

# National Contact Point of Switzerland

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## Closing Statement

### Specific Instance regarding cotton trade by Louis Dreyfus Commodities Suisse S.A. in Uzbekistan

Berne, 17 February 2012

#### Background

1. The OECD Guidelines for Multinational Enterprises (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 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 OECD 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 23 December 2010 to consider a specific instance under the OECD Guidelines regarding the possible presence of child labor in the harvest of cotton in Uzbekistan, which indirectly involves the Swiss-based enterprise Louis Dreyfus Commodities Suisse S.A. as a purchaser of cotton from Uzbekistan cotton suppliers.
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 claimed in its submission that Louis Dreyfus Commodities Suisse S.A. 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. 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 January 2011.
7. 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 Louis Dreyfus Commodities Suisse S.A. 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.
8. In a statement provided to the NCP on 18 May 2011 for transmission to ECCHR, Louis Dreyfus Commodities Suisse S.A. stated that it complied with applicable law in the countries and territories in which it operated and that it had raised the issue of child labour with senior Uzbek authorities on repeated occasions. The company stated that it believed that coordinated actions of national governments and international trade associations made the most difference in addressing the issue of child labor, but it accepted to have a role to play. The company furthermore declared that in its view engagement on the subject of poor labour practices rather than boycott was a better means to affect real and lasting change.

9. Both parties accepted the offer of the NCP to facilitate a dialogue. The NCP subsequently prepared together with both parties a confidential framework for such discussions ("Terms of Reference"), which was signed on 14 December 2011. The scope of the Terms of Reference is 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 14 December 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 objectives of the dialogue facilitated by the NCP was to discuss the responsibility of companies in the situation of forced-child labour in Uzbekistan and to outline a concrete plan of action to contribute to the abolition of child labour in Uzbekistan. Furthermore, the parties addressed the commitment of companies to cooperate with other business actors, who are involved in work on the abolition of forced child labour in Uzbekistan.

### **Outcome of the Proceeding**

13. The two parties met on 14 December 2011 to discuss the issues raised in the specific instance presented to the Swiss NCP by ECCHR. The meeting was facilitated by a mediator. The meeting was held at the premises of the Swiss NCP. The two parties discussed (i) the cotton trade in Uzbekistan and the use of forced child labour during the cotton harvest (the "Issue"), and (ii) possible steps forward regarding the Issue. The parties agree that:
  - A significant problem exists in Uzbekistan with regard to the Issue.
  - In the wake of international pressure the Uzbekistan government has instituted policy changes which should *prima facie* work towards addressing the Issue, however such policy changes, as of the date of the specific instance, have either; not been adequately implemented, and/or not adequately addressed the Issue.
  - Policy coherence across all the relevant stakeholders would be welcome in addressing the Issue.
  - Cotton traders, as one of the stakeholders, have a role to play in addressing the Issue.
  - The company will continue to engage with the Uzbekistan authorities and other stakeholders in order to address the Issue.

- The parties acknowledge that changes of the nature contemplated take time. If over the course of time ECCHR determines, in consultation with the company and other stakeholders, that engagement with the Uzbekistan authorities (in concert with other initiatives) has failed to adequately address the Issue then further consultation between the ECCHR and the company shall take place to assess the current state of the Issue and discuss the subsequent steps.

The parties discussed initiatives that would encourage positive change in Uzbekistan in relation to the Issue and the parties agreed to take steps towards such change.

### **Conclusions of the NCP**

14. Following the dialogue and discussions which took place between December 2011 and January 2012, 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.