State and Labor

The US Department of State, in its 2012 Human Rights Report on Uzbekistan published in April 2013 reported:

“Government-compelled forced labor occurred during the cotton harvest, when authorities applied varying amounts of pressure on many governmental institutions, businesses, and institutions of higher education to organize college and lyceum students (15- to 18-year-old students who are completing the last three years of their secondary education), teachers, medical workers, government personnel, military personnel, and nonworking segments of the population to pick cotton in many parts of the country. Credible reporting suggested that the use of forced mobilization of adult state workers during the cotton harvest continued to expand, likely to compensate for reductions in child labor. Authorities continued to expect many teachers and school administrators to participate in the harvest, either as supervisors or by picking cotton themselves. The majority of schools remained open full time, albeit with reports of staff shortages that affected the number of classes held. There continued to be reports that adults who did not make their quotas were subject to ridicule or abuse by local administrators or police. The loss of public-sector workers during the cotton harvest adversely affected communities, as medical procedures often were deferred and essential public services delayed.”²³

The US Department of State, in its 2011 *Trafficking in Persons Report* published this past June, reported the following:

“The Uzbek government continued to force children and adults to pick cotton. As in previous years, the government set a quota for national cotton production and paid farmers artificially low prices for the cotton produced, making it almost impossible for farmers to pay wages that would attract a voluntary workforce. Provincial mayors and governors were held personally responsible for ensuring that the quota was met; they in turn passed along this pressure to local officials, who organized and forced school children, university students, faculty, and other government employees to pick cotton. The government continued to refuse to allow the ILO to monitor the cotton harvest and denied that forced labor of children or adults in the cotton sector exists in Uzbekistan.”²⁴

²³ United States Department of State, *Uzbekistan 2012 Human Rights Report*, available at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2012&dliid=204417>, last accessed 23 April 2013.

²⁴ United States Department of State, *Trafficking in Persons Report, June 2012*, “Uzbekistan (Tier 2 Watch List),” page 368, available at <http://www.state.gov/documents/organization/192598.pdf>, last accessed 21 January 2013.

For the fourth consecutive year, the US Department of Labor has issued similar findings identifying the forced labor mobilization program operated by the Government of Uzbekistan, including most recently in its *2011 Findings on the Worst forms of Child Labor* published on September 26, 2012:

*In 2011, Uzbekistan made no advancement in efforts to eliminate the worst forms of child labor. Although the Government created an Interagency Working Group to combat child labor, it failed to enforce legislation prohibiting the worst forms of child labor in the production of cotton. Authorities again closed schools and mobilized children to work in the annual autumn cotton harvest to meet Government-mandated harvest quotas.*²⁵

Reports from US Government Officials at the Embassy in Tashkent

The DOL and DOS reports are supported by dozens of reports from US government officials at the US Embassy in Tashkent that are based on personal conclusions from independent observations as well as an analysis reports from organizations viewed by the US government as credible. In 2007, the US Embassy reported, “Officials projections for lower cotton harvests, together with reports that laborers are opting for higher-paying work in neighboring Kazakhstan and authorities are resorting to harsher tactics to elicit involuntary labor in the Ferghana Valley, point to increasing difficulties in this vital sector of the Uzbek economy.”²⁶ In a second cable from November 2007, the US government official in Tashkent elaborated by describing the Uzbekistan government continued use of the “Soviet-era practice of relying on involuntary labor from public and private enterprises to pick cotton each year.”²⁷

In 2008, the US Embassy conducted an assessment of the use of forced labor in the production of goods in Uzbekistan for the US DOL and DOS. US Embassy officials reported that “compulsory mobilization of students for the annual harvest is a long-standing practice dating back to the Soviet Era” whereby students are “conscripted” into labor by provincial governments who must meet their government-mandated quotas.²⁸ While the 2008 Embassy report identified several factors “driving the use of child labor in the annual cotton harvest”, the report concluded, “Probably the most important factor is the continuance of the quota system for cotton production.”²⁹

²⁵ US Department of Labor, *2011 Findings on the Worst Forms of Child Labor*, 657 (2012) (DOL TDA).

²⁶ Cable from the US Embassy in Tashkent to [SC/CEN and DRL], *Ferghana Valley Cotton Harvest in Full Swing*, para. 11. (September 24, 2007). See also *id* at para. 8 - 9 (US Embassy Political Officer observes that “While driving past a college in Ferghana City, poloffs noticed students being loaded on to several buses with mattresses and other supplies tied to the top – a clear sign that the students were being rounded up to pick cotton. During their meeting at the Oltiaryq hokimiyat, the deputy hokim denied forcing college students to pick cotton and told poloff that farmers find their own labor . . . However, he added that the hokimiyat was already drawing up plans to utilize college students “just in case” the cotton season extended into October and extra labor was needed.”)

²⁷ Cable from the US Embassy in Tashkent to [SCA/CEN and DRL]. *Cotton Harvest in Jizzakh and Syrdarya Provinces*, para. 6. (November 7, 2007)

²⁸ Cable from US Embassy in Tashkent to [SCA/CEN, DRL, GTIP and DOL/ILAB] *Uzbekistan: Information on Forced Labor and Child Labor for Mandatory Congressional Reporting Requirements*, at paras. 1, 6. (June 6, 2008) (“Knowledgeable sources report that many schools across the country are required by provincial governments to produce students for the harvest. According to those sources, schools try to fulfill their quotas using high school aged students, but they occasionally conscript younger students if there are not enough older students to meet their quotas. . . [A] greater number of students are conscripted in the rural areas.”)

²⁹ Cable from US Embassy in Tashkent to [SCA/CEN, DRL, GTIP and DOL/ILAB] *Uzbekistan: Information on Forced Labor and Child Labor for Mandatory Congressional Reporting Requirements*, at para. 8. (June 6, 2008)

The Embassy also reported in 2008 that farmers themselves are forced by the government to grow a certain amount of cotton on their land. The farmers, under pressure to meet the quota at harvest, conscript labor to with either the tacit support or acquiescence of local government officials.³⁰

In June 2008, the US Embassy in Uzbekistan reported that at least one American company is receiving goods produced with forced labor. According to the report, "Local [government of Uzbekistan] authorities are interfering in the management of [the Central Asia Seed Company's] farms by keeping farmers under state production plans, even though the original business plan, approved by the GOU, states the company's farms are exempt from state orders."³¹

In October 2008, during the cotton harvest, several embassy officials reported personal observations of seeing children harvesting cotton, and noted that local officials were under significant pressure to continue mobilizing students in order to meet the government-mandated quota.³² In 2009, the US Embassy again reported that "... the use of child labor continued during the annual fall cotton harvest, a practice dating from the Soviet era which is still largely accepted by Uzbek society,"³³ and described the practice in additional reports as "mobilized" labor.³⁴

Findings of the International Labor Organization and other UN Bodies

International Labor Organization: In 2004, in its first mandatory report on the GOU's implementation of ILO Conv. 105 to the International Labor Organization's Committee of Experts on the Application of Conventions and Recommendations (CEACR), the Government's communication contained information from the Council of the Trade Union Federation of Uzbekistan that included evidence of the Government of Uzbekistan's "mobilization and use of forced labor for economic development" of the cotton sector, asserting that public sector workers, university students and school children are involved.³⁵ ³⁶ In 2005, the ILO reported that the "systematic state practice of compelling free citizens to work, for either economic or political purposes, . . . can be found, such as the labour mobilization campaigns detected in certain central Asian countries, a remnant of practices which were widespread during the Soviet era, Tajikistan and Uzbekistan, for example."³⁷

³⁰ Cable from US Embassy in Tashkent to [SCA/CEN, DRL, GTIP and DOL/ILAB] *Uzbekistan: Information on Forced Labor and Child Labor for Mandatory Congressional Reporting Requirements*, at para. 8. (June 6, 2008)

³¹ U.S. Department of State. (Unclassified) Cable from US Embassy in Tashkent: *Uzbekistan: Report on Investment Disputes and Expropriation* (June 18, 2008). Accessed at:

<http://wikileaks.org/cable/2008/06/08TASHKENT694.html>

³² Cable from US Embassy in Tashkent to [SCA/CEN, DRL, GTIP and DOL/ILAB] *Uzbekistan: UNICEF Shares Results of Child Labor Assessment*, at paras. 26, 33.

³³ Cable from US Embassy in Tashkent to [SCA/CEN, DRL, GTIP, DOL/ILAB, and USAID] *Uzbekistan: Child Labor Information for Trade and Development Act (GSP) 2008 Report*, at para. 1. (January 16, 2009).

³⁴ Cable from US Embassy in Tashkent to [SCA/CEN, DRL, GTIP, DOL/ILAB, and USAID] *Comment on DOL Draft List for TVPRA*, at para. 12 (January 21, 2009). Though US Government officials in Tashkent attempted to differentiate "mobilized" labor from slave labor, both are prohibited forms of forced labor and therefore a prohibited form of labor under 19 U.S.C. §1307.

³⁵ The Committee of Experts on the Application of Conventions and Recommendations (CEACR) is an independent body composed of legal experts charged with examining the application of ILO Conventions and Recommendations by ILO member States. The annual report of the Committee of Experts covers numerous matters related to the application of ILO standards. The report of the Committee of Experts is also available at: www.ilo.org/global/standards/lang--en/index.htm.

³⁶ ILO. *CEACR: Individual Observation concerning Abolition of Forced Labor Convention, 1957 (No. 105) Uzbekistan*, 2010.

³⁷ ILO. *A Global Alliance Against Forced Labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work 2005* at para. 101.

In 2011, the CEACR found again that, though the GOU refused to provide any information about the use of forced child labor to harvest cotton, “Nonetheless, it appears to the Committee that this practice remain prevalent in the country, especially in view of the project carried out with assistance of UNICEF to address child labor in the cotton sector.”³⁸ The findings of the CEACR were based information submitted by both the International Organization of Employers and the International Trade Union Confederation documenting the mobilized labor for the GOU’s state control system for cotton production, as well as a report from a fact finding mission to Central Asia from the International Union of Food, Agricultural, Hotel, Restaurant, Catering , Tobacco, and Allied Workers Associations (IUF), “in which the IUF reported that, during cotton harvesting, teachers and children are mobilized in many rural areas . . .”³⁹ The ITUC reported to the ILO the “the widespread mobilization of forced labor (particularly of children) in 2009 in at least 12 of Uzbekistan’s 13 regions.”⁴⁰

Also in 2011, supporting the findings of the CEACR, the ILO Committee on Application of Standards listed the GOU in a special paragraph, a process reserved for the most egregious cases of international law violations, citing as its basis the GOU’s “insufficient political will and lack of transparency . . . to address the issue of forced child labour in cotton harvesting.”⁴¹ CAS also called on the GOU to allow the ILO “full freedom of movement and timely access to all situations and relevant parties, including the cotton fields, in order to assess the implementation of the convention,” which the GOU has refused for the past three years.⁴³

In its latest report, on the 2012 cotton production cycle, the CEACR observation on the GOU’s application of the convention on the prohibition of forced labor concludes “Recalling that the Convention prohibits the use of compulsory labour for purposes of economic development, the Committee requests the Government to provide, in its next report, information on the concrete measures taken, including through labour inspection, to ensure the elimination of the use of compulsory labour of public sector.”⁴⁴ In its observation on the GOU’s application of the convention on the worst forms of child labor, the CEACR “recalls that the prohibition on the worst forms of child labour, including forced labour and hazardous work, applies to all children under the age of 18.”⁴⁵ The CEACR highlights the “broad consensus among the United Nations bodies, the representative organizations of workers

³⁸ ILO. *CEACR: Individual Observation concerning Worst Forms of Child Labor Convention, 1999 (No. 182) Uzbekistan*, 2011.

³⁹ ILO. *CEACR: Individual Observation concerning Abolition of Forced Labor Convention, 1957 (No. 105) Uzbekistan*, 2010.

⁴⁰ ILO. *CEACR: Individual Observation concerning Worst Forms of Child Labor Convention, 1999 (No. 182) Uzbekistan*, 2011.

⁴¹ The Conference Committee on the Application of Standards, a standing tripartite body of the International Labour Conference and an essential component of the ILO’s supervisory system, examines each year the report published by the Committee of Experts on the Application of Conventions and Recommendations. Following the technical and independent scrutiny of government reports carried out by the Committee of Experts, the Conference Committee provides the opportunity for the representatives of governments, employers and workers to examine jointly the manner in which States fulfil their obligations deriving from Conventions and Recommendations. The Officers of the Committee also prepare a list of observations contained in the report of the Committee of Experts on which it would appear desirable to invite governments to provide information to the Conference Committee, which examines over 20 individual cases every year. The report of the Conference Committee is submitted for discussion by the Conference in plenary, and is then published in the Provisional Record.

⁴² ILO. *ILCCR: Examination of individual case concerning Convention No. 182: Worst Forms of Child Labour, Uzbekistan. 2011.*

⁴³ Id.

⁴⁴ ILO. *CEACR: Individual Observation concerning Prohibition of Forced Labour Convention, 1957 (No. 105) Uzbekistan*, 2013, page 287.

⁴⁵ ILO. *CEACR: Individual Observation concerning Worst Forms of Child Labour Convention, 1999 (No. 182) Uzbekistan*, 2013, page 407

and employers and non-governmental organizations with respect to the continued practice of mobilizing school children for work in the cotton harvest,” and expresses “serious concern regarding the Government’s continued insistence that children are not involved in the cotton harvest in Uzbekistan.”⁴⁶ The CEACR concludes:

“The Committee’s concerns are reinforced by the evident contradiction between the Government’s position that children are not removed from school for work in the cotton harvest, and the views expressed by numerous UN bodies and social partners that this worst form of child labour remains a serious problem in the country. It, therefore, considers an ILO mission to be both necessary and appropriate, to fully assess the situation of children’s engagement in the cotton sector. The Committee, therefore, urges the Government to accept a high-level ILO tripartite observer mission, and expresses the firm hope that such an ILO mission can take place in the very near future.”

UNICEF: In a 2009 report, United Nations Children’s Fund (UNICEF) stated:

. . . informants in Central Asia readily acknowledge the existence of child labour. Interviews suggest that before transition from the Soviet Union the involvement of children in work was presented and perceived as being part of the collective from the Soviet Union duties and vocational experience of adolescents; it has now largely turned into exploitation.⁴⁷

UNICEF also reported, “The issue of seasonal mobilization of children for the cotton harvest is a growing concern internationally and at home.”⁴⁸ Though the UNICEF report characterizes the GOU’s labor mobilization as an international concern, rather than a violation of international law, the report was based partly on field surveys conducted in 2008 in nine provinces of Uzbekistan, which according to US Embassy reports, confirmed that because “farmers and regional officials still need to meet their cotton quota, they often depend on mobilized student labor . . .”⁴⁹ UNICEF also reported that “local officials were under added pressure [in 2008] to mobilize children to meet their cotton quotas . . .” and recommended a long-term strategy to end child labor “that addresses broader and related issues, including labor migration and the quota system.”⁵⁰

UNICEF also identified as a major factor contributing to the Government’s decision to mobilize labor the labor shortages caused by significant migration of adult labor to neighboring countries to harvest cotton, and, according to the report, “it becomes more difficult for farmers attract adult laborers.”⁵¹

In 2012, UNICEF reported to the ILO on its observation visits in 12 regions during the cotton harvest of 2011. UNICEF reported findings that included:

“(i) children aged 11–17 years old had been observed working full time in the cotton fields across the country;

⁴⁶ ILO. *CEACR: Individual Observation concerning Worst Forms of Child Labour Convention, 1999 (No. 182) Uzbekistan*, 2013, page 409.

⁴⁷ UNICEF. *Risks and Realities of Child Trafficking and Exploitation in Central Asia*. 2009, pg. 48.

⁴⁸ UNICEF. *Risks and Realities of Child Trafficking and Exploitation in Central Asia*. 2009, pg. 48

⁴⁹ Cable from US Embassy in Tashkent to [SCA/CEN, DRL, GTIP and DOL/ILAB] *Uzbekistan: UNICEF Shares Results of Child Labor Assessment*, at paras. 1, 6.

⁵⁰ Cable from US Embassy in Tashkent to [SCA/CEN, DRL, GTIP and DOL/ILAB] *Uzbekistan: UNICEF Shares Results of Child Labor Assessment*, at paras. 1, 6.

⁵¹ Cable from US Embassy in Tashkent to [SCA/CEN, DRL, GTIP and DOL/ILAB] *Uzbekistan: UNICEF Shares Results of Child Labor Assessment*, at paras. 1, 6

- (ii) the mobilization of children had been organized by way of instructions passed through Khokimyats (local administration), whereby farmers are given quotas to meet and children are mobilized by means of the education system in order to help meet these quotas;
- (iii) in some instances, farmers had also made a private arrangement with schools to pick their cotton often in return for material resources or financial incentives for the school;
- (iv) children were predominantly supervised in the fields by teachers;
- (v) in over a third of the fields visited, children stated that they were not receiving the money themselves;
- (vi) quotas for the amount of cotton children were expected to pick generally ranged between 20 to 50 kilos per day;
- (vii) the overwhelming majority of children observed were working a full day in the field and as a result, were missing their regular classes;
- (viii) children worked long hours in extremely hot weather;
- (ix) pesticides were used on the cotton crop that children spent hours hand picking;
- (x) some children reported that they had not been allowed to seek medical attention even though they were sick; and (xi) that the only noticeable progress towards the eventual elimination of the use of children in cotton picking was observed in the Fergana region.”⁵²

UN Human Rights Committee: On 7 April 2010, the UN Human Rights Committee expressed its concern “about reports that children are still employed and subjected to harsh working conditions, in particular for cotton harvesting” and called on the Government to “ensure that its national legislation and international obligations regulating child labour are fully respected in practice”.

UN Committee on the Elimination of Discrimination Against Women: On 26 January 2010, the UN Committee on the Elimination of Discrimination Against Women, expressed its concern regarding the educational consequences of girls and boys working during the cotton harvest season, and requested the Government to guarantee that the cotton harvest season does not compromise the right of these children to education.

Reports of independent human rights groups, academics and the media

Since 2005, reports have consistently document the state-forced labor of children and adults in the cotton sector of Uzbekistan. In 2005, the International Crisis Group released the report *The Curse of Cotton: Central Asia’s Destructive Monoculture* and the Environmental Justice Foundation (EJF) released *White Gold: The True Cost of Cotton – Uzbekistan, cotton and the crushing of a nation*. In 2007, EJF released *The Children Behind Our Cotton* and EJF and the Pesticide Action Network released *The Deadly Chemicals in Cotton*. In 2008, despite the Government’s consistent repression of civil society activity, a brave group of human rights defenders and journalists of Uzbekistan released *Forced Child Labor in Uzbekistan’s 2007 Cotton Harvest: Survey Results*. Also in 2008, the International Labor Rights Forum and Human Rights Defenders in Uzbekistan released *Forced Child Labor in Uzbekistan’s 2008 Spring Agricultural Season* and EGF released *Still in the Fields: Forced child labour continues in Uzbek cotton production*. 2009 reports included: *Abolition of Forced Child Labor in Cotton Harvest: Dilemma for Uzbek Government* by “Veritas” Youth Human Rights Movement of Uzbekistan, *Pick All the Cotton: Update on Uzbekistan’s Use of Forced Child Labor in 2009 Harvest* by a group of human rights defenders in Uzbekistan and ILRF, *Harvesting the ‘White Gold’: Check your sweater* by EU-Central Asia Monitoring

⁵² ILO. *CEACR: Individual Observation concerning Worst Forms of Child Labour Convention, 1999 (No. 182) Uzbekistan*, 2013, page 406.

Watch, *Still in the Fields: The continuing use of state-sponsored forced child labour in Uzbekistan's cotton fields* by EJF, *"We Live Subject to their Orders": A Three-Province Survey of Forced Child Labor in Uzbekistan's 2008 Cotton Harvest* by a group of human rights defenders in Uzbekistan and ILRF, and *Somebody Knows Where Your Cotton Comes From: Unravelling the Cotton Supply Chain* by EJF. Several reports documented the state-sponsored forced labor system in 2010, 2011 and 2012, including:

The report *Forced Child Labour in Uzbekistan: Some Changes- But Not For The Better* documented the 2010 cotton harvest. Interviews taken in 2010's indicated that most of the schoolchildren who picked cotton that year were between 10 and 15 years old. The younger ones, between 7 and 9 years old, would generally be sent to the fields only at the end of the school day or on the weekend. These younger kids would generally finish the working in cotton fields in early October, while the older children continued working until the end of November, depending on the regions. Other trends observed included increased conscription of government employees, shifting of the burden from younger to older children and university students, and the end of the harvest as the peak time of child labor. It further noted the violence associated with enforcement of production quotas, quoting a regional governor's threat to "rip the head off" of farmers who did not fulfill their state order.

The 2012 report *"Cotton, its' not a plant - it's politics"* presented evidence from the 2011 cotton harvest and highlighted the depth and systemic nature of the state-sponsored forced labor. The report documented the coercive mobilization of over 2 million Uzbek school children, college and university students, government employees and private business employees. The UGF report includes the release forms signed by students in 2011, in which they agreed to any punishment for refusing to participate in the cotton harvest. Command control of the cotton sector begins with the prime minister and is enforced through the prosecutor's office, regional governments and even the participation of the National Security Services, the report explained. Farmers are denied the right to decide what crops to grow, are driven into debt by the cotton production system, and can lose their land at the whim of the regional authorities (hokims). The report also explained increasing corruption, including: purchases of medical exemptions to avoid picking cotton, payments to school officials to protect one's child from the harvest, and hiring local day laborers - all practices in which income is extracted from the average citizen to ensure a nearly free source of labor for the cotton sector.

The *Review of the 2012 Cotton Harvest in Uzbekistan* concluded that the government of Uzbekistan made no progress toward ending forced labor of children and adults during 2012.⁵³ The report notes that, "While they maintained more schools open for younger children and did not mobilize them on the same massive scale as in the past, forced child labor of high-school students increased nationwide; there were incidents of forced child labor of young children; and forced labor of adults intensified dramatically. Furthermore, the increased financial extortion during the 2012 harvest is alarming." The report concludes that the Government demonstrates some level of responsiveness to the international pressure to end forced labor in the cotton sector.

Most Recent Cotton Harvest 2012

In 2012, the system of large-scale, government organized forced labor in the cotton harvest remained the same as in previous years; implementation of the system was carried out with a demographic shift to older children and more adults and accompanied by an unprecedented scale of corruption. Even without nationwide mobilization of children under age 15, in some provinces these younger children were still sent to the fields. In July, Uzbekistan's Prime Minister issued verbal orders

⁵³ Cotton Campaign and Uzbek-German Forum for Human Rights, *Review of the 2012 Cotton Harvest in Uzbekistan*, 2012, available at http://www.cottoncampaign.org/wp-content/uploads/2012/12/Review2012_CottonHarvestUzbekistan.pdf.

that schoolchildren were not to be sent to pick cotton, a statement that merely reiterated the existing national law that prohibits child labor. Similar statements were issued in previous years, but they were never fulfilled in practice.⁵⁴ This year, the government shifted a significant share of the burden of the cotton harvest to older children and adults, forcing greater numbers of high school and university students, government employees, private sector businessmen, and low-income residents to contribute to the harvest, under threats to their livelihoods.

Young children, ages 10-14, were coercively mobilized by some schools and some, primarily rural, parents, who were taking advantage of the opportunity to charge urban residents desperate to meet their individually assigned quotas.⁵⁵ During the 2012 harvest, the government largely avoided implementing the nationwide, mass mobilization of young children that it utilized during past harvests though the practice was used in certain regions.

Older children, ages 15-17, primarily secondary school students, were forced en masse, nationwide to pick cotton, under threat of expulsion from school.⁵⁶ While they were theoretically paid, the cost of their meals was deducted from their earnings. As a result, while students had to pick 60 kilograms per day, they only received payment for 25 kg.⁵⁷ In practice, this meant that for a 10-12 hour work day, a half-starved 15-year old earned approximately 20 cents (USD). These older children lived under appalling conditions. During the harvest they stayed in sport halls of local schools, in village cinemas, and in the meeting halls of administrative buildings. They slept on the floor, lacked adequate potable water, food and hygienic sanitation facilities.⁵⁸ Sadly, there were also many incidents of students beaten by public authorities for failing to meet their quotas.⁵⁹

University students were forced en masse, nationwide to pick cotton, under threat of expulsion from school.⁶⁰ A university official commented to Radio Liberty, "If a student doesn't go to pick cotton, she/he will be expelled from university."⁶¹ Universities did not open until the harvest was concluded, and conditions in the fields and accommodations were the same as for high school students': unsafe, unsanitary, and undernourished. Groups of students fled the fields toward the end of their second month working 10-12 hour days in the fields and enduring startling physical abuse, and wandered home on their own.⁶²

The government of Uzbekistan forced about one out of every six government employees to pick cotton in 2012, including teachers, doctors, nurses, members of the military, ministry officials and others.⁶³ Among teachers, the percentage soared to 60% of all teachers forced to work in the fields.⁶⁴

⁵⁴ Sadridin Ashour, «Бу йил ўзбекистонлик болалар пахта термайди» Ozodlik.org, 14 August 2012, available at <http://www.ozodlik.org/content/article/24676496.html>, last accessed 20 December 2012.

⁵⁵ Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour 2012*, available at <http://uzbekgermanforum.org/category/cotton-chronicle/chronicle-of-forced-labour-2012/>, last accessed 20 December 2012.

⁵⁶ Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour 2012*, available at <http://uzbekgermanforum.org/category/cotton-chronicle/chronicle-of-forced-labour-2012/>, last accessed 20 December 2012.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ «Пахтага чикмаган талаба ўқишдан ҳайдалади» Ozodlik.org, 1 November 2012, available at <http://www.ozodlik.org/content/article/24757842.html>, last accessed 20 December 2012.

⁶² «Кўқонлик қочоқ талабалар чегарада ушланди» Ozodlik.org, 30 October 2012, available at <http://www.ozodlik.org/content/article/24755460.html>, last accessed 20 December 2012. «Қочоқ талаба: Норма 5 Варно Анвар, «кило, далада эса пахта деярли йўқ» Ozodlik.org, 15 October 2012, available at <http://www.ozodlik.org/content/article/24739714.html>, last accessed 20 December 2012.

⁶³ 12 Uzbek human rights activists, anonymous for personal safety. Personal Interviews by Matthew Fischer-Daly, 23 September – 6 October, 2012. Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour 2012*,

The mass mobilization of government employees began as early as September 3rd. Each organization was obliged to delegate a certain number of staff members to pick cotton, and administrators scheduled shifts of their personnel to pick cotton for 2-3 weeks at a time. Upon one group's return from the field, the administrator would send another until the organization met the quota of cotton assigned by the regional authorities.

Adults coercively mobilized from the cities were required to deliver 60-80 kilograms of cotton per day, depending on the region.⁶⁵ The work routine was harsh, starting the day as early as 4:30 AM and working in the fields for 10-12 hours until late into the evening. If a cotton picker failed to deliver the quota expected, (s)he had to buy the remainder from local residents. If a cotton picker did not have the means to pay, the amount was deducted from his or her salary.⁶⁶ Some of the larger public organizations collected money from staff who did not go out to the fields – due to severe illness or because they had young children – to pay for the missing kilograms, but cotton pickers from smaller organizations bore the full burden of paying for any shortfall between the amount of cotton they picked and their assigned quotas.

Medical personnel, as government employees, were forced to pick cotton around the country and in large numbers, thereby straining the delivery of essential medical care. Just accounting for the hospitals and clinics of Tashkent, 11,000 nurses and doctors were sent to work in fields far away, such as in Arnasay district of Jizzak region.⁶⁷ The results were striking. During an interview with the Cotton Campaign in September, a resident of Bukhara reported, "My niece was ill, so I took her to the children's hospital. They said that no doctors were available."⁶⁸ In another interview, a gynecologist from Bukhara reported that the same mobilization of medical personnel occurred in her region, and reports streamed in from throughout the country of the same coercive mobilization of medical personnel.⁶⁹

Delivery of education suffered tremendously as well. With an estimated 60% of all schoolteachers forced to work in the cotton fields, classes were combined to 50 and 60 students, and lessons were shortened or cancelled.⁷⁰ Secondary schools and universities were all closed, with nearly no exceptions, until the end of the harvest. As of November, most older students throughout the country had not spent a single day studying during the new academic year.

Private-sector employees, of both domestic and multinational companies, were forced to contribute to the cotton harvest. As early as July, local government authorities ordered private businesses to support the cotton harvest with labor, financial or in-kind contributions. While described by officials as a voluntary appeal, it was accompanied by threats of tax fines for any businesses that

available at <http://uzbekgermanforum.org/category/cotton-chronicle/chronicle-of-forced-labour-2012/>, last accessed 20 December 2012.

⁶⁴ Ozodlik.org, "Таъзим сизга" пахтакор "устозлар!", Ozodlik.org, 1 October 2012, available at <http://www.ozodlik.org/content/article/24725030.html>, last accessed 21 December 2012.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour 2012*, available at <http://uzbekgermanforum.org/category/cotton-chronicle/chronicle-of-forced-labour-2012/>, last accessed 20 December 2012.

⁶⁸ Resident of Bukhara 3, anonymous for personal security. Personal Interview by Matthew Fischer-Daly. 26 September 2012.

⁶⁹ Resident of Bukhara 1, anonymous for personal security. Personal Interview by Matthew Fischer-Daly. 26 September 2012.

⁷⁰ 12 Uzbek human rights activists, anonymous for personal safety. Personal Interviews by Matthew Fischer-Daly, 23 September – 6 October, 2012. Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour 2012*, available at <http://uzbekgermanforum.org/category/cotton-chronicle/chronicle-of-forced-labour-2012/>, last accessed 20 December 2012.

failed to contribute adequately.⁷¹ Throughout the harvest, the companies were required to continue paying the workers' normal salaries while their workers picked cotton, lowering productivity of the private sector and putting companies in the position of subsidizing the state-controlled cotton sector.⁷²

Workers at the General Motors Uzbekistan plant in Asaka, Andijon region were forced to pick cotton for the Uzbek government, reportedly for the second year in a row.⁷³ According to a GM worker interviewed by human rights activists in 2012, GM workers were sent to pick cotton between September 20 and October 22, primarily in the Andijon and Syrdarya regions. Company managers oversaw the workers in the fields who worked just like the others in the fields, 10-12 hours every day. The auto workers did not refuse to go or ask about being paid, because they valued keeping their jobs.

“There were no such cases that someone refused to go... Because the work that they assigned us had to be done. Do you think that it is easy to get a job at this company? If you lose this kind of job – you will not likely find another one.” GM Uzbekistan worker, October 2012⁷⁵

Lower-income citizens, who depend on *mahalla* committees (semi-governmental neighborhood organizations) for access to public welfare benefits, were forced to pick cotton throughout the country.⁷⁶ Although often described as voluntary labor, their participation was also forced with threats to their livelihoods. The *mahalla* committees are responsible for distributing government welfare benefits to low-income citizens. This means that many *mahallas* committees denied social welfare benefits to the low-income citizens who refused to pick cotton. The *mahalla* committee members who participated in the harvest are typically low-income citizens seeking additional income, and nearly all women, because many of the men in rural areas have migrated to Russia or elsewhere in search of employment.

Also, media reports support the recent findings of human rights monitors. In 2007, BBC Newsnight televised a three-part series “BBC Newsnight Investigates the Uzbek Cotton Industry.” In 2011, *Russia Today* televised the report “Fabric of Abuse”. In 2012, media outlets that reported on the

⁷¹ UzNews, “Businesses forced to sponsor cotton harvesting in Angren”, UzNews, 12 September 2012, available at http://www.uznews.net/news_single.php?lng=en&sub=hot&cid=2&nid=20776, last accessed 20 December 2012.

⁷² Personal interviews by the Uzbek-German Forum for Human Rights, November – December 2012.

⁷³ GM Uzbekistan is a joint venture between OJSC UzAvtosanoat, a company wholly owned and controlled by the GOU, and the General Motors Company, of which the US Government owns around 32 percent. The GM-GOU partnership operates two plants: one in Asaka, Andijon Province and one in Tashkent. The GOU-GM partnership began in 2008 when they jointly established GM Uzbekistan and took control of a Daewoo Motor plant located in Andijon Province. According to GM, twenty-five percent of the Andijon joint venture is owned by GM with government-owned Uzavtosanoat controlling 75 percent. In January 2009, GM expanded its business relationship with the GOU by jointly establishing GM Powertrain-Uzbekistan. GM owns 52 percent and Uzavtosanoat owns 48 percent.

⁷⁴ Fitzpatrick, Catherine, “Uzbekistan: Clinton Visits GM Plant; Activists Say Workers Forced to Pick Cotton,” *EurasiaNet*, 24 October 2011, available at <http://www.eurasianet.org/node/64362>, last accessed 7 March 2013.

⁷⁵ Worker of GM in Uzbekistan, name anonymous to protect personal security. Personal Interview by Uzbek-German Forum for Human Rights. 25 November 2012. Andijon.

⁷⁶ Mehgibon, “Жиззахда пахтага чиқмаган болали аёллар жазоланмоқда” *Ozodlik.org*, 24 September 2012, available at <http://www.ozodlik.org/content/article/24718319.html>, last accessed 20 December 2012; *Fergana Information Agency*, “Ўзбекистан: Районный прокурор избил представителя махалли за нехватку сборщиков на хлопковом поле,” 24 October 2011, available at <http://www.fergananews.com/news.php?id=17505&mode=snews>, last accessed 2 January 2013; and Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour 2012*, available at <http://uzbekgermanforum.org/category/cotton-chronicle/chronicle-of-forced-labour-2012/>, last accessed 20 December 2012.

Uzbek cotton sector and human rights concerns included: *Washington Post*, *Washington Times*, *Los Angeles Times*, *Financial Times Deutschland*, *BBC News*, *Spiegel*, *MSN-Money*, *UzNews*, *CA-News*, *Radio Free Europe-Radio Liberty* and *Fergana Information Agency Foreign Policy*, *The Daily Beast*, *Just-Style*, *Fiber 2 Fashion*, *Front Line Defenders*, and *Business and Human Rights Resource Center*. Most recently, CNN televised the reports “Uzbekistan’s slave labor problem” on February 25, 2013 and “Cotton exporters force child labor” on February 21, 2013.

2. Cotton produced under the government’s forced labor production system for cotton is the sole component of yarn and fabric manufactured in Uzbekistan.

US law prohibits any product “produced or manufactured wholly or in part in any foreign country by . . . forced labor . . .” from entering the United States. 19 U.S.C. 1307 (emphasis added). See also 19 CFR §12.42(g)(providing that an importer must establish “by satisfactory evidence that the merchandise was not mined, produced, or manufactured in any part with the use of” forced labor). The U.S. Court of International Trade has upheld Custom authority under §1307 to “prohibit the entry of merchandise that “actually contains ‘wholly or in part’ components made with prohibited labor.” (emphasis added) *China Diesel Imports v. U.S.*, 855 F. Supp. 380, 384 (CIT 1994). Since all cotton grown and harvested in Uzbekistan is produced under the GOU’s “state order system” for cotton production, any company importing a product made with cotton and cotton seeds grown and harvested in Uzbekistan, including cotton yarn and cotton fabric produced in Uzbekistan, is a violation of United States law, 19 U.S.C. §1307.

According to the US Department of Agriculture, Uzbekistan does not import any raw cotton.⁷⁷

Therefore, for companies who process the cotton into yarn, fabric, and garments in facilities in Uzbekistan, cotton produced under the Government’s forced labor system is the sole component of their product. After cotton is harvested by forced adult and child labor for the GOU, processing facilities in the country buy the cotton from the government and use it to manufacture cotton articles, such as yarn, fabric, and eventually into garments. According to the U.S. Department of Agriculture, the GOU maintains control over the supply of cotton to all processors and traders through system by which the government allocates domestic raw cotton supplies to millers through sales contracts or through sales of raw cotton through Uzbeklegprom – the government-controlled ‘Association of State Cotton Enterprises’.⁷⁸ The government also maintains tight control over development of the cotton yarn, fabric and garment sector through the work of the State-owned Joint Stock Company, Uzbekengilsanoat.⁷⁹

In return for control, the GOU rewards its corporate partners like Daewoo and Indorama handsomely with preferential access to the cotton. At a time of high global prices for cotton, the government’s cotton sector development plan provides a secure, cheap supply of cotton for any company willing to process forced labor-made cotton into value-added products for export. According to the Uzbekistan Ministry of Foreign Economic Relations, Trade and Investment, companies who establish cotton processing facilities in Uzbekistan receive a 15% discount on the price of cotton fiber, affordable by the government because of the cheap supply of cotton ensured by the government’s quota system. Companies who agree to fully process the cotton into finished products and export of at

⁷⁷ United States Department of Agriculture, Production, Supply, and Distribution Report: Cotton, Table 6. Available at <http://www.fas.usda.gov/psdonline/psdHome.aspx>

⁷⁸ Environmental Justice Foundation, *White Gold: The True Cost of Cotton- Uzbekistan, cotton and the crushing of a nation*. 2005, available at <http://ejfoundation.org/cotton/white-gold>,

⁷⁹ Ministry of Foreign Economic Relations, Trade and Investment, Uzinfovest Agency, http://www.uzinfoinvest.uz/eng/investment_opportunities/by_industry/light_industry/), (last visited September 15, 2011.)

least 80% receive an additional 5% price discount. Companies also receive tax exemptions and customs incentives.⁸⁰

B. Companies producing cotton yarn, fabric and garments in facilities in Uzbekistan cotton made produced in the GOU's forced labor system are exporting the products to the US.

Because of the ready supply of cheap cotton from the government controlled mills, foreign investors are increasingly working with the GOU to secure access to the captive cotton supply, and many companies are developing additional production capacity specifically with the goal of exporting more cotton yarn, fabrics and some textile garments to global markets, including the United States.⁸¹ Among the companies buying into the lucrative market cultivated by the GOU's forced labor quota system are Daewoo International, Daishin Textile, Heintex, Shingdong Enercom (Korea), Baytex Tijaret, Tekfen, Bo Group, Alkim Textile, Mert Iplik (Turkey), Wayrex, Osborn Trading, Tagus (UK) and others.⁸² According to GOU reports, more than 120 enterprises of the state owned enterprise, Uzbekengilsanoat, are exporting products to Europe, Asia, United States and Canada.

Publicly available information indicates that two companies who have paid into the Government's coercive cotton economy have exported cotton products to the United States from their facilities in Uzbekistan frequently since 2007: Indorama Corporation, through its government joint venture Indorama Kokand Textile, and Daewoo International, through its subsidiaries Daewoo Textile Fergana LLC and Daewoo Textile Bukhara LLC.

1. Daewoo Textiles

DW Textiles imported 40 tons of yarn into the US in 2008. (Exhibit C)

Daewoo Textiles imports knitted grey cotton yarn.

Daewoo Textile sole source of cotton yarn and cotton fabric is from its processing facilities in Uzbekistan. Daewoo Textiles consists of two overseas production branches in Uzbekistan.⁸³ Both companies are joint ventures between Daewoo and the State Joint Stock Company, Uzbekengilsanoat.⁸⁴ Daewoo Textile Fergana was founded in 1996 in Uzbekistan's cotton-producing Fergana Valley. It is the larger of Daewoo's textile manufacturing branches. Daewoo Textile Fergana operates three factories: a spinning mill in Tashlak⁸⁵, a weaving mill in Kumtepa⁸⁶, and a combination spinning mill/weaving mill in Fergana.⁸⁷ Combined, these factories produce 34,500 tons of single yarn, 4,300 tons of double yarn, and 35 million meters of fabric every year. These account for over 20% of Uzbekistan's total textile output, according to Daewoo Textile Fergana's website.⁸⁸ Daewoo Textile

⁸⁰ Ministry of Foreign Economic Relations, Trade and Investment, Uzinfovest Agency, http://www.uzinfoinvest.uz/eng/investment_opportunities/by_industry/light_industry/, (last visited September 15, 2011.)

⁸¹ USDA Foreign Agriculture Service, *GAIN Report – Uzbekistan Cotton Products Annual Report* (2010).

⁸² Panjiva, "Uzbek Manufacturers," available at http://panjiva.com/sitemap/supplier_country_detail/Uzbekistan/232.

⁸³ <http://daewoomanila.com/textiledivision.html>

⁸⁴ <http://www.legprom.uz/?p=enterprise>

⁸⁵ <http://en.daewootextile.com/tashlak>

⁸⁶ <http://en.daewootextile.com/kumtepa>

⁸⁷ <http://en.daewootextile.com/fergana>

⁸⁸ <http://en.daewootextile.com/>

Fergana also claims to use 100% Uzbek cotton.⁸⁹ Daewoo Textile Fergana has customers all over the world, including: Bimeco, Monk's International, and Cogetex S.A.⁹⁰

Daewoo's other textile manufacturing branch is Daewoo Textile Bukhara. It was founded in 2009 when Daewoo purchased Bukharatex, a state-run textile mill. Daewoo Textile Bukhara processes 19,500 tons of raw cotton fiber and 16,000 tons of yarn every year. 80% of production is exported out of the country.⁹¹

Daewoo Textiles is a division is a part of the Korean Daewoo Group, South Korea's largest textile company. Daewoo Group is involved in every aspect of the industry from raw materials to finished products. Daewoo's conglomerate also involved 580 business partners, many of whom likely purchase cotton articles produced at Daewoo's two Uzbekistan facilities.

Other customers of Daewoo Textiles are also possibly using products that are manufactured in part with forced labor, including Premier Textiles, Utexbel, Gilleman Enterprise Co., and Global Textile Alliance.⁹²

2. Indorama Kokand Textile

Indorama Kokand Textile imported no fewer than six shipments yarn into the US in 2012 (Exhibit E).

Indorama Kokand Textile imports combed cotton yarn.

Indorama Kokand Textile's sole source of cotton yarn and cotton fabric is from its processing facilities in Uzbekistan. Indorama Kokand Textile consists of one overseas production facility in Uzbekistan.⁹³ The company is a joint venture company with the National Bank of Uzbekistan, with Indorama Corporation holding a majority shareholding. The company was commissioned in Uzbekistan in July 2011 as part of Indorama's strategy to establish its presence in the emerging economies of Central Asia and to expand its global spinning business. According to the Indorama's website, "The company has a natural advantage of sourcing competitively priced raw cotton fibre from domestic sources and adding value for shipments to its global markets."⁹⁴

Indorama Kokand Textile is a division of Indorama Corporation, a group of companies headquartered in Singapore. Indorama Corporation is a global manufacturer of Polyethylene, Polypropylene, Polyester Fiber, Filament as well as Spun Yarns, Fabrics, and Medical Gloves. It is the world's largest manufacturers of Polyester and PET as well as one of the largest producers of PTA in the world.⁹⁵

C. United States produces cotton yarn, cotton fabric, and cotton garments in quantities sufficient to meet the domestic consumptive demand.

⁸⁹ <http://en.daewootextile.com/yarn>

⁹⁰ http://en.daewootextile.com/our_partners

⁹¹ <http://www.uzdaily.com/articles-id-8065.htm>

⁹² See http://en.daewootextile.com/our_partners and <http://panjiva.com/Daewoo-International-Corporation/1061426?q=Daewoo+Textile>

⁹³ <http://www.indorama.com/companies.php?id=91>

⁹⁴ <http://www.indorama.com/companies.php?id=91>

⁹⁵ <http://www.indorama.com/about-us.php>

Petitioners hereby submit information indicating that cotton yarn, cotton fabric, and cotton garments are “being produced in the United States in such quantities as to meet the consumptive demands of the United States . . .” 19 CFR 12.42(b).

Cotton Yarn

The type of yarn that is imported to the United States from Uzbekistan falls under HTS 5205. Over the past five years the United States has imported over **\$1 billion** of this type of yarn from countries all over the world, but has exported **\$5.9 billion** of yarn, indicating that the United States produces enough yarn to meet the demand of the United States.⁹⁶

Cotton Fabric

The type of woven fabric that is imported to the United States from Uzbekistan falls under HTS 5208 and 5212. Over the past five years the United States has imported **\$1.28 million** of this type of woven fabric from countries all over the world, but has exported **\$839 million** of this type of yarn, indicating that the United States also produces enough woven fabric of HTS 5208 and 5212 to meet the demand of the United States.⁹⁷

Cotton Waste

Gins and mills in the United States are also able to meet US demand for cotton waste. Since 2006, the United States has imported **\$98 million** of cotton waste (HTS 5202), but has exported almost \$136 million of cotton waste.⁹⁸

II. Evidence presented along with this petition is sufficient to support the exclusion of all yarn, fabric, and garment imports from Uzbekistan.

According to Customs regulations, “If the Commissioner of Customs finds at any time that information reasonably but not conclusively indicates that merchandise within the purview of section 307 is being, or is likely to be, imported, he will promptly advise all port directors accordingly.” 19 C.F.R. § 12.42(e) (emphasis added). Customs is also directed to “publish a finding to that effect causing a permanent ban on the importation to the U.S. of said merchandise.” 19 C.F.R. § 12.42(f), China Diesel Imports v. U.S., 855 F. Supp. 380, 384 (CIT 1994).

A. The evidence demonstrates that it is likely that goods made “wholly or in part” with cotton grown and harvested by forced labor will be imported into the United States.

According to current Customs regulations, the Commissioner of Customs has authority to immediately issue a detention order as long as there is information that reasonably but not conclusively indicates that merchandise within the purview of section 307 is being, or is likely to be, imported,” into the United States. 19 C.F.R. § 12.42(e) (emphasis added). Import records demonstrate that cotton yarn, fabric and garments from Uzbekistan have been imported into the United States in a varied but

⁹⁶ U.S. International Trade Commission, YTD July 2011, <http://dataweb.usitc.gov>.

⁹⁷ U.S. International Trade Commission, YTD July 2011, <http://dataweb.usitc.gov>.

⁹⁸ U.S. International Trade Commission, YTD July 2011, <http://dataweb.usitc.gov>.

consistent flow over the past five years, and trend that will likely continue as Uzbekistan progresses with its cotton sector development plans.

In 2011, U.S. imports of Uzbek cotton, including yarns and woven fabrics (Harmonized Tariff Schedule HTS 52), increased 272% from 2010.⁹⁹ Since reaching a low in 2007, U.S. imports of Uzbek cotton and products made “wholly or in part” with cotton from Uzbekistan have trended upwards to the 2011 total of \$1.5 million USD, the highest annual total since 2005.¹⁰⁰ The dip in 2007 was due to economic sanctions on the Uzbek government; however, in the pre-sanctions period 2002-2006, Uzbekistan accounted for 10% of world exports.¹⁰¹ The Uzbek cotton export forecast for the 2011/12 increased to 3.25 million bales and is expected to remain at this high level in 2013, as government plans for increasing domestic cotton consumption are expected to proceed slowly.¹⁰²

In 2012 US imports of Uzbek cotton reach a dramatic low, but 2013 imports show a steady trend back to original levels. In January and February alone, the United States imported more than \$70,000, or 23 tons, worth of cotton products. (Exhibit D)

In the coming years, the United States and other countries will likely continue to see increased imports of cotton yarn, fabric and garments imported into the United States from Uzbekistan for several reasons. First, according to the Government of Uzbekistan, “The [cotton] sector has a sustainable raw materials basis: over 1 million tons of cotton fiber is produced in Uzbekistan annually . . .”¹⁰³ As a part of its cotton sector development plan, the government is also increasingly working with foreign investors like Daewoo and Indorama to deepen “the processing degree (cycle) of cotton fiber from production of yarn to production of ready-made garments” in an effort to capture even more value from the cotton produced with forced labor, and has expanded production capacity significantly since 1995.¹⁰⁴

B. The US Court of International Trade has upheld exclusion orders based on substantially the same evidence provided along with this petition.

The US Court of International Trade (CIT) has upheld an exclusion order based on the same type of evidence included along with this petition. *China Diesel Imports v. U.S.*, 855 F. Supp. 380, 386 (CIT 1994). In *China Diesel*, the court upheld an exclusion order promulgated by the CBP that was based on evidence similar to the evidence presented in the current petition, including findings and reports from Departments of State and Labor, as well as other US Government agencies (supra at p. 7-9); international organizations (supra at p. 9-12), human rights organizations (supra at p. 12-16), and the media (supra at p.16-17). See *China Diesel Imports v. U.S.*, 855 F. Supp. 380, 386 (CIT 1994)

Also, according to the CIT, the Commissioner of Customs and Border Patrol (CBP) has authority to issue a final determination to exclude cotton goods from Uzbekistan without having ICE conduct on-

⁹⁹ U.S. International Trade Commission, *Dataweb*, “U.S. Imports for Consumption,” <http://dataweb.usitc.gov/scripts/REPORT.asp>, (last visited May 14, 2012).

¹⁰⁰ U.S. Census Bureau, Business and Industry, Foreign Trade, *U.S. International Trade Data*, “U.S. Imports from Uzbekistan by 5-digit End-Use Code,” <http://www.census.gov/foreign-trade/statistics/product/enduse/imports/c4644.html> (last visited May 14, 2012).

¹⁰¹ United Nations Commission on Trade and Development (UNCTAD), *InfoComm: Market Information in the Commodities Area*, “Cotton Production,” <http://r0.unctad.org/infocomm/anglais/cotton/market.htm> (last visited May 14, 2012).

¹⁰² USDA Foreign Agricultural Service, *Gain Report*, “Uzbekistan Cotton Annual 2012,” http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Cotton%20and%20Products%20Annual_Tashkent_Uzbekistan%20-%20Republic%20of_3-28-2012.pdf (last visited May 14, 2012).

¹⁰³ http://www.uzinfoinvest.uz/eng/investment_opportunities/by_industry/

¹⁰⁴ Ministry of Foreign Economic Relations, Trade and Investment, Uzininvest Agency, http://www.uzinfoinvest.uz/eng/investment_opportunities/by_industry/light_industry/, (last visited September 15, 2011.)

site investigations or monitoring of the cotton harvest, particularly when the political climate prevents a credible on-site investigation. China Diesel Imports v. U.S., 855 F. Supp. 380, 386 (CIT 1994)(upholding exclusion order after importer challenged the validity on the grounds that Customs never inspected the facility prior to making its determination.) In particular, the court noted that information gathered during visits accompanied by foreign government officials may not be viewed as credible evidence by the fact-finder. *Id.* As discussed *infra*, the Government of Uzbekistan does not allow independent monitoring of the cotton harvest.

C. Efforts by Daewoo International and other companies in Uzbekistan to remove forced labor cotton from their supply chains have failed.

Pursuant to regulations, once the Commissioner of Customs determines that imports of cotton yarn and cotton fabric from Uzbekistan contain cotton harvested in Uzbekistan, and therefore prohibited under 19 USC §1307, no cotton yarn or fabric produced in Uzbekistan is allowed to enter the United States, “unless the importer establishes by satisfactory evidence that the merchandise was not mined, produced, or manufactured in any part with the use of” forced labor.¹⁰⁵ 19 CFR §12.42(g). Under current political climate, though, importers cannot in good faith certify that forced and forced child labor is not used at any stage of the production of the cotton yarn, fabric, or garment, or any of its components as required under, 19 CFR 12.43 for several reasons.

First, according to Daewoo International, the company has attempted to raise the issue with the Government since 2005 but have failed to bring an end to the practice.¹⁰⁶ Daewoo International’s failed effort to remove forced labor-made cotton from its supply chain is typical. In 2008, the State Department also reported on failed efforts by the Central Asia Seed Company (CASC), an Alabama-based subsidiary of Elsut International, Inc., to remove forced labor-made cotton from its cotton fiber and cotton seed production in Uzbekistan. According to the report,

“Local [government of Uzbekistan] authorities are interfering in the management of [the Central Asia Seed Company’s] farms by keeping farmers under state production plans, even though the original business plan, approved by the GOU, states the company’s farms are exempt from state orders.”¹⁰⁷

Second, both Daewoo International and Indorama have failed to take steps to end their use of forced labor-made cotton after being notified of the problem by the International Labor Rights Forum and the Cotton Campaign. In September 2012, ILRF and a coalition of 30 investor, human rights and labor organizations sent a letter to Daewoo International. Thereafter, ILRF flew to Seoul, South Korea to meet with Daewoo in December 2012, presented a proposal for independent monitoring of their Uzbek

¹⁰⁵ Regulations require that the importer submit a certificate of origin for the imported product that (1) identifies: (1) the foreign seller or producer of the product; (2) the complete chain of custody of the product from the producer to the importer; and (3) a statement that forced labor was not used at any stage in the production process of the good, or any of its components. 19 C.F.R. § 12.43(a). The importer must also submit a statement by the ultimate consignee of the merchandise that “show[s] in detail that he had made every reasonable effort to determine the source of the merchandise and of every component thereof . . . and the character of labor used in the production of the merchandise and each of its components.” 19 C.F.R. § 12.43(b) The statement must also contain the full results of the consignee’s investigation, and his/her opinion on the use of forced and child labor at any stage of the production of the merchandise or any of its components. *Id.*

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¹⁰⁷ U.S. Department of State. (Unclassified) Cable from US Embassy in Tashkent: *Uzbekistan: Report on Investment Disputes and Expropriation* (June 18, 2008). Accessed at: <http://wikileaks.org/cable/2008/06/08TASHKENT694.html>

cotton supply chain, and continued regular dialogue with the company's representatives through March 2013. Daewoo publicly expressed awareness of the issue in February, stating, "First of all, we, Daewoo International Corporation fully understand that the Uzbek forced labor issue must be solved as soon as possible without reference to adult or child."¹⁰⁸ Despite its full awareness of purchasing forced-labor produced cotton in Uzbekistan, Daewoo has refused to conduct an independent assessment of its Uzbek cotton supply chain. Indorama has not responded to a letter sent in March 2013, in which ILRF joined a coalition of nearly 30 investor, human rights and labor organizations in presenting the same demand for independent monitoring to address Indorama's purchasing of forced-labor produced cotton in Uzbekistan. Third, the Government of Uzbekistan has long prevented any independent monitoring and verification of labor conditions during the cotton harvest. The Government has refused to allow any independent monitoring of its cotton harvest by the ILO, and independent local human rights monitors are routinely detained, tortured and their evidence confiscated.¹⁰⁹

Finally, as described in detail above, those who are able to successfully evade detection continue to report that the Government of Uzbekistan maintains tight control over its forced labor system for cotton production.

III. Conclusion

Based on this petition and the information provided in support thereof, there is a sufficient evidence for the Department of Homeland Security to **exclude all cotton yarn and fabric** manufactured by Daewoo International, Indorama Kokand Textile, and other producer of cotton yarn and fabric in Uzbekistan because it is made "wholly or in part" with forced labor; and publish the findings in the Federal Register pursuant to 19 CFR 12.42(f)

Furthermore, pending publication of a final determination by the Secretary of Homeland Security, there is reasonable basis for an **immediate detention order** on all pending and future imports of goods manufactured by Daewoo International Corporation, Indorama Kokand Textiles, and other unidentified producers in Uzbekistan using cotton grown and harvested under the Government's state order system of cotton production; and **we request that all port directors are directed to withhold release into the United States all shipments of cotton products** from Daewoo International Corporation, Indorama Kokand Textiles, and other producers of cotton yarn and fabric exporting from Uzbekistan pending a final determination. 19 CFR §12.42(e).

¹⁰⁸ Daewoo International, "Daewoo International re purchasing cotton produced in Uzbekistan with child and forced labour," 19 February 2013, available at <http://www.business-humanrights.org/Documents/CottonCampaignHandM>, last accessed 23 April 2013.

¹⁰⁹ Human Rights Watch, *No One Left to Witness*, 2011. Human Rights Watch, *Uzbekistan: Forced Labor Widespread in Cotton Harvest*, 2013 ("at the height of the harvest, authorities arrested the human rights activist Uktam Pardaev in Jizzakh. Security officials beat Pardaev and then held him incommunicado for 15 days on minor administrative charges." "Authorities regularly harass activists who try to monitor the cotton harvest, Human Rights Watch found. Police and security personnel strictly patrol cotton fields to prevent independent monitoring." "Similarly, in 2011, Uzbek authorities arbitrarily detained at least three prominent [rights activists](#), Elena Urlaeva, Gulshan Karaeva, and Nodir Akhatov, while they were photographing and interviewing children forced to pick cotton.") ILO. *CEACR: Individual Observation concerning Worst Forms of Child Labor Convention, 1999 (No. 182) Uzbekistan*, 2013 (citing reports from the ITUC indicating that "that once again during the 2011 harvest, the cotton fields were strictly patrolled by police and security personnel, in an attempt to prevent independent monitoring, and that persons seeking to monitor the harvest experienced harassment and intimidation.").