



Exclusion from investment portfolios

1 December 2014

Introduction

KLP has decided to exclude POSCO, Daewoo International Corporation, and Olam International from investments by KLP and the KLP Mutual funds ('KLP') as of 1 December 2014.

POSCO is the largest steel producer in South Korea and the fifth largest steel producer globally, based on consolidated capacity.¹ The company is listed on the New York and London stock exchanges and is active in over 45 countries.² As of August 1, 2014, the market value of KLP's and KLP funds' shareholding in POSCO was NOK 22 390 209.

In August 2010, POSCO bought a majority stake in Daewoo International of 68.15%. South Korea-based Daewoo International is a trading and resource development conglomerate active in the metals, industrial machines, chemicals, fisheries and cotton industries, among others.³ Daewoo International maintained offices in 58 countries as of June 2013.⁴ Daewoo International first began operations in Uzbekistan in the cotton textile industry in 1996.⁵ The company owns three cotton factories in Uzbekistan: a spinning mill in Tashlak,⁶ a weaving factory in Kumtepa,⁷ and a spinning mill in Fergana.⁸ Daewoo International is believed to be the largest single purchaser of Uzbek cotton.⁹ As of August 1, 2014, the market value of KLP's and KLP funds' shareholding in Daewoo International was NOK 1 453 591.

Olam International ("Olam") is engaged in "supply chain management of agricultural products and food ingredients".¹⁰ Olam is incorporated in Singapore and is active in 65 countries.¹¹ It is listed on the Singapore Exchange. Olam is one of the world's largest cotton companies.¹² Olam

¹ POSCO Presentation, October 2013, on file with KLP.

² GES report (26 June 2014), on file with KLP.

³ Daewoo website: <http://www.daewoo.com/eng/company/introduce/intro.jsp> (last visited 30 June 2014).

⁴ Ibid.

⁵ POSCO, Letter to investors (4 April 2013), on file with KLP.

⁶ Daewoo Textile Fergana, *Tashlak*, <http://en.daewootextile.com/tashlak> (last visited 30 June 2014).

⁷ Daewoo Textile Fergana, *Kumtepa*, <http://en.daewootextile.com/kumtepa> (last visited 30 June 2014).

⁸ Daewoo Textile Fergana, *Fergana*, <http://en.daewootextile.com/> (last visited 30 June 2014).

⁹ GES report (26 June 2014), on file with KLP.

¹⁰ Olam, "Our heritage: Growing the business: 1993-2002", URL: <http://olamgroup.com/about-us/our-heritage/#Now> (last visited 1 October 2014).

¹¹ Olam, "Our heritage: Now", URL: <http://olamgroup.com/about-us/our-heritage/#Now> (last visited 1 October 2014).

¹² Olam, "Industrial raw materials, Cotton", URL: <http://olamgroup.com/products-services/industrial-raw-materials/cotton/> (last visited 1 October 2014).

began operations in Uzbekistan in 1996. According to the company's website, it is one of the biggest exporters of cotton fiber from Uzbekistan.¹³ In dialogue, however, the company notes that this is no longer correct, as Olam has reduced the amount of cotton purchased to 10 000 tons annually since 2012.¹⁴ As of August 1, 2014, the market value of KLP's and KLP funds' shareholding in Olam International was NOK 710 584.

Occurrence

Uzbekistan is the world's "fifth largest exporter and sixth largest producer" of cotton.¹⁵ For two months every year, approximately one million Uzbeks are forced to harvest cotton during the fall season.¹⁶ The government of Uzbekistan purchases all cotton produced within the country, compensating farmers at a rate well below global market prices. At the same time, the government sets annual production quotas for farmers, and holds local authorities accountable for their fulfillment.¹⁷ As a result, farmers are unable to afford to hire additional laborers to meet production quotas. The response of local authorities has been to force public employees and schoolchildren to work to ensure the quotas are met, as noted in the Norwegian Foreign Ministry's country information site on Uzbekistan:

Large segments of the population, including children, are compelled to participate in the cotton harvest under at times very poor working conditions. (author's translation).¹⁸

The Uzbek state, in turn, sells the cotton at global market prices, earning a healthy profit margin in the process.¹⁹

A 2008 report from SOAS, University of London summarizes the roots of the problem as follows:

¹³ Olam, "Commonwealth of Independent States", URL: <http://olamgroup.com/locations/europe-commonwealth-of-independent-states/commonwealth-of-independent-states/> (last visited 1 October 2014).

¹⁴ Telephone conversation between Olam and KLP, 1 October 2014.

¹⁵ CIA World Factbook, "Uzbekistan" (last updated 20 June 2014). URL: <https://www.cia.gov/library/publications/the-world-factbook/geos/uz.html>

¹⁶ D.T., "Forced labour in Uzbekistan: In the land of cotton", *The Economist* (16 October 2013).

¹⁷ Deniz Kandiyoti (coordinator), *Invisible to the World? The Dynamics of Forced Child Labour in the Cotton Sector of Uzbekistan* (London, SOAS, 2008) 14. URL: <http://www.soas.ac.uk/cccac/events/cotton-sector-in-central-asia-2005/file49842.pdf>; US State Department, "Uzbekistan", *Trafficking in Persons Report 2013*, 389. URL: <http://www.state.gov/documents/organization/210742.pdf>

¹⁸ "Store deler av befolkningen, inkludert barn, utkommanderes til å delta i bomullsinnhøstingen under til dels svært dårlige arbeidsforhold." Utenriksdepartementet, "Økonomi", *Landssider: Uzbekistan* (27 June 2013). URL: <http://www.landsider.no/land/usbekistan/fakta/okonomi/#contentinfoanchor>

¹⁹ D.T., "Forced labour in Uzbekistan: In the land of cotton", *The Economist* (16 oktober 2013). See, also USDA Foreign Agricultural Service, *Uzbekistan*, GAIN Report Number UZ4002 (27 March 2014). URL: http://gain.fas.usda.gov/Recent%20GAIN%20Publications/Cotton%20and%20Products%20Annual_Taskent_Uzbekistan%20-%20Republic%20of_3-27-2014.pdf (confirming that the Uzbek state purchases all cotton lint harvested within the country).

Although the mobilization of child labour for cotton harvests has its institutional and organizational roots in the Soviet command economy, its current persistence is best explained with reference to a combination of factors: a partial process of agrarian reform that continues to tie private farmers into compulsory crop-sowing and procurement quotas, a sharp decline in farm mechanization since independence and a short harvesting season that creates labour bottlenecks at peak times.²⁰

The workers include children under the age of 15, who are recruited without their parents' permission. Schools close in September and October while students and teachers help to pick cotton. They are transported to and from the cotton fields each day and forced to meet fixed production quotas.²¹ A comprehensive investigation of this practice conducted in 2006 revealed that nearly all children between the ages of 10 and 15 living in rural areas were recruited to harvest cotton.²² UNICEF's 2009 country program document confirmed "the issue of child labour in the cotton sector remains to be fully addressed", and noted that the UN Committee on the Rights of the Child has "called for ensuring children's rights to education during the harvest and the establishment of monitoring and control study mechanisms for child labour."²³

In 2012, the government of Uzbekistan implemented a directive that for the first time prohibited the use of child labor in the cotton harvest, defining children as individuals under the age of 15.²⁴ In order to compensate for the loss, local authorities began recruiting more heavily among those over age 15.²⁵

As the Norwegian Foreign Ministry notes, Uzbekistan does not allow independent media outlets or international non-governmental organizations (NGOs) to operate within the country, although reports of human rights abuses, including torture and violations of freedom of expression and association are widespread.²⁶ Accordingly, information on working conditions in Uzbekistan can be difficult to obtain. Nevertheless, based on the accounts of local human rights defenders and interviews with cotton workers, international human rights organizations report that workers in Uzbekistan's cotton fields "are not free to leave" and receive "little or no pay" for work under

²⁰ SOAS, University of London, *Invisible to the World? The Dynamics of Forced Child Labour in the Cotton Sector of Uzbekistan* (2008), Kandiyoti, Deniz (coordinator), p. v.

²¹ *Ibid.*, p. 20.

²² *Ibid.*, p. 19.

²³ UNICEF, *Uzbekistan: Country Programme Document, 2010-2015* (2009), p. 4, para. 9.

²⁴ US State Department, "Uzbekistan", *Trafficking in Persons Report 2013*, 389. URL: <http://www.state.gov/documents/organization/210742.pdf>

²⁵ *Ibid.*

²⁶ Utenriksdepartementet, "Politikk", *Landssider.no: Usbekistan* (27 juni 2013). URL: <http://www.landsider.no/land/usbekistan/fakta/politikk/#contentinfoanchor>

sometimes hazardous and unsanitary conditions.²⁷ According to the US State Department, working conditions varied substantially by region, also noting reports of older students threatened with expulsion if they did not sign "voluntary" pledges to work in the cotton fields.²⁸

In 2013, the government of Uzbekistan for the first time agreed to allow a joint International Labor Organization (ILO)-Uzbek monitoring team to visit the country during the October 2013 harvest and report on Uzbekistan's progress in implementing the ILO Worst Forms of Child Labor Convention (No. 182).²⁹ The monitoring team did not have a mandate to report on forced labor involving adults, however.³⁰ The monitoring team "reported 62 observations of children in the cotton fields, including 57 confirmed cases of children working in the cotton fields." All but four of the confirmed cases involved children between the ages of 16 and 17, and the "confirmed cases were found in two out of the eight zones." The report concluded:

*... (W)hile the application of the law to not engage children under 18 years of age in the cotton harvest seems to be strengthening, there remain gaps in practice. Some child labour still takes place during the cotton harvest, but to a limited extent. The mission report states that it would appear that forced child labour was not used on a systematic basis in Uzbekistan to harvest cotton in 2013.*³¹

The ILO report thus supports a decline in the use of child labor, as well as progress in keeping schools open throughout the harvest. Nevertheless, the exclusion of forced labor involving adults from the monitoring team's mandate limits the report's utility in confirming whether the reduction in child labor occurred through a corresponding increase in the use of adult forced labor. The ILO report indicates, however, that, "six closed colleges in two zones were detected as well as significant absenteeism in grades one and two of colleges in four zones".³² This finding supports news and NGO reports that the use of forced labor during the cotton harvest has simply shifted from children to adults.³³ Moreover, the Cotton Campaign, a human rights NGO, produced a

²⁷ Human Rights Watch, *Uzbekistan: Forced Labor Widespread in Cotton Harvest: More Adults, Older Children Required to Work, Abuses Persist* (26 januar 2013). URL:

<http://www.hrw.org/news/2013/01/25/uzbekistan-forced-labor-widespread-cotton-harvest>

²⁸ US State Department Bureau of Democracy, Human Rights and Labor, "Uzbekistan", *Country Reports on Human Rights Practices for 2013*. URL:

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>

²⁹ ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), "Observation (CEACR) – adopted 2013, published 103rd ILC session (2014)". URL:

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3149080

³⁰ Ibid.

³¹ Ibid.

³² Ibid.

³³ See, e.g. Mansur Mirovalev and Andrew E. Kramer, "In Uzbekistan, the practice of forced labor lives on during the cotton harvest", *The New York Times* (17 December 2013). URL:

[http://www.nytimes.com/2013/12/18/world/asia/forced-labor-lives-on-in-uzbekistans-cotton-](http://www.nytimes.com/2013/12/18/world/asia/forced-labor-lives-on-in-uzbekistans-cotton-fields.html?pagewanted=all)

[fields.html?pagewanted=all](http://www.nytimes.com/2013/12/18/world/asia/forced-labor-lives-on-in-uzbekistans-cotton-fields.html?pagewanted=all); Uzbek-German Forum for Human Rights and the Cotton Campaign, A

report alleging that the Uzbek government ordered children under the age of 16 to leave the cotton fields in advance of the ILO monitoring mission and engaged in other tactics in order to evade detection.³⁴ The US State Department's 2014 Trafficking in Persons continued to categorize Uzbekistan as a "Tier 3" country (lowest possible ranking), noting:

Government-compelled forced labor occurred during the cotton harvest, when authorities applied varying amounts of pressure on many governmental institutions, businesses, and educational institutions to organize college and lyceum students (15- to 18-year-old students completing the last three years of their secondary education), teachers, medical workers, government personnel, military personnel, and nonworking segments of the population to pick cotton in many parts of the country."³⁵

In sum, although there is evidence of a decline in the use of child labor, multiple independent sources indicate that the Uzbek state has compensated for the loss of labor through a corresponding increase in the use of adult forced labor.

The companies' involvement

The Uzbek state purchases cotton from individual farmers, who, as detailed above, receive assistance in harvesting from public employees and in some cases, schoolchildren, who the state annually recruits to pick cotton involuntarily. POSCO, through its subsidiary, Daewoo International, purchases this cotton from the Uzbek state. Daewoo International reported that in 2010 the company purchased approximately 20% of all Uzbek cotton harvested,³⁶ making the firm the single largest purchaser.

POSCO is aware of concerns about the use of forced labor and child labor in the harvesting of Uzbek cotton, as indicated by the company's letter engaging the Government of Uzbekistan on this issue. Nevertheless, POSCO has not announced any plans to prevent the use of forced labor or child labor in the cotton it purchases, beyond remaining in dialogue with the state and publishing an updated human rights policy. The company has not consented to independent auditing of its supply chain, nor has it indicated any willingness to discontinue sourcing Uzbek cotton should the use of forced or child labor continue.

Systemic Problem: State-Sponsored Forced Labour in Uzbekistan's Cotton Sector Continues in 2012 (201x). URL: http://uzbekgermanforum.org/wp-content/uploads/2013/07/SystemicProblem-ForcedLabour_Uzbekistan_Cotton_Continues.pdf

³⁴ Cotton Campaign, "Review of the 2013 cotton harvest in Uzbekistan: state forced-labour system continues", (November 2013), p. 14. URL: http://www.cottoncampaign.org/wp-content/uploads/2013/11/2013CottonHarvest_end_report.pdf

³⁵ US State Department, "Uzbekistan (Tier 3)", *Trafficking in Persons 2014* (2014), p. 405. URL: <http://www.state.gov/documents/organization/226849.pdf>

³⁶ Uzbek-German Forum for Human Rights and the Cotton Campaign, *A Systemic Problem: State-Sponsored Forced Labour in Uzbekistan's Cotton Sector Continues in 2012* (201x), p. 43. URL: http://uzbekgermanforum.org/wp-content/uploads/2013/07/SystemicProblem-ForcedLabour_Uzbekistan_Cotton_Continues.pdf

Olam is also aware of concerns about child and forced labor.³⁷ The company acknowledges that it does not monitor conditions in its supply chain, as the Government of Uzbekistan prohibits independent monitoring of the cotton harvest.³⁸ Olam intends to continue lobbying the government to consent to independent monitoring of the cotton harvest.³⁹ The company has not indicated, however, any intention to change its sourcing practices if progress does not occur.

National and international frameworks

Forced labor

International human rights law enshrines the right to freedom from forced labor. Article 6(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which Uzbekistan is a party, provides:

The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right. (emphasis added).

Similarly, Article 8(3)(a) of the International Covenant on Civil and Political Rights (ICCPR), to which Uzbekistan is also a party, provides:

*No one shall be required to perform forced or compulsory labour....*⁴⁰

The Forced Labor Convention (No. 29) defines forced labor as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."⁴¹ The Abolition of Forced Labor Convention (No. 105) further provides that all parties "undertake() to suppress and not to make use of any form of forced or compulsory labor... (b) as a method of mobilising and using labour for purposes of economic development...."⁴² Uzbekistan is a party to both conventions.

³⁷ Olam International, *Uzbekistan Cotton – Briefing Statement on Labour Practices* (25 February 2014), on file with KLP.

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ The ICCPR includes an exception for "Any work or service which forms part of normal civil obligations." ICCPR, Art. 8(3)(c)(iv). This exception is understood, however, to apply to such obligations as requiring citizens to submit tax returns, not hard labor for commercial purposes. See, Nowak, M. *UN Covenant on Civil and Political Rights: CCPR Commentary* (2nd rev. ed., N.P. Engel 2005), p. 207.

⁴¹ Article 2(1).

⁴² Article 1.

In 2013, the ILO requested the Government of Uzbekistan respond to allegations regarding the use of forced labor during the cotton harvest in relation to Convention No. 105. The Government of Uzbekistan had not yet responded as of June 2014.⁴³

The worst forms of child labor

Uzbekistan ratified the ILO Worst Forms of Child Labor Convention (No. 182) in 2008, following continuous pressure related to the cotton industry. The Convention applies to children under the age of 18.⁴⁴ The "worst forms of child labour" includes "forced or compulsory labour" as well as "work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children."⁴⁵ The Convention on the Rights of the Child (CRC), to which Uzbekistan is also a party, requires States Parties to "recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development."⁴⁶

According to the ILO, the Uzbek Constitution (art. 37), the Labor Code (§7), and the Criminal Code (§138) prohibit forced labor and prohibit children under the age of 18 from, *inter alia*, watering and picking cotton.⁴⁷

Branch standard

Based on the concerns outlined above regarding the use of forced adult and child labor, over 150 companies have pledged, "to not knowingly source Uzbek cotton for the manufacturing of any of our products until the Government of Uzbekistan ends the practice of forced child and adult labor in its cotton sector."⁴⁸ Signatories include, among others, H&M, IKEA Supply AG, adidas, Puma, and Nike.⁴⁹

⁴³ ILO, *Observation (CEACR) – adopted 2013, published 103rd ILC session (2014): Abolition of Forced Labour Convention, 1957 (No. 105) – Uzbekistan (Ratification: 1997)*. URL:

http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3148241:NO

⁴⁴ Worst Forms of Child Labor Convention (No. 182), Article 2.

⁴⁵ Article 3.

⁴⁶ Convention on the Rights of the Child, Article 32(1).

⁴⁷ ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR),

"Observation (CEACR) – adopted 2013, published 103rd ILC session (2014)". URL:

http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3149080

⁴⁸ Responsible Sourcing Network, "Company pledge against child and adult forced labor in Uzbek cotton", (updated 8 July 2014). URL: <http://www.sourcingnetwork.org/the-cotton-pledge/> (including a list of signatories).

⁴⁹ Ibid.

The Better Cotton Initiative (BCI) began through a WWF initiative with major textile retailers and NGOs on sustainability in the cotton sector.⁵⁰ BCI developed into an independent organization that monitors member companies' supply chains for compliance with the organization's "Production Principles and Criteria," which refer to both social and environmental sustainability. The Better Cotton Initiative does not apply to cotton sourced from Uzbekistan, however. According to the BCI, "no cotton sourced from Uzbekistan complies with the Production Principles and Criteria of the Better Cotton Standard."

Company dialogue

According to POSCO representatives: "POSCO is against any type of forced labour of either child or adult."⁵¹ The company is aware of concerns regarding its cotton operations in Uzbekistan, informing investors: "To do its part, Daewoo International delivered a letter to the government of Uzbekistan in October 2012 and asked for efforts to prevent forced child labor."⁵² POSCO reported that the government of Uzbekistan responded that it was "implementing measures to fulfill its duties as a member of the ILO."⁵³ In March 2013 Daewoo International sent a follow-up letter to the government of Uzbekistan "to reiterate the company's stance on human rights issues and asked for taking measures to put an end to forced child labor so that it can continue its business activities in the country."⁵⁴

In dialogue, representatives of POSCO report that the company is in close dialogue with the Uzbek authorities on the issue of child and forced labor and notes that child labor has significantly decreased during the 2013 harvest season.⁵⁵

In June 2014, POSCO launched a new human rights policy in which the company pledges to "respect human rights, support international standards for human rights and strengthen dignity of all interested parties by improving freedom, safety and quality of life."⁵⁶ POSCO is a signatory of the UN Global Compact.⁵⁷

KLP sent a draft of this recommendation and a request for comment by e-mail to POSCO and to Daewoo International on 17 September 2014.⁵⁸ The companies responded via a representative of Daewoo International on 26 November 2014.⁵⁹ The e-mail highlights how representatives of top

⁵⁰ Better Cotton Initiative, *BCI Story*. URL: <http://bettercotton.org/about-bci/bci-story/>

⁵¹ Notes on file with KLP.

⁵² Ibid.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

⁵⁶ POSCO Code of Conduct (2014). URL:

<http://www.POSCO.co.kr/homepage/docs/eng3/html/company/ethics/s91a3010050c.jsp>

⁵⁷ UN Global Compact, Participants and stakeholders, POSCO. URL:

<http://www.unglobalcompact.org/participant/17156-POSCO>

⁵⁸ E-mail on file with KLP.

⁵⁹ E-mail on file with KLP.

management have raised allegations of forced labor in Uzbekistan at the minister level, and attach an exchange of letters between Daewoo International's CEO and the Minister for Light Industry in Uzbekistan.⁶⁰ Representatives from top management have also visited Uzbekistan in 2014 and raised the issue in a meeting with the minister.⁶¹ Lastly, the companies point to the Government of Uzbekistan's continued cooperation with the ILO through the Decent Work Country Program.⁶²

Olam acknowledges concerns over the use of child labor in Uzbekistan during the cotton harvest.⁶³ To address these concerns Olam states that it has encouraged the Government of Uzbekistan to ratify ILO conventions, allow independent auditing of the cotton harvest, and encouraged greater use of mechanical harvesting to reduce the need for manual labor.⁶⁴ In dialogue, Olam points to reductions in the use of child labor as a sign of progress, but acknowledges reports that adult forced labor is on the rise.⁶⁵

KLP sent a draft of this recommendation by e-mail to Olam on September 17th, 2014, with a request for comment.⁶⁶ The company responded immediately and arranged a telephone meeting with KLP. The information that follows is the result of this conversation.

Uzbekistan is a key logistics hub for Olam's broader operations in the region, independent of the company's activities in the cotton sector.⁶⁷ The company continues to purchase cotton from the country in order to maintain its license to operate there, although it has reduced the scale of its purchases substantially – from approximately 100 000 tons of cotton lint annually to 10 000 tons annually over the past four years.⁶⁸

Olam is a member of the Association for Cotton Merchants in Europe (ACME), an organization comprised of several companies that source cotton lint from Uzbekistan, which "seeks to improve international labour practices within the cotton industry overall" with a specific focus on Uzbekistan.⁶⁹ The association does not have a functioning website as of August 1, 2014. In dialogue, however, Olam explains that ACME has adopted an active role in both lobbying with the Uzbek government to improve labor standards and in liaising with the ILO on the situation in

⁶⁰ On file with KLP.

⁶¹ E-mail on file with KLP.

⁶² Ibid.

⁶³ Olam International, *Uzbekistan Cotton – Briefing Statement on Labour Practices* (25 February 2014), on file with KLP.

⁶⁴ Ibid.

⁶⁵ Ibid.

⁶⁶ E-mail on file with KLP.

⁶⁷ Telephone conversation between Olam and KLP, 1 October 2014.

⁶⁸ Ibid.

⁶⁹ Olam International, *Uzbekistan Cotton – Briefing Statement on Labour Practices* (25 February 2014), on file with KLP.

Uzbekistan.⁷⁰ Olam confirms that it is impossible to audit the company's supply chain for forced and child labor in the Uzbek cotton industry and that the ILO monitoring mission for 2014 will not have a mandate to monitor the use of forced adult labor.⁷¹ Nevertheless, Olam believes that progress on labor rights in Uzbekistan is more likely to occur through private sector engagement than withdrawal, and the company remains hopeful that the Uzbek government will achieve its goal of completely mechanizing the cotton harvest within three years.⁷²

Analysis

According to KLP's guidelines for responsible investment, based on, *inter alia*, the UN Global Compact and the Ethical Guidelines for the Norwegian Pension Fund – Global, companies that do not fulfill a minimum standard for social responsibility shall be excluded from KLP's investment universe. This includes cases in which there is an unacceptable risk that a company will contribute to serious or systematic human rights violations, including forced labor and the worst forms of child labor. As the Council on Ethics has stated previously, it is unnecessary to consider whether a state has violated human rights in order to conclude that a company faces an unacceptable risk of contributing to a human rights violation, so long as the conduct in question falls below the minimum standards outlined in international human rights instruments.⁷³

Serious and systematic

The practice of employing forced labor in Uzbekistan is *systematic* as it has continued every October since Soviet times and depends on the widespread government mobilization of public employees and schoolchildren. In other words, the practice is systematic in the sense both that it affects a large number of individuals and that it has occurred repeatedly. Although the use of child labor declined in 2013, multiple independent news and NGO reports confirm that the forced labor of older children (ages 16 and 17), as well as adult workers, compensated for the shortfall. In short, there appears to be no indication of any decline in the incidence of forced labor in the Uzbek cotton sector overall.

The use of child labor to harvest cotton is inconsistent with the protections afforded children, *inter alia*, under the Worst Forms of Child Labor Convention (No. 182) and the Convention on the Rights of the Child, both of which Uzbekistan has ratified, and is a *serious* violation of human rights. According to the ILO, the use of child labor is also inconsistent with Uzbek national law, including the Uzbek constitution. In addition to the potential harmful effects on children's health and development of engaging in physically demanding manual labor, time spent harvesting cotton has occurred at the expense of classroom instruction, negatively impinging on Uzbek children's right to education. Although the use of forced labor has declined among children under the age of 16, evidence of child labor among children aged 16 and 17, along with the corresponding

⁷⁰ Telephone conversation between Olam and KLP, 1 October 2014.

⁷¹ Ibid.

⁷² Ibid.

⁷³ Council on Ethics Recommendation regarding Wal-Mart Corporation (15 November 2005), p. 4-5. URL: <http://www.regjeringen.no/pages/1661427/Tilrådning%20WalMart.pdf>

secondary school closures during the harvest season, indicate the need for more progress also on the elimination of child labor.

Although the issue of child labor has traditionally been the primary focus of engagement regarding the Uzbek cotton sector, the use of forced labor from adults is similarly prohibited under human rights conventions and ILO conventions to which Uzbekistan is a party. These include, *inter alia*, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Forced Labor Convention (No. 29) and the Abolition of Forced Labor Convention (No. 105). These conventions have achieved near universal ratification, underlining that the use of forced labor is a *serious* violation of human rights.⁷⁴

Evaluation of contribution

In evaluating whether, for the purposes of exclusion, it is reasonable to conclude that a company contributes to a violation of KLP's guidelines for responsible investment, KLP considers the following factors:

- Whether there is a clear connection between the company's activities and the violation
- Whether the violations were undertaken to benefit the company's interests or to "facilitate conditions" for the company
- Whether the company took an active role in the violations, or was aware of the violations but failed to act to prevent them⁷⁵

More generally, KLP considers whether the violations are ongoing or otherwise expected to occur in the future.⁷⁶

Connection between the company's activities and the violation

Independent media, NGO and government reports demonstrate that POSCO, Daewoo International and Olam have purchased cotton harvested through the use of forced child and adult labor directly from the Uzbek state.

⁷⁴ ILO, *International Labour Standards on Forced Labour*, <http://ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/lang--en/index.htm>

⁷⁵ Council on Ethics, Recommendation regarding Total (14 November 2005), p. 11. URL: <http://www.regjeringen.no/pages/1662906/Tilr%C3%A5dning%20Total%2014.pdf>. These factors are based on the Norwegian Government White Paper that recommended the first Ethical Guidelines for the Norwegian Pension Fund – Global. See, *ibid.*, p. 8-9.

⁷⁶ *Ibid.*

Benefit to the companies' interests or facilitating conditions for the companies

That the companies benefit from this conduct can be inferred from their continued purchase of cotton from Uzbekistan, despite persistent international criticism and a boycott from global retailers. Cotton is a commodity crop with export prices largely dependent on global market prices. In Uzbekistan, available evidence indicates that the difference between the export price and the state-mandated wholesale price for local farmers benefits primarily the Uzbek state, rather than the companies. Nevertheless, as cotton is an internationally competitive market, economic logic dictates that the companies' decision to purchase cotton from Uzbekistan rather than other potential suppliers reflects their receipt of a marginal benefit from the Uzbek suppliers. Olam confirms that its purchase of cotton from Uzbekistan is necessary for the company to maintain a presence in the country, which is critical for the company's other activities in the region. At a minimum, given the current Uzbek production system, the country would be unable to harvest cotton at a scale to permit export without the use of forced labor.

Awareness of and any efforts to prevent violations

As was the case in previous KLP exclusions involving the purchase of products manufactured through the use of child labor, there is no indication that the companies themselves forced adults and children to work in the cotton fields. The companies acknowledge, however, that they are aware of widespread reports that the cotton they source is the product of forced and child labor. While it is commendable that these companies have attempted to a certain degree to engage the Government of Uzbekistan on this issue, these efforts fall short of providing any meaningful assurance that the cotton Daewoo International and Olam purchase from the Uzbek state will be harvested through voluntary, adult labor. The companies acknowledge for example that they are unable to engage in any independent audits of their supply chains in Uzbekistan. In sum, the companies are aware of a violation, but have not implemented measures sufficient to prevent the violation from reoccurring.

Risk of future violations

Despite a recent decline in the incidence of the worst forms of child labor, there is significant evidence of a corresponding increase in forced adult labor. In the absence of more fundamental changes to the economic system underlying cotton production in Uzbekistan, it is highly unlikely that future cotton harvests will employ voluntary, adult labor. Moreover, the measures POSCO, Daewoo International, and Olam have implemented in response to evidence of these violations have no reasonable chance of preventing these abuses from reoccurring. As a result, these companies' continued sourcing of Uzbek cotton poses an unacceptable risk of contributing to serious violations of human rights.

Conclusion

While there are indications of progress in reducing the incidence of the worst forms of child labor in the cotton industry in Uzbekistan, the available evidence suggests this has occurred primarily by substituting one human rights problem for another: namely, using forced labor from adults and older children to replace labor from children under age 16. Forced labor is prohibited under both international human rights conventions and ILO conventions to which Uzbekistan is a party.

Out of concern for the risk of contributing to such abuses, many of the world's largest cotton manufacturers and retailers continue to pledge not to source Uzbek cotton. Both POSCO, through its subsidiary, Daewoo International, and Olam have confirmed in dialogue that they are aware of this risk, yet have given no indication that they intend to change their sourcing practices as a result. Companies have a responsibility to put in place systems designed to prevent and detect abuses within their supply chains. Where there is evidence of human rights or labor violations, KLP expects portfolio companies to react by taking action reasonably calculated to prevent such abuses from reoccurring.

Here, in response to credible information about the scale of child and forced labor violations within their supply chains, POSCO and Olam have acknowledged criticism and engaged the Uzbek authorities. Nevertheless, the measures these companies have implemented are insufficient to reduce the risk that the cotton purchased from Uzbekistan derives from the forced labor of adults and children. For this reason, there remains an unacceptable risk of contributing to the worst forms of child labor and forced labor.

For the above reasons, POSCO, Daewoo International and Olam International are excluded from KLP's and the KLP Mutual Funds' investments as of 1 December 2014.