



DEPARTMENT OF LABOR

[DOL-2018-0004]

**Notice of Final Determination to Remove Uzbek Cotton from the List of Products
Requiring Federal Contractor Certification as to Forced or Indentured Child Labor
Pursuant to Executive Order 13126**

AGENCY: Bureau of International Labor Affairs, U.S. Department of Labor.

ACTION: Notice of Final Determination.

SUMMARY: This notice is a final determination to revise the list required by Executive Order No. 13126 (“Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor”, hereafter the E.O. List). The E.O. List identifies a list of products, by their country of origin, that the Department of Labor (DOL), in consultation and cooperation with the Department of State (DOS) and the Department of Homeland Security (DHS) (collectively, the Departments), has a reasonable basis to believe might have been mined, produced, or manufactured by forced or indentured child labor.

The Departments proposed removing cotton from Uzbekistan from the E.O. List in a Notice of Initial Determination that was published in the *Federal Register* on July 31, 2018. After a thorough review of the comments received and information available, the Departments have determined that the use of forced child labor in the cotton harvest in Uzbekistan has been significantly reduced to isolated incidents. As a result, this product no longer meets the criteria for inclusion in the E.O. List.

This final determination is the fifth revision of the E.O. List required by E.O. 13126 in accordance with DOL's Procedural Guidelines for the Maintenance of the List of Products Requiring Federal Contractor Certification as to Forced or Indentured Child Labor (Procedural Guidelines).

SUPPLEMENTARY INFORMATION:

I. Initial Determination

On July 31, 2018, DOL, in consultation and cooperation with DOS and DHS, published a Notice of Initial Determination in the *Federal Register* proposing to remove cotton from Uzbekistan from the E.O. List.¹ The initial determination stated the Departments had preliminarily determined that the use of forced or indentured child labor in the production of that product had been significantly reduced and invited public comments until August 30, 2018 on whether cotton from Uzbekistan should be removed from the E.O. List, as well as any other issues related to the fair and effective implementation of E.O. 13126. The initial determination, and the public comments submitted, can be viewed at Docket ID No. DOL-2018-0004 or requested from Austin Pedersen at: Office of Child Labor, Forced Labor, and Human Trafficking (OCFT), Bureau of International Labor Affairs, Room S-5317, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693-4843, e-mail: Pedersen.Austin.M@dol.gov. Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the Federal Information Relay Service at 1-877-889-5627.

II. Public Comment Period

During the public comment period, six comments were submitted. Two comments were

¹ 83 FR 36969.

letters: one from the Cotton Campaign on behalf of 36 members of the Cotton Campaign coalition, opposing the initial determination, and one from the Government of Uzbekistan, supporting the initial determination. Two comments were summaries of DOL meetings: the first with the International Labor Rights Forum (ILRF, a lead organization of the Cotton Campaign coalition) and the second with the Ambassador of Uzbekistan to the United States, both of which occurred during the comment period. Finally, two comments were electronic messages related to those meetings. All comments are available for public viewing at <http://www.regulations.gov> (reference Docket ID No. DOL-2018-0004).

In its letter,² the Cotton Campaign indicated its opposition to the removal of cotton from Uzbekistan from the E.O List. The letter stated that there were incidents during the 2017 cotton harvest of forced child labor in the Karakalpakstan region and of child labor in the Andijan region, and that some cotton pickers had been coached to tell observers they worked voluntarily. It stated that there was no conclusive evidence that forced child labor had ended. Additionally, it asserted that, due to pressure stemming from the government's quota system, parents sometimes brought their children to cotton fields to pick cotton, and it pointed to evidence that children in a few schools were required to bring cotton to school in order for the school to meet the cotton quota imposed on it. It further stated that the government's investigations and prosecutions of officials who violated laws against forced child labor were sporadic.

In their meeting with DOL on August 9, 2018,³ the ILRF representatives encouraged DOL not to issue a final determination until after the 2018 cotton harvest season and pointed to instances of forced child labor in Uzbekistan in 2017 as indicated in an Uzbek-German Forum

² Cotton Campaign. Letter. August 29, 2018. <https://www.regulations.gov/document?D=DOL-2018-0004-0004>.

³ DOL. Record of Contact with Outside Party – ILRF. August 9, 2018. <https://www.regulations.gov/document?D=DOL-2018-0004-0002>.

report.⁴ The ILRF representatives also discussed the Cotton Campaign's forthcoming report on the spring weeding season.⁵

Email messages exchanged by DOL officials and the ILRF⁶ were sent to schedule the aforementioned meeting and inform the ILRF of the comment period.

In its letter,⁷ the Government of Uzbekistan supported the initial determination. The government discussed the country's legal framework prohibiting forced labor and its work with human rights organizations, activists monitoring the 2017 cotton harvest, and the World Bank Third Party Monitoring system implemented by the International Labor Organization (ILO). The Government of Uzbekistan also cited its efforts to investigate child labor and forced labor complaints and to punish violators. It noted the creation of a Parliamentary Commission on Labor Rights and explained the Commission's responsibility to work with state and local authorities to ensure compliance with international labor standards and national law. It further noted the accomplishments of its Decent Work Country Program agreement with the ILO and the extension of that agreement to 2020. The Government of Uzbekistan's submission also detailed its ongoing efforts to improve working conditions in the cotton sector, including through raising pickers' payment rates and piloting structural reforms of the industry to improve productivity and encourage private competition.

⁴ Uzbek-German Forum for Human Rights. *"We Pick Cotton Out of Fear": Systematic Forced Labor and the Accountability Gap in Uzbekistan*. May 19, 2018. <http://uzbekgermanforum.org/we-pick-cotton-out-of-fear-systematic-forced-labor-and-the-accountability-gap-in-uzbekistan/>.

⁵ Uzbek-German Forum for Human Rights. *"We want farmers to have full freedom": No Need for Forced Labor when Farmers are Empowered to Pay Decent Wages: Spring Cotton Fieldwork 2018*. September 10, 2018. <http://uzbekgermanforum.org/we-want-farmers-to-have-full-freedom-no-need-for-forced-labor-when-farmers-are-empowered-to-pay-decent-wages-spring-cotton-fieldwork-2018/>.

⁶ DOL. Record of Contact with Outside Party - Email Correspondence with ILRF. Sent between July 31 and August 10, 2018. <https://www.regulations.gov/document?D=DOL-2018-0004-0006>.

⁷ Government of Uzbekistan. Aide-Memoire on Measures to Eradicate Child and Forced Labor. August 2018. <https://www.regulations.gov/document?D=DOL-2018-0004-0003>.

During a meeting with DOL officials on August 10, 2018,⁸ the Ambassador of Uzbekistan discussed his government's goals of reducing forced labor in all cotton fields. In addition, the Ambassador noted efforts to improve transparency of the cotton harvest to international civil society organizations.

The email from the Embassy of Uzbekistan⁹ thanked DOL officials for the meeting.

III. Analysis of Comments Submitted

Following the close of the public comment period on August 30, 2018, the Departments have carefully reviewed and considered all public comments received.¹⁰ In so doing, the Departments considered and weighed the factors identified in the Procedural Guidelines: the source of the information presented, the date of the information, the extent of corroboration of the information, whether the information involved more than an isolated incident, and whether recent and credible efforts are being made to address forced or indentured child labor in the country and industry.¹¹

The reports cited in the Cotton Campaign's letter document no more than five cases of forced child labor, including cases in which, according to sources cited in the letter, children were required to pick cotton and bring it to school in order for it to meet the cotton quota. In one of

⁸ DOL. Record of Contact with Outside Party - Ambassador of Uzbekistan. August 10, 2018. <https://www.regulations.gov/document?D=DOL-2018-0004-0005>.

⁹ Record of Contact with Outside Party - Email Correspondence with Uzbek Ambassador. Sent August 13, 2018. <https://www.regulations.gov/document?D=DOL-2018-0004-0007>.

¹⁰ The Departments also note available reporting on the 2018 cotton harvest season. *See, e.g.*, Cotton Campaign. *Forced Labor in Uzbekistan's Cotton Fields Was Present in 2018 Harvest*. December 14, 2018. <https://laborrights.org/releases/forced-labor-uzbekistan%E2%80%99s-cotton-fields-was-present-2018-harvest>. Grove, Thomas. "Uzbekistan Says It Is Working to End Forced Labor in Cotton Fields." *Wall Street Journal*. December 17, 2018. <https://www.wsj.com/articles/uzbekistan-picks-away-at-forced-labor-in-its-cotton-fields-11545042600>.

Guilbert, Kieran. "Campaigners challenge U.N. over forced labor in Uzbekistan's cotton industry." Reuters. November 23, 2018. <https://www.reuters.com/article/us-uzbekistan-labour-workers/campaigners-challenge-un-over-forced-labor-in-uzbekistans-cotton-industry-idUSKCN1NS1S6>.

Uzbek-German Forum for Human Rights. *Despite Commitment and Efforts, Systematic Forced Labor in Uzbekistan's Cotton Fields Was Present During the 2018 Harvest*. December 14, 2018. <http://uzbekgermanforum.org/despite-commitment-and-efforts-systematic-forced-labor-in-uzbekistan-s-cotton-fields-was-present-during-the-2018-harvest/>.

¹¹ 66 FR 5351, at 5352. (Jan. 18, 2001). <https://www.federalregister.gov/documents/2001/01/18/01-952/bureau-of-international-labor-affairs-procedural-guidelines-for-the-maintenance-of-the-list-of>.

these cases, a local inspector imposed fines on the school director for requiring students to bring cotton.¹² The submission does not indicate whether the government took actions to remedy the other cases. However, based on other information that DOL collected, as a general matter, the government made improvements in investigating and remedying such cases.¹³ For example, during a research trip to Uzbekistan in the spring of 2018, DOL found that, unlike previous years, upon receiving allegations of child labor from independent activists, the government made efforts to investigate and remediate such cases, and that at least three individuals were convicted¹⁴ and 14 local officials were subjected to administrative penalties.¹⁵

The Cotton Campaign letter also refers to other cases of child labor, rather than forced child labor. However, these cases highlight that the government has made improvements in investigating and remedying such cases. ILO monitoring in 2017 identified 12 children ages 10 to 14 engaged in child labor in one field in Karakalpakstan. In this case, according to the ILO, the district *hokim* (governor) and other community members took the situation seriously and immediately removed the children from the field. The local *mahalla* (community association) leader, the local Ministry of Education representative, the district prosecutor, and the *hokim* all participated in the investigation of the issue. ILO monitors concluded that the case was an isolated incident based on the fact that the farmer, the children's parents, the *mahalla* leader, and a representative of the local Department of Education all appeared unaware of the children's

¹² Uzbek-German Forum for Human Rights. “*We Pick Cotton Out of Fear*”: *Systematic Forced Labor and the Accountability Gap in Uzbekistan*. May 19, 2018. <http://uzbekgermanforum.org/we-pick-cotton-out-of-fear-systematic-forced-labor-and-the-accountability-gap-in-uzbekistan/>.

¹³ *Ibid.* Kozyreva, Anna. “The Fields of Hopelessness: Uzbekistan’s Children Remain as Hostages in the Battle for the Cotton Crop,” *Fergana News*. November 14, 2017. On File.

¹⁴ U.S. Embassy—Tashkent. Reporting. January 9, 2018.

¹⁵ International Labor Organization. *Third-Party Monitoring of Measures Against Child Labor and Forced Labor During the 2017 Cotton Harvest in Uzbekistan*. February 1, 2018. http://www.ilo.org/ipecc/Informationresources/WCMS_543130/lang--en/index.htm.

presence in the fields.¹⁶ Separately, the Uzbek government-led Coordination Council on Decent Work's national monitoring effort, without specifying the location, identified 18 children in the cotton fields, four of whom were picking cotton.¹⁷ The Government of Uzbekistan issued administrative penalties when investigations identified violations of labor laws.¹⁸ These two cases were not considered directly relevant to E.O. List, since they were cases of child labor, rather than forced child labor.

With respect to the evidence submitted by the Cotton Campaign regarding the ability to freely conduct monitoring in the sector, DOL notes that there are three monitoring mechanisms active during the cotton harvest, as well as other mechanisms in place to receive complaints.¹⁹ The existence of such mechanisms, and their increased use each year, points to the opportunity that workers have to be candid about the terms and conditions of their work, including forced child labor.

The first of these mechanisms is monitoring by the Coordination Council.²⁰ The second is monitoring conducted by independent human rights activists; for example, the Uzbek-German Forum for Human Rights, a Berlin-based NGO, releases reports on the harvest based on these activists' monitoring.²¹ Third, the ILO, in collaboration with the Federation of Trade Unions of Uzbekistan, conducts Third-Party Monitoring of the cotton harvest.²² This mechanism was established in 2015 through an agreement between the World Bank and the ILO; it is funded by a

¹⁶ International Labor Organization. *Third-Party Monitoring of Measures Against Child Labor and Forced Labor During the 2017 Cotton Harvest in Uzbekistan*. February 1, 2018.

http://www.ilo.org/ipecc/Informationresources/WCMS_543130/lang--en/index.htm.

¹⁷ U.S. Embassy—Tashkent. Reporting. January 9, 2018.

¹⁸ *Ibid.*

¹⁹ Department of Labor. "Uzbekistan" in *Findings on the Worst Forms of Child Labor*. September 2018.

<https://www.dol.gov/agencies/ilab/resources/reports/child-labor/uzbekistan>.

²⁰ Government of Uzbekistan. Response to FRN. On File.

²¹ Uzbek-German Forum for Human Rights. *Cotton Harvest 2017: Summary of Key Findings*. March 2018. On File.

²² International Labor Organization. *Third-Party Monitoring of Measures Against Child Labor and Forced Labor During the 2017 Cotton Harvest in Uzbekistan*. February 1, 2018.

http://www.ilo.org/ipecc/Informationresources/WCMS_543130/lang--en/index.htm.

Bank-managed multi-donor trust fund to monitor labor issues under World Bank development projects for agriculture, water, and education in Uzbekistan.²³

DOL also notes the existence of multiple, active feedback mechanisms for worker complaints. Uzbekistan's Ministry of Employment and Labor Relations operates a hotline²⁴ and the Federation of Trade Unions operates legal clinics in each province to process labor complaints.²⁵ Two World Bank projects have their own specific feedback mechanisms for participant concerns.²⁶ In addition, the President of Uzbekistan in 2017 established a general hotline for members of the public to raise issues with the Uzbek government.²⁷

Portions of the comments submitted in response to the initial determination were not directly related to the use of forced child labor in the cotton harvest in Uzbekistan, but do point to the continued existence of adult forced labor in the sector. For instance, the Cotton Campaign referred to the quota system for the cotton harvest in Uzbekistan and, in a meeting with DOL, ILRF stated that the forced labor of adults continues to be prevalent. These comments cited incidents of school officials denying pupils the right to attend class if their parents did not pick cotton or pay for a replacement. The government's letter pointed to various efforts it had made to, in part, combat the forced labor of adults in the cotton sector, such as the mechanization of the cotton harvest, diversification of agricultural crops, increasing cotton pickers' wages by 40 percent or more, increasing the price of cotton so that farmers could hire voluntary workers, and government directives to strictly prosecute violators.

²³ International Labor Organization. *Third-Party Monitoring of Measures Against Child Labor and Forced Labor During the 2017 Cotton Harvest in Uzbekistan*. February 1, 2018.

http://www.ilo.org/ipec/Informationresources/WCMS_543130/lang--en/index.htm.

²⁴ U.S. Embassy—Tashkent. Reporting. January 9, 2018.

²⁵ International Labor Organization. *Third-Party Monitoring of Measures Against Child Labor and Forced Labor During the 2017 Cotton Harvest in Uzbekistan*. February 1, 2018.

http://www.ilo.org/ipec/Informationresources/WCMS_543130/lang--en/index.htm.

²⁶ *Ibid.*

²⁷ U.S. Embassy—Tashkent. Reporting. January 9, 2018.

IV. Final Determination

The Departments have carefully reviewed, analyzed, and considered the comments submitted in determining whether to remove cotton from Uzbekistan from the E.O. List. In addition, the Departments have continued to monitor the cotton harvest since the issuance of the Initial Determination, and will continue to monitor future cotton harvests in the course of maintaining the E.O. List. The Departments conclude that based on available information, the use of forced child labor in the cotton harvest in Uzbekistan has been significantly reduced to isolated incidents and, as a result, this product no longer meets the criteria for inclusion in the E.O. List.

In 2010, when DOL added cotton from Uzbekistan to the E.O. List, forced child labor was pervasive in Uzbekistan's cotton sector. The Environmental Justice Foundation reported that tens of thousands of children were forced to pick cotton in the annual harvest, including an estimated 200,000 children in the Ferghana valley. School children were coerced into participation in the harvest with threats of physical and verbal abuse, threats of expulsion, and threats that their grades would suffer if they did not meet assigned quotas.²⁸ The *Human Rights Report* noted that between 2 and 19 percent of children participated in the cotton harvest, based on statistics available in 2006. While most child pickers were reportedly older than 15, children as young as 11 were also forced to work in the harvest. Living conditions for cotton pickers, including children, were reportedly poor, and children were exposed to harmful chemicals and pesticides in the fields.²⁹ DOS confirmed that children were mobilized by their schools as a

²⁸ Environmental Justice Foundation. *Child Labor and Cotton in Uzbekistan*.
<http://www.ejfoundation.org/page145.html> and *White Gold: The True Cost of Cotton*. 2005.
http://www.ejfoundation.org/pdf/white_gold_the_true_cost_of_cotton.pdf.

²⁹ U.S. Department of State. "Uzbekistan" in *Country Reports on Human Rights Practices 2007*. March 11, 2008.
<http://www.state.gov/g/drl/rls/hrrpt/2007/100623.htm>.

result of national cotton production quotas, also noting that many schools closed for a full month during the harvest while children picked cotton.³⁰

In contrast, during the 2017 harvest season, available reporting documented five cases of forced child labor: 1) a class of children from a school in the Ulugnor District of the Andijan Region picked cotton; 2) a class of children from a school in the Balichki District of the Andijan Region picked cotton, and the head of the school was later fined for sending the children to pick cotton; 3) one child stated that he and other students were instructed by school officials to pick cotton in their spare time in the Balichki District of the Andijan Region; 4) students of a school in the Balichki District of the Andijan Region were told to pick cotton in their free time³¹; and 5) a *mahalla* leader in the Turtkul District of the Karakalpakstan Region ordered every house in the area to send someone to pick cotton, some of whom were children.³²

As a result of the significant reduction in the use of forced child labor to isolated incidents, the Departments have determined to remove cotton from Uzbekistan from the E.O. List.

V. Background

E.O. 13126 was signed on June 12, 1999, and published in the *Federal Register* on June 16, 1999. 64 FR 32383. E.O. 13126 declared that it was “the policy of the United States Government . . . that executive agencies shall take appropriate actions to enforce the laws prohibiting the manufacture or importation of goods, wares, articles, and merchandise mined,

³⁰ U.S. Embassy—Tashkent. Reporting. June 6, 2008.

³¹ The information available about this case is limited. It is possible that this case may overlap with the third one outlined in this paragraph.

³² The Departments note that according to available reporting, during the 2018 harvest season, limited evidence pointed to isolated incidents of possible child labor in the cotton harvest. U.S. Embassy—Tashkent. Reporting. December 21, 2018.

produced, or manufactured wholly or in part by forced or indentured child labor.” The E.O. defines “forced or indentured child labor” as

[A]ll work or service (1) exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or (2) performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

Pursuant to E.O. 13126, and following public notice and comment, DOL published in the January 18, 2001 *Federal Register* the first E.O. List of products, along with their respective countries of origin, that DOL, in consultation and cooperation with the Department of State and the Department of the Treasury (relevant responsibilities now within DHS), had a reasonable basis to believe might have been mined, produced or manufactured by forced or indentured child labor.³³

The Department also published the Procedural Guidelines on January 18, 2001, which provide procedures for the maintenance, review, and, as appropriate, revision of the E.O. List.³⁴ The Procedural Guidelines provide that the E.O. List may be revised through consideration of submissions by individuals and on the Department’s own initiative. When proposing a revision to the E.O. List, DOL must publish a notice of initial determination in the *Federal Register*, which includes any proposed alteration to the E.O. List. The Departments will consider all public comments prior to the publication of a final determination of a revised E.O. List. The E.O. List was subsequently revised on July 20, 2010;³⁵ on May 31, 2011;³⁶ on April 3, 2012;³⁷

³³ 66 FR 5353.

³⁴ 66 FR 5351.

³⁵ 75 FR 42164.

³⁶ 76 FR 31365.

³⁷ 77 FR 20051.

and on July 23, 2013.³⁸ The most recent E.O. List, finalized on October 3, 2016, includes 35 products from 26 countries.³⁹

Under a final rule by the Federal Acquisition Regulatory Council, which also implements E.O. 13126, federal contractors who supply products that appear on the E.O. List are required to certify, among other things, that they have made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under the contract and that, on the basis of those efforts, the contractor is unaware of any such use of child labor.⁴⁰

The current E.O. List and the Procedural Guidelines can be accessed at <http://www.dol.gov/ilab/reports/child-labor/list-of-products/> or can be obtained from: OCFT, Bureau of International Labor Affairs, Room S-5313, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 693-4843; fax (202) 693-4830.

(Authority: EO 13126, 64 FR 32383).

Signed at Washington, DC, on March 13, 2019.

Martha E. Newton,
Deputy Undersecretary for International Affairs.

³⁸ 78 FR 44158.

³⁹ 81 FR 68062.

⁴⁰ See Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor, 66 FR 5346, 5347 (Jan. 18, 2001) (codified at 48 CFR 22.1503(c)).

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