



INTERNATIONAL LABOR RIGHTS FORUM

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Petition for Review, Pre-Hearing Brief, and Notice of Intent to Testify
Case # 006-CP-08
Docket Number: USTR-2011-0015
In re. Uzbekistan Country Practice Petition

January 10, 2012

ATTN:

William Jackson, Deputy Assistant U.S. Trade Representative for GSP
Office of the United States Trade Representative
600 17th St., NW
Room 514
Washington, DC 20508

Pursuant to [76 FR 238] (December 12, 2011), the International Labor Rights Forum (ILRF) files this pre-hearing brief in support of the on-going review of forced adult and child labor violations by the Government of Uzbekistan.

Notice of Intent to Testify: Brian Campbell, Director of Policy and Legal Programs, International Labor Rights Forum, hereby provides notice to the Committee of his intent to testify.

Introduction

The International Labor Rights Forum alleges that the Government of Uzbekistan has failed to take steps to afford workers "internationally recognized worker rights" as required under 19 U.S.C. § 2462(b)(2)(G) & (c)(7) and defined in 19 U.S.C. § 2467(4), in particular, failure to protect workers' freedom from compulsory labor. Further, it has failed to "implement its commitments to eliminate the worst forms of child labor" as required in 19 U.S.C. § 2462(b)(2)(H) and defined in 19 U.S.C. § 2467(6). The violation identified in the petition is the widespread use of compulsory labor, including the widespread mobilization of schoolchildren for forced child labor, by the authorities for the cotton harvest each year. ILRF believes that the Government of Uzbekistan has failed to take any meaningful steps toward ending this abuse. ILRF recommends that benefits to Uzbekistan be withdrawn entirely.

Forced Adult and Child Labor Continued in 2011 under the the Government of Uzbekistan's "state order system" for cotton production.

Since ILRF's last submission for a request for review of the GSP status of Uzbekistan in August 2010, the Government of Uzbekistan has made no progress to end its state order system for cotton production, and the Government of Uzbekistan continues to deny that forced adult and child labor is a problem in the country.

Once again in 2011, the Government of Uzbekistan's command economy for cotton was in full force. In March of 2011, the government of Uzbekistan required certain farmers to set aside land to grow cotton, and labor was mobilized to plant and weed the cotton fields. To harvest the cotton from September to November, the local khokimiyats, or mayors' offices in the provinces, began mobilizing students from elementary school, middle school, high school, trade schools, colleges and universities to ensure enough labor to meet their assigned quota. This year, khokimiyats have forcibly mobilized labor as young 10 years old in the provinces of Andijan, Bhukara, Djizzak, Fergana, Kashkadarya, Khorezm, Namangan, Samarkand, Surkhandarya, Syrdarya, and Tashkent.¹ According to the Uzbek-German Forum, "This year students and schoolchildren worked in the fields for about one and a half months. They received 3 – 4 cents US per kilo of cotton picked," which was not even enough to pay for their food.²

In the province of Khorezm, the Interior Ministry of Khorezm issued a press release describing its plan to mobilize 35,000 college and high school students. In Tashkent province, the BBC reported children as young as 12 years old in Yangiyul district harvesting cotton. In Yukkorichirchick district in the same province, authorities informed parents that young children will be forced to harvest cotton unless their parents can pay a fine to authorities. In Surhandarya, children in grades 3 and grade 4 were mobilized, and in Kashkadarya, children as young as 10 years old in grade 5.³ In the Andijon and Jizzak provinces, children from the 7th and 9th grade, also as young as 12 years old, were forcibly mobilized. When asked whether pregnant students at his college will be required to harvest cotton, the head of the Jizzak Pedagogy Institute confirmed that all students are required to provide their labor when called upon stating, "It is the nature of Uzbek tradition: if a student . . . is unable to go to the field during the harvest, then she is required to send somebody else to replace her. . ."⁴ Officials at the Andijon Institute of Medicine admitted to the media that they mobilized their students. According to one teacher from the Institute, "The truth is, there are cases when we are told to increase our quota. We in turn are obliged with a quota as well. . . I have to obey. . . Otherwise, we ourselves will be humiliated over there."⁵ In Namangan, one mayor reportedly made everyone sign a paper that stated they were aware that they face criminal charges as a "state enemy" if don't comply.

¹ See Uzbek-German Forum, *A Chronicle of Forced Child Labor: Reports from the Uzbekistan Cotton Harvest 2011*, Issues 1. – 9, available at <http://uzbekgermanforum.org/>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

Reports from this year's cotton harvest again corroborate past findings of the US government that the cause of forced labor is the Government of Uzbekistan and the scope is the entire cotton sector nationwide. As described recently in reports from the US Embassy in Tashkent, the Government of Uzbekistan is "clinging to a Soviet-era command economy for cotton," where all decisions regarding economic development of the cotton sector are strictly controlled by President Karimov and his cabinet ministers.⁶ In a 2009 report, the US Embassy in Tashkent describes in more detail how the command economy for cotton 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 seasons's [sic] expected output and necessary inputs. District plans are submitted to the regional authorities, and regional plans are approved at the national level.⁷

The Government sets the 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, including the forced mobilization of farmers to meet a share of the Government imposed cotton quota.⁸ The US embassy has reported that "virtually all farms in Uzbekistan . . . are still tied to the state order system,"⁹ which means that all cotton is produced within the "state order system." 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.

Once the cotton is ready for harvesting, the US Department of Labor's *2010 Findings on the Worst Forms of Child Labor* accurately describes the next insidious form of forced labor at the heart of the Government's "state order system" for cotton; the forced mobilization of school children to harvest cotton.

Thousands of children continue to be forced to work during the annual harvest due to the Government's system for cotton production which requires local administrators and farms to meet harvest quotas. Local officials often close schools for six weeks or up to two months during the harvest and force children to pick cotton to reach the mandated quotas. Some reports indicate that efforts were initially made to reduce the number of children below

⁶ US Department of State, (Unclassified) Cable from US Embassy in Tashkent: *Uzbekistan's Cotton Sector Still A Bastion of the Command Economy*, at para. 3. (November 3, 2009)

⁷ Id. (unclassified)

⁸ Id. at para. 4. (unclassified)

⁹ 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.")

secondary school age required to work in the 2010 harvest, but a high labor demand to meet quotas resulted in children as young as age 10 being forced into the fields toward the end of the season.¹⁰

In the *2011 Trafficking in Persons Report* published in June, the State Department further explained, “Provincial governors were held personally responsible for ensuring 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.”¹¹

However, forced labor is not limited to schoolchildren. Instructions are given from the city and district administrators to owners of cafés, restaurants, banks, hotels, and other private commercial entities, including factories, to send their employees to pick cotton. If the owners of these companies refuse to allow their employees to participate, they are threatened with unscheduled tax inspections or with losing their gas or electricity.¹²

Any farmer or farm laborer who refuses to participate when called upon to grow or harvest cotton is punished by the state, including by the loss of employment; suspension, expulsion or other disciplinary action at school or work; loss of state welfare payments; fines; social ostracization, verbal abuse, and public humiliation; expulsion from farmland (loss of livelihood); and physical abuse.

Parents of schoolchildren are unable to speak out against the government’s use of forced child labor for fear of retaliation. They also risk losing their jobs, having vital social services withheld, and state-run utilities cut off. However, despite the threat of retaliation, numerous Uzbek human rights activists have been working hard to bring this issue to the world’s attention.

In addition to the coercive nature of the work that adults and children perform in the cotton fields, the conditions under which individuals are forced to work are egregious. Workers are often required to sleep in unheated, uninsulated barracks and are supplied with a minimal amount of food, which they often have to pay for. Access to clean drinking water is minimal.¹³

Employees at US-Owned Joint Ventures are reportedly forced to harvest cotton.

During the 2011 harvest, the International Labor Rights Forum received reports from human rights monitors on the ground that the employees of GM Uzbekistan were forced to

¹⁰ US Department of Labor, 2010 Findings on the Worst Forms of Child Labor, 792 (2011) (DOL TDA).

¹¹ U.S. Department of State, Office to Monitor and Combat Trafficking in Persons, *2011 Trafficking in Persons Report: Uzbekistan*. See also Centre for Contemporary Central Asia and the Caucasus, School of Oriental and African Studies the University of London, *What Has Changed? Progress in eliminating the use of forced child labor in the cotton harvests of Uzbekistan and Tajikistan*, 5 (2010).

¹² Fergana News. “The Cotton War Chronicle.” Nontranslated version found at: <http://www.fergananews.com/article.php?id=7099>

¹³ International Labor Rights Forum. “We Live Subject to their Orders: A Three-Province Survey of Forced Child Labor in Uzbekistan’s 2008 Cotton Harvest.” Found at: <http://laborrights.org/sites/default/files/publications-and-resources/UzbekCottonFall08Report.pdf>.

harvest cotton for the government. Employees from the General Motors plant in Andijon were forced to take “voluntary vacations” to harvest cotton instead of manufacturing automobiles.¹⁴

GM Uzbekistan is a joint venture between the Uzbek OJSC UzAvtosanoat and the US General Motors Company. 25 percent of the joint venture is owned by GM, and the government-owned Uzavtosanoat owns 75 percent. GM-Uzbekistan employs about 6,600 people and has an annual production capacity of about 250,000 vehicles.¹⁵ The US Government currently has a 26% stake in the General Motors Company. Companies like GM Uzbekistan that are required to send personnel to the cotton fields while still giving employees their usual wages are not compensated by the government, creating what is perceived as an informal “cotton tax.”¹⁶

These allegations about forced labor in a partially-owned US plant highlight the risk to investing in Uzbekistan. As a 100% government owned company¹⁷, Uzavtosanoat, like other state-owned enterprises, is required to consult with the government before making business decisions. Additionally, the government’s control over business, coupled with its inconsistent application of laws and regulations on foreign investor rights, create an unstable investment climate. The U.S. Department of State’s *2011 Investment Climate Statement for Uzbekistan* outlines the various challenges that foreign investors face in the country.

U.S. companies report that “local officials inconsistently interpret laws, often in a manner that is detrimental to individual private investors and the business community at large. In addition, the government occasionally issues secret decrees or instructions that businesses are required to comply with, despite having no knowledge of them...Government-owned banks, ministries and agencies routinely interfere in business operations.”¹⁸

Continuing to grant preferential trade access to Uzbekistan simply rewards the Government of Uzbekistan’s economic policies that are aimed at capturing most of the wealth at the top echelons of government.

¹⁴ Fergana News. “The Cotton War Chronicle.” Nontranslated version found at: <http://www.fergananews.com/article.php?id=7099>

¹⁵ General Motors Company News. “All-New Chevrolet Captiva Introduced in Uzbekistan.” http://media.gm.com/content/media/us/en/chevrolet/news.detail.html/content/Pages/news/us/en/2011/Sep/09_06_Uzbekistan

¹⁶ Fergana News. “The Cotton War Chronicle.” Nontranslated version found at: <http://www.fergananews.com/article.php?id=7099>

¹⁷ Uzininvest.uz http://www.uzininvest.uz/eng/investment_opportunities/by_industry/automotive_and_farm_machinery_industries/

¹⁸ U.S. Department of State, Bureau of Economic, Energy, and Business Affairs, *2011 Investment Climate Statement – Uzbekistan*.

The Government of Uzbekistan's state order system for cotton production is a clear violation ILO Conventions 105 and 182

Uzbekistan's "state order system" for the production of cotton and cotton products is a clear violation of ILO Convention No. 105 Abolition of Forced Labour Convention, 1957, which prohibits Governments from using forced labor as a "method of mobilising and using labour for purposes of economic development". Art. 1(b). ILO Convention 105 was adopted in 1957 to update ILO Convention No. 29 to specifically prohibit certain government systems of forced labor, such as those commonly practiced in Uzbekistan and other states of the Soviet Union at that time.

In 2004, in its first report 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 were involved.¹⁹ 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."²⁰

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"²¹

Because of the Government's failure to take any steps to end the practice of forced adult and child labor, the ILO Committee on Application of Standards has 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."²² 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.²³

¹⁹ ILO. *CEACR: Individual Observation concerning Abolition of Forced Labor Convention, 1957 (No. 105) Uzbekistan*, 2010.

²⁰ 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.

²¹ ILO. *CEACR: Individual Observation concerning Worst Forms of Child Labor Convention, 1999 (No. 182) Uzbekistan*, 2011.

²² ILO. *ILCCR: Examination of individual case concerning Convention No. 182: Worst Forms of Child Labour, Uzbekistan. 2011.*

²³ *Id.*

Given the GOU's egregious labor practices and its outright refusal to end forced adult and child labor in the country, ILRF requests that the US Government:

1. Immediately suspend the GSP benefits to the GOU.
2. Support all efforts of the ILO to end forced adult and child labor and ensure Uzbekistan meets all of its international obligations.
3. Investigate the allegations of forced labor at the GM Uzbekistan Plant in Andijon.

Uzbekistan's practice of using state-sponsored forced adult and child labor in national cotton production is a clear and substantial breach of its commitments under ILO conventions prohibiting forced labor. Until the Government of Uzbekistan effectively takes steps to afford internationally recognized worker rights as mandated under the GSP, ILRF requests that the country's GSP benefits be suspended in accordance with 19 U.S.C. §2462(d).

Respectfully submitted,



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International Labor Rights Forum

