

**Comments submitted by  
American Federation of Labor-Congress of International Organizations (AFL-CIO), American Federation of Teachers (AFL-CIO), Cal Poly Chocolates, Child Labor Coalition, CREA: Center for Reflection, Education and Action; Ethix Ventures, Equal Exchange, Fair Trade Federation, Fair Trade Resource Network, Fair World Project, Global Exchange, Green America, International Labor Rights Forum, Labor-Religion Coalition of New York State, Media Fair Trade/Untours, Organic Consumers Association, Presbyterian Church (USA), Office of Public Witness; Project Hope and Fairness; Stop the Traffik, SweatFree Communities, Sweet Earth Organic Chocolate, Unitarian Universalist Service Committee, United Methodist Board of Church and Society, and  
United Students for Fair Trade**

**To:** US Department of Labor, Bureau of International Labor Affairs, OCFT  
200 Constitution Ave, NW, Room S-5317, Washington D.C. 20210

**Re:** DOCKET NO. DOL-2011-0006:  
Notice of Initial Determination Revising the List of Products Requiring Federal Contractor Certification as to Forced/Indentured Child Labor Pursuant to Executive Order 13126.

**DATE: December 3, 2011**

We are pleased to submit these comments in response to Department of Labor's request for comment on its initial determination to revise the list required by Executive Order 13126 ("the EO List") ("Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor"). 76 FR 61384. We welcome the opportunity to help the US Government improve this important tool in the fight against forced child labor globally.

## **Introduction**

In Uzbekistan, between 1.5 to 2 million children are forced by their own government to harvest cotton each year for export to the world market.<sup>1</sup> If they refuse, they face beatings, expulsion from school, and other government-imposed penalties. The Karimov regime uses forced labor as a means to capture as much of the profits as possible and relies on the demand for its tainted cotton by processors and manufacturers both globally and domestically. Globally, the Government of Uzbekistan sells its cotton to producers in China, Korea, Vietnam and Bangladesh who process it into garments for the US market. In an effort to move up the value chain to capture even more profits, the Government is rapidly joining forces with foreign companies, for example Daewoo

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<sup>1</sup> Fitzpatrick, Catherine, *How Many Children Are Working in the Cotton Fields in Uzbekistan*. (October 17, 2011), available at <http://www.cottoncampaign.org/2011/10/17/how-many-children-are-working-in-the-cotton-fields/>.

Textiles from Korea, often through government-controlled joint ventures (JVs) to process the tainted cotton. In exchange for better access to global markets for higher value products, the Karimov regime offers its JV partners guaranteed access to the forced-labor-made cotton. Eventually, after several stages of processing, the tainted cotton arrives on the shelves of our stores in the form of yarn, fabric, and garments.

In Cote d'Ivoire, UNICEF estimates that more than 35,000 of Ivoirian children are trafficked into forced labor to grow cocoa.<sup>2</sup> Children working in cocoa in Cote d'Ivoire, many who are from Mali and Burkina Faso, are far from home and face crippling isolation, beatings, and other forms of coercion. By using forced labor, the masters can capture a larger share of the profits generated by the sale of chocolate to US consumers, including possibly the Government, by companies like Hershey and Nestle.

We request that the Department of Labor revise the EO List to include products that are made both “wholly” and “in part” with forced child labor. In doing so, the Department of Labor will ensure that the products on the EO List “are designated with appropriate specificity” to ensure (1) that the full policy of EO13126 is finally realized, and (2) that EO13126 is implemented in the most fair and effective manner for all parties. Specifically, we request that the DOL add to the EO List the following product designations:

- (1) “All products that contain or are derived from cotton from Uzbekistan, including but not limited to waste, yarn, fabric, and garments”; and
- (2) “All products that contain or are derived from cotton seeds from Uzbekistan, including but not limited to cotton seed oil.
- (3) “All products that contain or are derived from cocoa from Cote d'Ivoire, including but not limited to chocolate.”

We also believe that that US executive agencies that purchase any good that may contain one of the products identified above, including chocolate bars and cotton uniforms, must require all contractors supplying those goods certify that they have made a “good faith effort to determine whether forced or indentured child labor was used to . . . produce or manufacture” either “wholly” or “in part” the product they are offering to the US government, as required by existing government regulations. 48 CFR Subpart 22.15. When determining whether a contractor has engaged in a “good faith” effort to root out suppliers and sub-contractors who may use forced child labor, US Government agencies should use as a baseline the USDA Guidelines to Eliminate Child and Forced Labor in Imported Agricultural Products in order to ensure a fair and effective implementation of EO 13126.<sup>3</sup>

**All products that contain or are derived from cotton from Uzbekistan, including but not limited to waste, yarn, fabric, and garments**

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<sup>2</sup> Heilprin, John, *Nestle Announces Cocoa Child Labor Probe*. Associated Press (Nov. 28, 2011).

<sup>3</sup> United States Department of Agriculture (USDA). Report of Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products. (December 15, 2010), *available at* [http://www.fas.usda.gov/info/Child\\_labor/Childlabor.asp](http://www.fas.usda.gov/info/Child_labor/Childlabor.asp).

We applaud the decision to continue to list raw cotton from Uzbekistan on the EO List. Once again this year, the Government of Uzbekistan's command economy for cotton was in full force.<sup>4</sup>

In March, the government labor mobilization scheme first 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.<sup>5</sup> 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.<sup>6</sup>

In Khorezm, the Interior Ministry of Khorezm issued a press release describing its plan to mobilize 35,000 college and high school students.<sup>7</sup> In Tashkent province, the BBC reported children as young as 12 years old in Yangiyul district harvesting cotton.<sup>8</sup> 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.<sup>9</sup> In Andijon and Jizzak, children from the 7<sup>th</sup> and 9<sup>th</sup> 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. . ." <sup>10</sup> 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."<sup>11</sup> 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.

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

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<sup>4</sup> 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/>.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id.

the cotton sector are strictly controlled by President Karimov and his cabinet ministers.<sup>12</sup> 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.<sup>13</sup>

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.<sup>14</sup> The US embassy has reported that “virtually all farms in Uzbekistan . . . are still tied to the state order system,”<sup>15</sup> 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 recently issued *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 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.<sup>16</sup>

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

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<sup>12</sup> 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)

<sup>13</sup> Id. (unclassified)

<sup>14</sup> Id. at para. 4. (unclassified)

<sup>15</sup> 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.”)

<sup>16</sup> US Department of Labor, *2010 Findings on the Worst Forms of Child Labor*, 792 (2011) (DOL TDA).

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.”<sup>17</sup>

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.

*The Government of Uzbekistan’s command economy for cotton, and the labor contained therein, is a system of forced labor prohibited by the Government’s treaty obligations and international law.*

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 to ILO Convention No. 29 to specifically prohibit certain government systems of forced labor that were commonly being practiced in Uzbekistan and other states of the Soviet Union at that time. In 2011, the International Labor Organization’s (ILO) Committee of Experts on the Application of Conventions and Recommendations (CEACR) again condemned the government of Uzbekistan for violations of ILO Conventions 105 and ILO Convention No. 182 on the Worst Forms of Child Labor, which was ratified by the United States in 1999, stating that that the practice of forced child labor “remains prevalent in the country.”<sup>18</sup>

*Consumer purchases of cotton products containing cotton from Uzbekistan fuel the Government’s “state order system” of forced labor.*

The Government of Uzbekistan’s “state order system” for cotton production exists only because of the massive profits generated for the Karimov regime by the sale goods made “in part” with forced child labor, whether those goods were made in Uzbekistan or made with Uzbekistan cotton in other countries. Farmers are required to sell all cotton to the sole buyer and distributor of raw cotton in Uzbekistan, Uzkhlopkoprom. Uzkhlopkoprom operates over 100 cotton gins in the country, and is 51% government-owned. After the cotton passes through the cotton gin, it is either sold to a foreign company operating in the country, or to one of three state-controlled export firms, which export almost 70% of the cotton produced in the country.

The Government exports most of the harvested cotton for processing in other countries, where makes its way into cotton products manufactured around the globe,

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<sup>17</sup> 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).

<sup>18</sup> ILO. *CEACR: Individual Observation concerning Worst Forms of Child Labor Convention, 1999 (No. 182) Uzbekistan*, 2011.

including China, Bangladesh, Korea, and Vietnam, any many more. However, a growing amount of cotton is now being processed into yarn, fabric, and garments within Uzbekistan and then exported to buyers in countries all over the world, including the United States. Because of the ready supply of cheap cotton from the government controlled mills, foreign investors are increasingly working with the GOU to secure access to the captive cotton supply, and many companies are developing additional production capacity specifically with the goal of exporting more cotton yarn, fabrics and some textile garments manufactured with cotton from the “state order system” to global markets, including the United States.<sup>19</sup> Among the companies buying into the lucrative market cultivated by the GOU’s forced labor quota system are Daewoo International, Daishin Textile, Heintex, Shingdong Enercom (Korea), Baytex Tijaret, Tekfen, Bo Group, Alkim Textile, Mert Iplik (Turkey), Spentex Industries (India), Wayrex, Osborn Trading, Tagus (UK) and others. The government maintains tight control over the development of the cotton yarn, fabric and garment sector through the work of the State-owned Joint Stock Company, Uzbekengilsanoat.<sup>20</sup> Forced-labor-made cotton, including forced-child-labor-made cotton, is the sole component of all cotton products from Uzbekistan, which does not import any raw cotton according to the US Department of Agriculture.<sup>21</sup>

**All products that contain or are derived from cotton seeds from Uzbekistan, including but not limited to products that contain cotton seed oil.**

We also request that the Department of Labor include cotton seed from Uzbekistan as a product that is produced with forced child labor. Farming cotton produces both raw cotton and cottonseed. Once cotton is picked off the plant, it is sent to the gin and press, where it is processed into Lint. The cotton seed is separated at this stage. The cotton seed is used as livestock feed or to make cottonseed oil, which is used in the food industry.

**All products that contain or are derived from cocoa from Cote d’Ivoire, including but not limited to chocolate.**

We support the decision to continue to list cocoa from Cote d’Ivoire on the EO list, but, despite its inclusion, cocoa made with forced child labor is allowed to be procured by the government through the purchase of cocoa’s main derivative product: chocolate. Cote d’Ivoire is the leading supplier of the world’s cocoa, producing 37% of the crop for the world market.

In Cote d’Ivoire, UNICEF estimates that 35,000 children working on Ivoirian cocoa farms are victims of trafficking.<sup>22</sup> Cote d’Ivoire is the predominant destination for trafficked and migrant cocoa workers<sup>23</sup>.

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<sup>19</sup> USDA Foreign Agriculture Service, *GAIN Report – Uzbekistan Cotton Products Annual Report* (2010).

<sup>20</sup> Ministry of Foreign Economic Relations, Trade and Investment, Uzinfovest Agency, [http://www.uzinfoinvest.uz/eng/investment\\_opportunities/by\\_industry/light\\_industry/](http://www.uzinfoinvest.uz/eng/investment_opportunities/by_industry/light_industry/), (last visited September 15, 2011.)

<sup>21</sup> United States Department of Agriculture, Production, Supply, and Distribution Report: Cotton, Table 6. Available at <http://www.fas.usda.gov/psdonline/psdHome.aspx>

<sup>22</sup> Heilprin, John, *Nestle Announces Cocoa Child Labor Probe*. Associated Press (Nov. 28, 2011).

Forced child labor in Cote d'Ivoire's cocoa plantations reveals itself in different forms. Many children seek work on cocoa plantations away from home because of a promise of high wages, but are then deceived by traffickers and sold to farmers to labor for free. Children are also kidnapped in crowded markets and bus stations in border towns by traffickers and then sold to farmers for a very low sum. Children that are sold into slavery have either been trafficked within the country or across the border from neighboring countries such as Mali, Ghana, and Burkina Faso.<sup>24</sup>

After being sold into slavery, children are employed in a variety of dangerous tasks. They may be involved in land clearing or burning; spraying or being present during the spraying of pesticides, insecticides, or fertilizers; working with dangerous tools such as machetes (to cut down cocoa pods), hammers or knives (to split open cocoa pods); climbing high trees to cut down mistletoe; or carrying heavy sacks of cocoa pods or cocoa beans.<sup>25</sup> In addition to the injuries incurred from working on dangerous tasks in the field, children are also exposed to harm by the farmers that enslave them. To prevent their escape, children are often locked up at night or deceived into believing that they will be exposed to more danger if they leave the cocoa plantation.<sup>26</sup> In addition, children face verbal, physical, and sexual harassment while working on farms as consequences for not working hard enough or attempting to escape.<sup>27</sup> After more than ten years of industry commitments to address forced child labor in the industry, child trafficking remains a substantial problem in Cote d'Ivoire's cocoa industry.

**Designating products made both “wholly” and “in part” with forced child labor will ensure effective implementation of the purposes of EO 13126.**

Recognizing that forced child labor will persist as long as people can profit from it, President Clinton issued Executive Order 13126, 64 FR 32383, to bring a new tool to the fight against forced child labor; the purchasing power of the world's largest consumer.<sup>28</sup> Therefore, when establishing the policy of EO 13126 the President directed all federal agencies “to enforce laws prohibiting the manufacture or importation of goods . . . produced wholly or in part by forced child labor” by prohibiting the procurement of those goods as well. 64 FR 32383 (emphasis added). In 2009, the Department of Labor reiterated this fundamental aim of EO 13126 when it published a clarification in the

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<sup>23</sup> Tulane University, Payson Center for International Development and Technology Center. *Fourth Annual Report: Oversight of Public and Private Initiatives to Eliminate the Worst Forms of Child Labor in the Cocoa Sector in Cote d'Ivoire and Ghana*. September 30, 2010. Accessed at: <http://www.childlabor-payson.org/FirstAnnualReport.pdf>.

<sup>24</sup> U.S. Department of Labor. (2011). *2010 Findings on the Worst Forms of Child Labor*. Retrieved from <http://www.dol.gov/ilab/programs/ocft/PDF/2010TDA.pdf>. AND Off, Carol “Bitter Chocolate: Investigating the Dark Side of the World's Most Seductive Sweet” Random House Canada: 2006.

<sup>25</sup> Tulane University Fourth Annual Report, 2010

<sup>26</sup> Off, Carol “Bitter Chocolate: Investigating the Dark Side of the World's Most Seductive Sweet” Random House Canada: 2006.

<sup>27</sup> Tulane University Fourth Annual Report, 2010

<sup>28</sup> EO 13126 states in Section 1, “It shall be the policy of the United States Government, consistent with the Tariff Act of 1930, 19 U.S.C. §1307, the Fair Labor Standard Act, 29 U.S.C. §201 *et seq.*, and the Walsh Healy Public Contracts Act, 41 U.S.C. §35 *et seq.*, that executive agencies shall take appropriate actions to enforce the laws prohibiting the manufacture or importation of goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part by forced or indentured child labor.”

Federal Register in 2009 that stated, “It is important to clarify that the EO List does not . . . distinguish between products produced in a main/final establishment versus products produced by suppliers and contractors further down the supply chain.” 75 FR 42164, 65.

To date, though, EO13126 has been restricted to only those products that were directly touched, or “wholly-made”, by forced child laborers; goods such as cocoa and cotton. It is conceivable that the Government may procure some of the processed goods on the EO list, such as carpets or sugar. However, most forced child labor occurs at the earlier stages of complex production processes that eventually deliver finished products to consumers. Yet, companies that supply goods to the US Government that may contain as a valuable component a good on the EO List -- such as chocolate bars made with cocoa from Cote d’Ivoire or uniforms made with cotton from Uzbekistan -- have not been required to implement any “good faith” efforts to identify and root out forced child labor in their supply chains, even as reports of serious forced labor problems in chocolate and apparel industry supply chains.

Including goods that are made “in part” with forced child labor on the List will bring EO13126 enforcement into line with other US government policies to combat forced child labor, including the mandate of the Tariff Act of 1930, which bars the importation of any good made “wholly or in part” with forced labor. 19 U.S.C. §1307. Also, it will further US Government’s express policy to “reduce the likelihood . . . persons will produce goods using . . .” forced and child labor and “to ensure that products made by forced labor and child labor in violation of international standards are not imported into the United States.” Trafficking Victims Protection Act, 22 USC §7112(b)(2)(d) & (e).

Finally, by revising the product designations on the List to include the products that are also made “in part” with forced child labor, US executive agencies will be provided the clear guidance needed that will lead to full, effective, and practical implementation of the policies of EO 13126 and its implementing regulations, 48 CFR §22.15 *et seq.*, which is to ensure that US taxpayer dollars flow to responsible producers, not producers who remain willfully blind to labor conditions in their own supply chains and, therefore, willing to knowingly or even unknowingly profit from forced child labor.

*Effective implementation of a contractor’s duty of “good faith” due diligence for products on the EO List*

It is important to note, here, that EO13126 does not prevent the US government from purchasing any of the products listed on the EO List. Rather, as the Federal Acquisition Regulations make clear, the EO List “is an alert that there is a reasonable basis to believe that such product may have been mined, produced, manufactured by forced or indentured child labor.”<sup>29</sup> So, if a contractor is supplying a listed product, the contractor can continue to supply the government with the same product if it undertakes “a good faith effort” to determine whether the products that they are using were “mined, produced, or manufactured with forced or indentured child labor, and whether, on the basis of those efforts, the contractor is aware of any such use of forced child labor.”<sup>30</sup>

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<sup>29</sup> 48 CFR §22.15, §22.1503(c))

<sup>30</sup> 48 CFR §22.15, §22.1503(c))

In 2008, Congress established the Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products (“Consultative Group”) “to develop the recommendations for best practices . . . that will provide producers, importers, retailers and consumers with reasonable assurances as to what measures have been taken to ensure that the products are not produced with child labor.”<sup>31</sup> In December 2010, the Consultative Group recommended guidelines for companies to “reduce the likelihood that [agriculture] products or commodities that are imported into the United States are produced by forced labor or child labor.”<sup>32</sup> Recognizing that companies have a responsibility to “address labor practices at the raw product level, so that monitoring all major inputs down to that level is important”<sup>33</sup>, the Consultative Group recommended “a set of program elements” for companies to incorporate, including:

- Setting standards on child labor and forced labor that meet or exceed relevant International Labor Organization standards or national law, whichever is more stringent;
- Mapping supply chains, beginning with the producers of each agricultural product or commodity, and identifying areas of child labor/forced labor risk along these chains;
- Communicating the company’s standards, rights, expectations, monitoring and verification programs, remediation policies, and complaint process to suppliers (managers, supervisors, staff) throughout its supply chain as appropriate, including to workers, unions, producers, civil society groups and other relevant stakeholders;
- Ensuring that a safe and accessible channel is available to workers and other stakeholders to lodge complaints, including through independent monitors or verifiers.
- Monitoring of company supply chains through periodic auditing by competent and qualified auditors, with a special emphasis on identified areas of risk;
- Developing and implementing a remediation policy/plan that addresses remediation for individual victims as well as remediation of company and/or suppliers’ systems and processes;

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<sup>31</sup> Joint Explanatory Statement of the Committee of Conference. *Food, Conservation, and Energy Act of 2008* (Pub. L. 110–246).

<sup>32</sup> USDA. Report of Consultative Group to Eliminate the Use of Child Labor in Imported Agricultural Products (“USDA Guidelines”). December 15, 2010, para 1.1. (“(“*The Group is charged with developing recommendations relating to guidelines for a standard set of practices for independent, third party monitoring and verification for the production, processing, and distribution of agricultural products or commodities, to reduce the likelihood that such products or commodities are imported into the United States are produced by forced labor or child labor.*”), available at [http://www.fas.usda.gov/info/Child\\_labor/Childlabor.asp](http://www.fas.usda.gov/info/Child_labor/Childlabor.asp).

<sup>33</sup> USDA Guidelines, ¶4.6

- Periodically conducting internal reviews to check the company’s results against its own program goals; and
- Making available to the public information on the company’s monitoring program and its process to remediate/improve performance.

The Guidelines also recommend that companies “should seek independent, third- party review.”<sup>34</sup>

Understanding that child labor in agriculture occurs in “widely varying situations”, the Guidelines were structured in a manner “that can be adapted to individual company and industry situations”.<sup>35</sup> As a result, the Guidelines offer an excellent tool by which the US Government can measure whether a contractor has made a “good faith effort” to root out child labor in agriculture.

As one of the world’s largest consumers, the US government has the ability exert a formidable amount of market influence on the cotton and cocoa industries, and the first step is to add to the EO List those products that contain cocoa from Cote D’Ivoire and cotton from Uzbekistan. By ensuring “good faith” certification in line with the USDA Guidelines, the US government dollars will flow to producers, including cocoa farmers in Cote D’Ivoire who are committed to responsible business practices, and stop flowing to producers who use forced labor, like the Government of Uzbekistan. There are a multitude of efforts already underway in the private sector, both in cotton and cocoa, to implement responsible business practices aimed at eliminating tainted cocoa and cotton from corporate supply chains. Increasingly, private sector chocolate companies have begun to move towards adopting third party monitoring and verification as a core part their business practices in response to pressure from activists, governments, and consumers, and placing chocolate the EO List could reward those chocolate manufacturers who have taken credible, good faith efforts to monitor their supply chains. This could also place further pressure on chocolate manufacturers who continue to turn a blind eye towards their supply chain.

As consumers, activists, governments, and chocolate companies continue to make efforts to eradicate child trafficking from the cocoa and cotton industries, the government can support these efforts and lead by example by rewarding those companies who make good faith efforts to root out child labor in their own supply chains.

## Conclusion

In Uzbekistan, between 1.5 to 2 million children are forced by their own government to harvest cotton each year for export to the world market.<sup>36</sup> The Government of Uzbekistan’s “state order system” for cotton production exists only because of the massive profits generated for the Karimov regime by the sale goods made

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<sup>34</sup> Id., ¶ 1.4

<sup>35</sup> Id., ¶ 1.3

<sup>36</sup> Fitzpatrick, Catherine, *How Many Children Are Working in the Cotton Fields in Uzbekistan*. (October 17, 2011), available at <http://www.cottoncampaign.org/2011/10/17/how-many-children-are-working-in-the-cotton-fields/>.

“in part” with forced child labor, whether those goods were made in Uzbekistan or made with Uzbekistan cotton in other countries. In Cote d’Ivoire, an estimated 35,000 Ivoirian children are trafficked into forced labor to grow cocoa, all of which is sold to consumers as chocolate or cosmetics.

In EO 13126, the US government has an important tool that can leverage the Government’s purchasing power to help drive change in the cocoa and cotton industries. However, for that tool to work, the EO List must be maintained in a way that ensures US government agencies are able to implement the full procurement policy of the US government. Thus, government contractors who would like to supply a good that may be made “wholly” or “in part” with a product on the EO List should conduct a “good faith” effort to root out forced child labor from their supply chains.