



Initial Assessment by Korean National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises

**Complainants : Korean Trans National Corporations Watch,
Cotton Campaign, Anti-slavery International**

**Respondents : Daewoo International, POSCO, National Pension
Service, Norges Bank Investment Management
and Korea Minting, Security Printing & ID Card
Operating Corporation(KOMSCO)**

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I. Backgrounds

1. Introduction

- On 3 December 2014, Korean Trans National Corporations Watch (hereafter 'KTNC Watch'), Cotton Campaign and Anti-Slavery International submitted a complaint to the Korean National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises stating that Daewoo International, KOMSCO and companies which invested to Daewoo International acted inconsistently with the OECD Guidelines for Multinational Enterprises.
- The cotton business in Uzbekistan is a national basic industry and its entire process (seeding, growing, harvest, sale and distribution) is under the government's control. According to the documents which are submitted by the complainants, in Uzbekistan, children and adults are systematically mobilized to produce state-established quotas of cotton under the state-sponsored systems of forced labor. Authorities penalize those who refused to participate in cotton production, and penalties include fines, expulsion from school, job loss, denial of public benefits, and even physical violence. International organizations such as UN

Committees, World Bank Inspection Panel and the governments of United States and the European Union have severely condemned Uzbek government's use of forced labor. In 2012, after a decade of global pressure, Uzbek government started to reduce the number of children under age 16 forced to pick cotton, and accepted monitoring by the International Labor Organization in 2013.

- However, according to the documents submitted by the complainants, while the number of child labor was reduced, more adult workers were mobilized to make up for insufficient labor. The complainants also alleged that while allowing ILO monitors into the country, Uzbek government restricted ILO's mandate to child labor, and hindered ILO's monitoring on forced labor for adult workers. Hence, the European Parliament issued the "Resolution of 23 October 2014 on human rights in Uzbekistan" for the lack of following results to Uzbekistan government's ratification of international human rights conventions, including International Labor Conventions.

- Daewoo International, one of the respondents, established and has been operating two wholly-owned local subsidiaries in Uzbekistan, Daewoo Textile Fergana LLC (established in 1996; "Daewoo Textile Fergana") and Daewoo Textile Bukhara LLC (established in 2008; "Daewoo Textile Bukhara") in order to effectively purchase, process and sell cotton. In addition, Daewoo International also established a joint venture company in Uzbekistan, Global Komsco Daewoo ("GKD" together with Daewoo Textile Fergana and Daewoo Textile Bukhara, "Daewoo Subsidiaries"), with the Korea Minting, Security Printing & ID Card Operating Corporation in connection with Daewoo International's cotton business. Daewoo International owns a 35% equity interest in GKD.

- The complainants, KTNC Watch, Cotton Campaign and Anti-Slavery

International filed a specific instance to Korean National Contact Point (NCP) for the OECD Guidelines for Multinational Enterprises alleging that the respondents breached the OECD Guidelines for Multinational Enterprises by continuously purchasing of cotton produced in Uzbekistan through Daewoo Textile Fergana and Bukhara, despite its awareness of on-going state-sponsored forced labor in Uzbekistan.

2. Parties

1) Complainants

- KTNC Watch is a network of NGOs based in Korea working in various fields ranging from human rights and corporate social responsibility to energy/climate policy and labor rights. The network was formed with the view to the purpose of bringing together various expertise and experience in monitoring transnational corporations registered in Korea and addressing issues arising from their operations.
- The Cotton Campaign is a coalition of human rights organizations, trade unions, socially responsible investors and business organizations who are working together to end forced labor of children and adults in the cotton industry in Uzbekistan. Since 2007, the Cotton Campaign has advocated for governments, companies and investors to use their leverage in Uzbekistan to end this continuous and systematic human rights violation.
- Anti-Slavery International, founded in 1839, is the world's oldest international human rights organization and the only charity in the United Kingdom to work exclusively against slavery. It works in local, national and international levels to eliminate all forms of slavery around the world by: supporting research to assess the scale of slavery in order to identify measures to end it; working with local

organizations to raise public awareness of slavery; educating the public about the realities of slavery and campaigning for its end; lobbying governments and intergovernmental agencies to make slavery a priority issue and to develop and implement plans to eliminate slavery.

2) Respondents

- Daewoo International, a corporation domiciled in Seoul, Republic of Korea, was established on December 27, 2000 through a split-off of the foreign trade division in Daewoo Corporation. Daewoo International currently engages in the businesses of, *inter alia*, import and export trading, import and export trading brokerage and agency and overseas natural resources development. Its key business areas include, *inter alia*, steel, chemicals, nonferrous metals, automobile parts, essential commodities, machinery and plants. Daewoo International is currently a subsidiary of POSCO.
- POSCO (formerly Pohang Iron and Steel Company) is a South Korea-based company engaged in manufacture of steel products. It is the sixth largest steel company in the world.
- The National Pension Service (NPS) of Korea has contributed to improving the quality of life for Korean people who need social benefits due to old-age, disability or death, by providing pension benefits.
- Norges Bank Investment Management manages the fund on behalf of the Ministry of Finance of Norway, which owns the fund on behalf of the Norwegian people.
- Korea Minting, Security Printing & ID Card Operating Corporation (KOMSCO) is a wholly state-owned enterprise, set up under the Korea

Minting, Security Printing & ID Card Operating Corporation Law in 1951. KOMSCO has been the sole manufacturer of Korean currency; it also produces security paper such as banknotes, gift certificates and passport pages. In order to replace deteriorated facilities and to secure the supply of raw material, KOMSCO established a local subsidiary, Global Komsco Daewoo (GKD) in Uzbekistan in 2010. As a joint venture, KOMSCO is the majority shareholder in GKD as it has 65% stake of GKD; Daewoo International has remaining 35% stake of GKD. GKD produces the cotton pulp out of the cotton linter, entirely purchased from the UZINTERIMPEX, in its facilities.

II. Proceeding of the NCP

- 23 December 2014 : Korean NCP received a complaint for the specific instance against the respondents which was submitted on 3 December 2014 by the complainants.
- 23 December 2014 : Korean NCP Secretariat sent the documents of complaint to the respondents, Daewoo International, KOMSCO, POSCO and National Pension Service.
- 5 / 19 January 2015 : Daewoo International and POSCO submitted their responses (5 Jan.) and opinion (19 Jan.) to Korean NCP Secretariat. KOMSCO submitted its response (5 Jan.) to Korean NCP Secretariat.
- 20 January 2015 : National Pension Service, the respondent, submitted its response.

- 21 January 2015 : Korean NCP forwarded the responses and the opinion to the complainants and asked for additional submission.
- 30 January 2015 : The complainants presented additional submission.
- 12 February 2015 : Korean NCP forwarded the complainants' additional submission to the respondents.
- 4 March 2015 : Daewoo International presented additional submission.
- 6 March 2015 : KOMSCO presented additional submission.
- 13 March 2015 : Korean NCP had an interview with an activist from Uzbekistan by the request of the complainants and forwarded the respondents' additional submission to the complainants.
- 28 April 2015 : Korean NCP held a commissioners' meeting to share proceeding and their views on this specific instance before the Initial Assessment at Seoul International Dispute Resolution Center.

III. Korean NCP Decision

- The NCP decided to proceed an initial assessment for two specific instances (against Daewoo International, POSCO, NPS and NBIM / against KOMSCO) together, because the complainants, the date of filing, and the reasons and assertions for the complaints are the same, and also the respondents are directly linked to each other, although the complainants filed each specific instance separately.

- The Commentary on the Implementation Procedures of the OECD Guidelines for Multilateral Enterprises stipulates that when the NCP conducts an initial assessment to determine whether the pending issue is entitled to a thorough evaluation, it must determine whether the pending issue is *bona fide* and related to the implementation of the OECD Guidelines. In such context, Korea NCP considered the following points.

1. The identity of the party concerned and its interest in the matter

- The complainant, KTNC Watch, is monitoring multinational enterprises registered in Korea and addressing issues arising from their operations. The complainant, Cotton Campaign, is a coalition of human rights organizations to end forced labor of children and adults in the cotton industry in Uzbekistan. The complainant, Anti-Slavery International, founded in 1839, is the world's oldest international human rights organization to eliminate all forms of slavery around the world by performing various activities.
- The respondent, Daewoo International, is operating two local subsidiaries (located in Fergana and Bukhara) in Uzbekistan, in order to effectively purchase, process and sell cotton. The respondent, KOMSCO, established a local subsidiary, Global Komsco Daewoo (GKD) in Uzbekistan in 2010. As a joint venture, KOMSCO is the majority shareholder in GKD as it has 65% stake of GKD. The respondent, POSCO, is a parent company of Daewoo International. The respondents, NPS and NBIM, are investors of Daewoo International.
- In light of the above, the Korean NCP considers that both the complainants and the respondents have direct interest in the issues

raised in the complaint.

2. Whether the issue is material and substantiated

- The issue of this specific instance is related to Chapter II General Policies, Chapter IV Human Rights and Chapter V Employment and Industrial Relations of the Guidelines. It is considered as material concerning that whether purchasing cotton produced by state-sponsored child labor and forced labor is a breach to the Guidelines.
- The complainants' assertion regarding alleged child labor and forced labor is supported by the reports of the UN Committee on the Rights of the Child, the UN Committee against Torture, World Bank Inspection Panel and U.S. Department of State, and the respondents' awareness and reaction to the issue.

3. Whether there seems to be a link between the enterprises' activities and the issue raised in the specific instance

- Uzbek government or a state-run company is in the same supply chain with the respondents. Therefore, it is hard to deny the existence of a link between the enterprises' activity and the issue raised.
- However, in regard of its relevance, it is hard to consider that serious adverse impact is caused or encouraged by the respondents' businesses. As clearly shown in the Commentary on Chapter II General Policies of the Guidelines, the Guidelines recognize that there are practical limitations on the ability of enterprises to effect change in the behaviour of their suppliers. Moreover, it should be considered that the respondents are not in a position of using leverage to Uzbekistan government regarding various factors such as product characteristics,

the number of suppliers, the structure and complexity of the supply chain, and the market position of the enterprise vis-a-vis its suppliers or other entities in the supply chain.

4. How similar issues have been, or are being treated in other domestic or international proceedings

- Regarding this specific instance, Korean NCP found that the complainants filed the same specific instance to the National Contact Point Norway against NBIM (Norges Bank Investment Management), and it was closed without further consideration on 2 July 2015.
- The decision of a foreign NCP in similar or the same specific instance does not bind other country's NCP but it may provide useful reference.

5. Whether the consideration of the specific issues would contribute to the purposes and effectiveness of the Guidelines

- The respondents have actively responded to human rights issues raised in connection with Uzbekistan's cotton industry, performed due diligence duties on human rights required by the Guidelines. Especially, as a part of the improvement on labor conditions and human rights, they have cooperated with the government of Uzbekistan and international organizations such as ILO.
- After reviewing ILO High Level Mission Report on the Monitoring of Child Labour during 2013 Cotton Harvest in Uzbekistan, Korean NCP found that the government of Uzbekistan have cooperated with the monitoring of ILO and have a will to improve labor conditions in Uzbekistan.
- The respondents already set the internal guidelines for ethical business

conduct. With voluntary compliance to the guidelines, the respondents intend to harmonize their business activities with policies of the government of host country. Considering their sufficient efforts in various aspects for sustainable development, such as cooperation with related international organizations, further consideration or examination does not seem to contribute to the purpose or effectiveness of the Guidelines.

IV. Conclusion

- In this specific instance, it is hard to deny the existence of link between the respondents' business conduct and the issue raised, as the respondents are in the same supply chain with the government of Uzbekistan. However, Korean NCP found that it does not seem that the respondents breached due diligence duties on human rights required by the Guidelines or contributed to child labor and forced labor. Furthermore, the respondents also do not seem to be in a position of using leverage to the government of Uzbekistan.
- Chapter II. A. 12 of the Guidelines imposes the duty of making effort to prevent or mitigate adverse impact to the companies, when there is a link between the adverse impact and their business conduct. However, at the same time, the article also makes it clear that it is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship.
- As set forth above, the respondents already made an internal guidelines for ethical business conduct, and with the compliance to the internal guidelines, they voluntarily have tried various ways to prevent and mitigate adverse impacts. Therefore, it seems that improvement on the situation in Uzbekistan concerning this specific instance is being made.

- Korean NCP, hereby, recommend that the respondents should continue to monitor the situation and respond actively to every possible way concerning the issues related by means of dialogue and cooperation with the government of Uzbekistan, state-owned companies, related international organizations, NGOs and local communities.

- As in the decision of Norwegian NCP on 2 July 2015, a work to specify expectations of the financial sector in general, including minority shareholders, is being conducted by the OECD. Although the fact that a clarification process is now in process does not hinder the further consideration, it is deliberate to await the conclusion of the clarification work.

- Based on all materials submitted, Korean NCP is of the view that the issues raised do not merit further consideration.

- Therefore, Korean NCP considers this specific instance to be closed.

7 July 2015

Korean National Contact Point for the OECD Guidelines for Multinational Enterprises