

National Contact Point of Switzerland

Closing Statement

Specific Instance regarding cotton trade by Paul Reinhart AG in Uzbekistan

Berne, 07 March 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 eight 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 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 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 Paul Reinhart AG.
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 Paul Reinhart AG 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 10 January 2011, Paul Reinhart AG explained in its written reaction to the submission addressed to the NCP and to the submitting party that it disagreed with the claim of violation of the OECD Guidelines and of complicity in child labor. The enterprise condemns the use of child and forced labor everywhere and endeavors to fully abide by the OECD Guidelines and encourages its suppliers to do so as well. Moreover, it stated that it encourages the ongoing transformation process in Uzbekistan and that a suspension of its trade relationship with Uzbek cotton exporters would be counterproductive.
7. In order to explain the role and proceedings of the NCP, the Swiss NCP invited representatives of both parties involved for informal, bilateral meetings, held at the premises of the NCP in Bern in 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 Paul Reinhart AG 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 the parties on 23 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, both parties signed a separate confidentiality agreement, which was proposed by the enterprise. 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 mutual understanding of participants' possibilities and ability of influence in Uzbekistan. Furthermore, the parties wanted to explore realistic initiatives for positive changes in cotton industry in Uzbekistan in relation to alleged forced labor and alleged 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:
 - The parties discussed labor issues and especially the situation in Uzbekistan in relation to child labor acknowledging that there have been several serious allegations about the systematic use of forced child labor in Uzbekistan. The parties agree that it would be most desirable to have an assessment of such allegations by a relevant international organization, such as the ILO.
 - The parties agreed that cotton traders, as one of the stakeholders, have a role to play in addressing the issue.
 - The parties discussed among others possible contributions to relevant multi-stakeholder initiatives and other ongoing initiatives in the cotton sector in general and in Uzbekistan in specific.
 - The parties agreed on certain steps with the aim to improve the situation in Uzbekistan.

- Both parties agreed to exchange relevant information in the future.

Conclusions of the NCP

14. Following the dialogue and discussions which took place between September 2011 and March 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.