

National Contact Point of Switzerland

Closing Statement

Specific Instance regarding cotton trade by Ecom Agroindustrial Corp. Ltd. in Uzbekistan

Berne, 22 December 2011

Background

1. The OECD Guidelines for Multinational Enterprises (the OECD Guidelines) are voluntary principles and standards for responsible business conduct, addressed as recommendations by the governments of the 34 OECD member states as well as 8 other states to multinational enterprises operating in or from their territories. The National Contact Point of Switzerland (NCP) for the OECD Guidelines for Multinational Enterprises has the mandate to raise awareness and promote observance of the Guidelines. The NCP also contributes to the resolution of issues that arise relating to the implementation of the Guidelines in specific instances by offering a forum for discussion and assisting parties concerned to deal with these issues.

Proceeding of the NCP

2. The NCP received a written request dated on 22 October 2010 to consider a specific instance under the OECD Guidelines for Multinational Enterprises regarding the possible presence of child labor in the supply chain in cotton trade with Uzbek suppliers, involving the Swiss-based enterprise Ecom Agroindustrial Corp. Ltd. (Ecom).
3. The specific instance was submitted by the European Center for Constitutional and Human Rights (ECCHR), Berlin, Germany, represented in Switzerland by the attorney Guido Ehrler, Basel.
4. The concerns raised in the submission were related to the use of child labor in the cotton harvest in Uzbekistan. ECCHR stated in its submission that Ecom was buying cotton from the state-run cotton merchants in Uzbekistan and thereby contributing to the systematic and extensive use of child labor. ECCHR furthermore claimed that the enterprise was in a position to influence the Uzbek authorities regarding the use of forced child labor, either alone or in a group of cotton merchants, using existing associations such as the Bremen Cotton Exchange or the International Cotton Advisory Committee (ICAC) and other associations.

5. In its submission, ECCHR claimed noncompliance of the enterprise with the following chapters of the OECD Guidelines:

Chapter II: General Policies

Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard, enterprises should:

- *1. Contribute to economic, social and environmental progress with a view to achieving sustainable development.*
- *2. Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.*
- *10. Encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the Guidelines.*

Chapter IV: Employment and Industrial Relations

Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices:

- *1.b) Contribute to the effective abolition of child labour.*
- *1.c) Contribute to the elimination of all forms of forced or compulsory labour.*

6. On 25 November 2010, Ecom explained in its written reaction to the submission addressed to the NCP that it disagreed with the claim of violation of the OECD Guidelines and of complicity in child labor. This notwithstanding, Ecom agreed to enter into a confidential dialogue with the submitting party, with the Swiss NCP acting as a facilitator.
7. In order to explain the role and proceedings of the NCP, the Swiss NCP invited representatives of both parties involved for informal meetings, held at the premises of the NCP in Berne in November 2010 and January 2011.
8. On 28 March 2011, the NCP concluded its confidential initial assessment and informed parties concerned that it found the issues raised to be relevant under Chapter II and IV of the OECD Guidelines and to merit further consideration. At the same time, the NCP recalled that accepting this specific instance did not mean that it considered Ecom to have acted inconsistently with the OECD Guidelines. As part of the initial assessment, the NCP offered its good offices to facilitate a dialogue between both parties with the aim of reaching a mutually acceptable outcome.
9. Both parties accepted the offer of the NCP to facilitate a dialogue. The NCP subsequently prepared a draft framework for such discussions ("Terms of Reference"), which was forwarded to both parties on 24 May 2011. Over the following weeks the NCP finalized the Terms of Reference with both parties, in order to provide a mutually

agreed framework for a substantial dialogue on the issues raised in the specific instance. Furthermore, the NCP suggested to both parties to have the dialogue facilitated by a professional external mediator, contracted by the Swiss NCP.

10. Both parties agreed on the Terms of Reference, including the date and format of the meeting, as well as on the name of the facilitator. The Terms of Reference moreover specified that a representative of the Swiss NCP would assist the mediator and participate in the meeting with both parties on 23 September 2011.
11. With the permission of both parties, the mediator was provided by the NCP with all the documents relevant to this specific instance. Based on the Terms of Reference and this documentation, the mediator independently prepared the dialogue meeting, in close cooperation with both parties.
12. As laid out in the Terms of Reference, the main objective of the dialogue facilitated by the NCP was to reach a high level of mutual understanding of the labor situation in Uzbekistan and companies' roles in that situation. Furthermore, the parties wanted to explore initiatives that would encourage positive change in Uzbekistan in relation to forced and child labor.

Outcome of the Proceeding

13. The two parties have met on 23 September 2011 for an exchange of views and positions on the issues raised in the specific instance presented to the Swiss NCP by ECCHR. This meeting was facilitated by a mediator. The meeting was held at the premises of the Swiss NCP. The main points of the agreement are:
 - Both parties reached a higher level of mutual understanding of the labor situation in Uzbekistan. Both parties acknowledge that there have been serious allegations about the systematic use of forced child labor in Uzbekistan which need to be addressed by the relevant international organizations on a policy level.
 - The parties discussed the different and complimentary roles of companies, NGOs and governments and the relevance of both disengagement and engagement. Both parties believe that businesses have a responsibility to take steps within their means to address labor issues in the supply chain.
 - The parties explored initiatives that would encourage positive change in Uzbekistan in relation to forced and child labor and agreed to certain steps appropriate to their position.
 - The parties moreover agreed to exchange relevant information in the future.

Conclusions of the NCP

14. Following the dialogue and discussions which took place between September and November 2011, the NCP will close the specific instance.
15. The NCP thanks both parties for engaging in the process and for their good and constructive cooperation.