

(1) The complainant’s name(s), address, and other contact information.

- 1.
- 2.
- 3.
- 4.

(2) If the party lodging the complaint is doing so on behalf of an affected person or community, it must identify on whose behalf the complaint is made. It must also present evidence that it has been requested to present the complaint on behalf of the project-affected people/person.

As expressed in Appendix 1, “Statement by the applicant to the Office of the Compliance Advisor/Ombudsman for a compliance review of the International Finance Corporation project with Indorama Kokand Textile, project number 36098,” complainant No. 1 authorizes the Uzbek-German Forum for Human Rights and the International Labor Rights Forum to submit a complaint in this regard to the Office of the Compliance Advisor/Ombudsman.

Complainants No. 2, 3, and 4, authorize the Uzbek-German Forum for Human Rights, International Labor Rights Forum, and Human Rights Watch to help in the preparation of the request for compliance review of the IFC project with Indorama Kokand Textile, project number 36098, and to communicate with the IFC and Office of the Compliance Advisor/Ombudsman in matters related to this request.

All of the complainants grant their consent for the Uzbek-German Forum for Human Rights, International Labor Rights Forum, Human Rights Watch, and Cotton Campaign legal advisor Brian Campbell to communicate with the IFC and the Office of the Compliance Advisor/Ombudsman on our behalf.

(3) Whether the complainant wishes that their identity or any information communicated as part of the complaint should be kept confidential (stating reasons).

Complainants No. 1 and No. 4 request the Office of the Compliance Advisor/Ombudsman keep their personal information confidential, due to fears about their personal security and taking into account the severe repression practiced by the government of Uzbekistan against citizens who criticize the practices in the cotton sector.

(4) The identity and nature of the IFC project.

The International Finance Corporation (IFC) project number 36098 is presented on the IFC website as: “a senior A Loan up to US\$40 million to Indorama Kokand Textile, the leading cotton yarn producer in Uzbekistan (“IKT” or the “Company”) to finance the expansion of its textile plant in Fergana Valley, Uzbekistan. The proposed investment will allow Indorama Kokand Textile (IKT), a successful local cotton yarn producer to further expand its capacity in Uzbekistan, leading to increased exports of local cotton yarn and availability of good quality raw material for the local weaving and knitting industry, thus

enhancing the growth of local textile industry and increasing industrial employment.”¹ The IFC disclosed the project on September 2, 2015, and assigned it the environmental categorization A, “due to potential social risks related to supply chain, namely labor practices in the cotton production sector in Uzbekistan.”² IKT committed to:

- Develop and implement a corporate environmental and social policy statement on child labor and forced labor issues in the cotton supply chain and ensure knowledge of the policy by all staff and suppliers;
- Source cotton from areas monitored by the International Labour Organization (ILO) under the World Bank program; and
- Review its approach to obtaining and analyzing information received from cotton companies (focusing on cotton supply traceability), in consultation with IFC.³

The World Bank Board of Directors approved the project on December 17, 2015. The project was initiated on February 2, 2016, with the signing of project documentation.

IKT is a joint venture company between the National Bank of Uzbekistan and PT. Indo-Rama Synthetics TBK (“Indorama”). The majority shareholder in IKT is Indorama, which is a wholly-owned subsidiary of the holding company Indorama Corporation, headquartered in Jakarta, Indonesia.⁴ Describing its subsidiary IKT, Indorama states, “The facility is the first compact spinning facility in entire Central Asia, which produces 100 per cent combed cotton compact yarn.”⁵ IKT manufactures “100% Combed Cotton Compact yarn from fine quality Uzbek Cotton, count range from Ne 20s to 40s.”⁶ Indorama Corporation benefits from its investment in IKT in Uzbekistan by increasing its sales of cotton goods to global apparel companies and their supply chains.

Indorama states that the IKT was established in July 2011 “as part of Indorama’s strategy to establish its presence in the emerging economies of Central Asia and to expand its global spinning business.”⁷ The company reports that IKT sells spun yarn, primarily to weaving and knitting companies, and exports 90% of its products “mainly to Latin America, Europe, Bangladesh, Commonwealth of Independent States (CIS) and Turkey.”⁸

By investing in Uzbekistan, IKT received significant benefits. According to Indorama, the primary benefit of establishing a cotton processing operation in Uzbekistan is the “natural advantage of sourcing competitively priced raw cotton fiber from domestic sources.”⁹ Additionally, to entice Indorama to

¹ International Finance Corporation (IFC), “Indorama Kokand: Summary of Investment Information,” available at <http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/78e3b305216fcd8a85257a8b0075079d/cdb4928a7751013385257eb40070100e?opendocument> (last accessed April 27, 2016).

² IFC, *Ibid.*

³ IFC, Indorama Kokand: Environmental & Social Action Plan – Appraisal,” available at <http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/78e3b305216fcd8a85257a8b0075079d/df7b3e2e4b3b854985257eb400705488?opendocument> (last accessed June 7, 2016).

⁴ Indorama Corporation, “Affiliated Companies,” www.indorama.com (last accessed April 8, 2016).

⁵ PT Indo-Rama Synthetics TBK, “Profiles: Indorama Kokand Textile,” <http://www.indorama.co.id/affiliated-comapny/indorama-kokand-textile/iktpofile.html> (last accessed April 8, 2016).

⁶ PT Indo-Rama Synthetics TBK, *Ibid.*

⁷ PT Indo-Rama Synthetics TBK, *Ibid.*

⁸ PT Indo-Rama Synthetics TBK, *Ibid.*

⁹ Indorama Website. Profile of Indorama Kokand Textile, available at <http://www.indorama.com/article/81/95/137/indorama-kokand-textile---profile.htm> (last accessed on March 26,

establish operations in Uzbekistan, the Government of Uzbekistan subsidized Indorama by providing at least a portion of their facilities “at free cost under IKT’s investment agreement.”¹⁰ Indorama also received a significant amount of deferred tax benefits.¹¹

Though not specific to Indorama, in exchange for their investment in the cotton processing industry the Uzbek government gives foreign enterprises a 15% discount from the export price of cotton, a full 20% value-added tax (VAT) reimbursement, and, when they receive a delivery of cotton, they pay only 15% of the cost and pay the remainder in 120 days at zero interest.¹²

However, for the privilege of operating in Uzbekistan, Indorama is required by the Uzbek government to hold its equity stake in IKT within Uzbekistan “based on certain regulatory conditions in Uzbekistan.”¹³ Under the government’s regulations, Indorama is required to maintain a “reserve” on its investment in IKT in the amount of US\$10,403,000, which “represents the difference between the value of investment made by [Indorama] in IKT and the value of IKT’s paid-up capital.”¹⁴ As a result, Indorama is prevented from utilizing its assets as collateral for securing credit from a private lending institution and must rather seek credit from the IFC, which is capable of providing loans on high risk investments.

Furthermore, for Indorama to repay the IFC loans from IKT’s revenues and profits, it must seek special, prior permission from the Government of Uzbekistan, which prohibits the exchange and transfer of currency to banks outside the country. Like many foreign businesses operating in Uzbekistan, Indorama is required to maintain an official account with the government’s National Bank for Foreign Economic Activities of Republic of Uzbekistan, which strictly controls all foreign currency exchange to prevent any currency from leaving Uzbekistan. Indorama’s total assets held by the Government of Uzbekistan increased to \$5,412,665 by the end of 2014 from \$1,849,146 at the end of 2013.¹⁵

The IFC is also invested in Uzbekistan’s Hamkor Bank, through equity and loan financing.¹⁶ Headquartered in Andijan, Hamkor has commercial banking branches located in all twelve regions, the city of Tashkent, and the Autonomous Republic of Karakalpakstan.¹⁷ As described further below, the government controls the financial flows in the cotton sector by using the commercial banking sector to deny farmers access to cash and restrict credit to use for cotton farming, paying a procurement price for

2016). (“The company has a natural advantage of sourcing competitively priced raw cotton fiber from domestic sources and adding value for shipments to its global markets.”)

¹⁰ PT Indo-Rama Synthetics TBK and its Subsidiaries, “Consolidated Statements of Financial Position, December 31, 2014 and 2013,” at page 57, available at http://www.indorama.co.id/pdf/_b_Indorama-AR-2014.pdf (last accessed April 8, 2016).

¹¹ PT Indo-Rama Synthetics TBK and its Subsidiaries, *Ibid*, page 57.

¹² Ministry of Foreign Economic Relations, Trade and Investment, Uzinfovest Agency, http://www.uzinfoinvest.uz/eng/investment_opportunities/by_industry/light_industry/, (last accessed September 15, 2011, and the page no longer includes this information).

¹³ PT Indo-Rama Synthetics TBK and its Subsidiaries, *Ibid*, pages 38–39.

¹⁴ PT Indo-Rama Synthetics TBK and its Subsidiaries, *Ibid*, page 58.

¹⁵ PT Indo-Rama Synthetics TBK and its Subsidiaries, *Ibid*, page 41.

¹⁶ IFC, “Hamkor Bank SL: Summary of Investment Information,” Project number 33596, at <http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/78e3b305216fcd8a85257a8b0075079d/777faeefd798f8c285257bb80055d185?opendocument>, and IFC, “Hamkor Equity/SL: Summary of Proposed Investment,” Project number 27614, at <http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/78e3b305216fcd8a85257a8b0075079d/76fce63478dd11da852576ba000e2d03?opendocument>

¹⁷ Hamkor Bank, “Branches,” at <http://www.hamkorbank.uz/en/content/filiy/link/Tashkent> (last accessed April 27, 2016).

cotton that keeps farmers in chronic debt, and enforcing debt payments through overt coercion, including land and property seizures. There is a significant risk Hamkor has participated in this coercive financial system and is not conducting adequate due diligence to ensure its participation is not supporting forced labor and the related attacks against independent labor monitors, described below. The IFC investment in Hamkor and other financial intermediary investments may also finance IKT or other companies directly involved in the cotton system and utilizing or benefiting from the government's forced labor system. We are concerned that the IFC has not conducted adequate due diligence in this respect or fulfilled its supervision responsibilities.

We are similarly concerned about IFC's exposure through the Global Trade Finance Program (GTFP), which "extends and complements the capacity of banks to deliver trade financing by providing risk mitigation in new or challenging markets where trade lines may be constrained."¹⁸ According to the IFC's website, two banks in Uzbekistan, Asaka Bank and Hamkor Bank, are issuing banks that are currently participating in this program.¹⁹ As with Hamkor Bank, there is a significant risk that Asaka Bank has participated in the coercive financial system that is used to force farmers to fulfill state-assigned production quotas. We are concerned that the IFC has not conducted adequate due diligence in this respect.

(5) A statement of the way in which the complainant believes it has been, or is likely to be, affected by environmental and/or social impacts of the project.

The Government of Uzbekistan imposes a forced labor system on its citizens for the production of all cotton in the country, and the IFC does not have adequate mitigation measures to ensure its investments in IKT and Hamkor and support to Asaka and Hamkor Banks through the GTFP are not supporting forced labor, as detailed in the following subsections A and B.

A victim of the government's forced labor system, complainant No. 1 was forced to pick cotton during the cotton harvests, from ages 16-18 in 2013-2015 and believes that s/he will be forced to pick cotton during the 2016 cotton harvest. More than one million citizens share the complainant's experience of being forced to pick cotton each year. As described below, there is only one supplier of cotton in Uzbekistan, so the cotton that complainant No. 1 was forced to pick in 2013-2015 and that s/he believes s/he will be forced to pick in 2016 will go to that supplier and may then be provided to IKT.

The complainants Dmitry Tikhonov, Elena Urlaeva, and complainant No. 4 have been repeatedly subjected to physical violence, detention, arrests, and harassment by government officials in retaliation for their documentation of forced labor in the cotton sector, including in areas where the ILO is monitoring under the ongoing World Bank program. Tikhonov, Urlaeva, and complainant No. 4 believe that they will continue to face retaliation for monitoring and reporting on labor abuses within the cotton sector in 2016. As discussed below, the mitigation measures outlined in the IFC's documents regarding the IKT loan rely heavily on ILO monitoring. As the ILO has emphasized, independent monitors provide important information to the ILO. There is no indication that independent monitors will be able to freely document labor practices in the cotton sector in 2016 or the foreseeable future without reprisal. The textile industry is an added-value sector, the expansion of which would build on the export of raw cotton and represent a significant opportunity to increase national income and potentially employment. While the

¹⁸http://www.ifc.org/wps/wcm/connect/Industry_EXT_Content/IFC_External_Corporate_Site/Industries/Financial+Markets/Trade+and+Supply+Chain/GTFP/

¹⁹ <http://www.ifc.org/wps/wcm/connect/af68ae004a2a1accaf7daf8969adcc27/GTFP+IBs+List++May+2016.pdf?MOD=AJPERES>

government of Uzbekistan has therefore long stated its interest in building the textile industry,²⁰ it is tainted with forced labor produced cotton, which has led 263 companies to pledge against using Uzbek cotton.²¹ The IFC loan adds a veil of legitimacy to the goods sold by IKT, clouding the fact that they continue to be manufactured with forced labor produced cotton. In 2015, the government increased the frequency and severity of its repression of independent monitors documenting forced labor in order to protect its loans from the World Bank, which prohibit forced labor in the project areas.²² Tikhonov, Urlaeva, and complainant No. 4 fear that the government of Uzbekistan will try to silence independent monitors exposing forced labor in the cotton fields that supply IKT to protect the IFC investment in IKT.

In 2016, the Uzbek government's forced labor system of cotton production remains fully intact, meaning that the government has already assigned production quotas to farmers and is expected to enforce them with coercion and to force more than one million citizens to fulfill harvest quotas in the autumn. Within the system, the state-owned company Uzpahtasanoatekспорт maintains a monopoly over purchases and sales of cotton and is therefore IKT's sole supplier of cotton. With no change to the production system, the IFC loan to IKT and support to commercial banks in Uzbekistan risks perpetuating the forced labor system. Further, since the IFC loan to IKT is for it to expand its operations, it risks exacerbating the forced labor system by increasing demand for the cotton.

A. The Government of Uzbekistan uses a forced labor system to produce cotton that violates Uzbek and international law.

Uzbekistan is the world's fifth-largest cotton exporter, and the Uzbek government uses one of the world's largest state-orchestrated systems of forced labor to produce it. Annually the government forces more than a million citizens to pick cotton and farmers to deliver production quotas, all under threat of penalty. The practice violates Uzbek national law and the country's international legal obligations, undermines education and health care, and fosters corruption at all levels. The government does not permit independent civil society organizations and trade unions to operate freely or to independently monitor labor practices in the cotton sector and threatens, but rather detains and imprisons citizens who attempt to report on these abuses.

The Uzbek government's use of coercion to enforce production quotas assigned to farmers and recruitment of citizens to work in the cotton fields is the practice prohibited by international forced labor conventions ratified by Uzbekistan and its national law. Forced or compulsory labor is "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."²³ The International Labour Organization (ILO) has explained that penalty includes physical violence, psychological coercion, and the loss of rights or privileges.²⁴ Furthermore, the government uses forced labor to generate income from cotton sales, in violation of its commitment to not

²⁰ See, for example, "Uzbekistan's independence has increased 3 times the volume of cotton processing," *12uz.com*, June 20, 2013, originally published at <http://www.12uz.com/ru/news/show/economy/14603/>, PDF copy available upon request.

²¹ See <http://www.sourcingnetwork.org/the-cotton-pledge>.

²² Uzbek-German Forum for Human Rights (UGF), "The Cover-up: Whitewashing Uzbekistan's White Gold - Persecution of Independent Monitors to Cover up Mass Forced Labor in the Cotton Sector," March 2016, <http://harvestreport2015.uzbekgermanforum.org/>, at Chapter "Forced Labor System of Cotton Production in 2015."

²³ ILO Convention No. 29 concerning Forced or Compulsory Labour (Forced Labour Convention), adopted June 28, 1930, 39 U.N.T.S. 55, entered into force May 1, 1932, article 2.

²⁴ ILO, "Giving Globalization a Human Face," 2012, ILC.101/III/1B, http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@relconf/documents/meetingdocument/wcms_174846.pdf, at paragraph 270.

use forced labor for economic development.²⁵ Nationally, article 37 of the Uzbek Constitution guarantees the right to work and to fair labor conditions and prohibits forced labor. Section 241 of the Labor Code prohibits the employment of persons under 18 years of age in hazardous work, including cotton picking.

The Soviet Union established a state-order system of cotton production in Uzbekistan; during the twenty-five years of independence, the Uzbek government has exacerbated the worst aspects of the system, forced labor and corruption. In 2015, the government continued to use forced labor on a massive scale, while making significant efforts to claim compliance with its commitments to the World Bank to apply labor laws. The Uzbek government had a great deal at stake. The World Bank Group, through IBRD and IDA, currently has invested more than USD \$500 million in Uzbekistan's agricultural sector. Following a complaint from Uzbek civil society, the Bank attached loan covenants stipulating that the loans could be stopped and subject to repayment if forced or child labor was detected in project areas by monitors from the ILO, contracted by the World Bank to conduct labor monitoring during the harvest.²⁶ Instead of good faith efforts to reform, the government doubled down on coercion, as detailed below.

(1) Farmers are forced to grow cotton by the Government of Uzbekistan under threat of penalty, in violation of international law prohibiting forced labor.

The Uzbek government imposes annual production quotas on farmers and uses coercion to enforce them. The government exerts this coercion against farmers via the financial system used for the cotton sector, threats of physical abuse and legal charges, and a state policy of seizing farmers' property as a penalty for not meeting quotas.

²⁵ ILO Convention No. 105 concerning Abolition of Forced Labour, adopted June 25, 1957, entered into force, January 17, 1959, at article 1b, stating "Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour... (b) as a method of mobilising and using labour for purposes of economic development."

²⁶ See A) International Bank for Reconstruction and Development, International Development Association, "Progress Report to the Board of Executive Directors on the Implementation of the Management Actions in Response to the Request for Inspection of the Uzbekistan Rural Enterprise Support Project - Phase 2 (P109126) and Additional Financing for Second Rural Enterprise Support Project (P126962), November 5, 2014, at page iv, stating "documents have been revised to include provisions that require the beneficiary/beneficiaries to comply with national and international laws and regulations on forced labor, alongside those for child labor: (i) the Rural Enterprise Investment Guidelines; (ii) the Subsidiary Loan Agreement among the Ministry of Finance, the Rural Restructuring Agency (RRA) and the Participating Financial Institutions (PFIs); (iii) the Project Implementation Plan; and (iv) the sub-loan agreement between the PFIs and the project beneficiaries," available at http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2015/05/14/090224b0828c23b3/1_0/Rendered/PDF/Uzbekistan000S0quest0for0inspection.pdf; B) Financing Agreement, South Karakalpakstan Water Resources Management Improvement Project, between Republic of Uzbekistan and International Development Association [part of the World Bank group], October 29, 2014, at 4.01 "Article IV Remedies of the Association," stating "The Additional Events of Suspension consist of the following: ... b) the Association has received evidence, that it considers credible, of the use of child or forced labor in connection with the Project activities or within the Project Area," available at: http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/ECA/2014/11/17/090224b082867c9a/1_0/Rendered/PDF/Official0Docum0Z00Closing0Package00.pdf; C) "Loan Number 8393-Uz: Loan Agreement (Horticulture Development Project) between Republic of Uzbekistan and International Bank for Reconstruction and Development, April 8, 2015, at Article III and Schedule 2 Project Execution, Section I, Implementation Arrangements, A-E, http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/ECA/2015/05/05/090224b082e3e8f6/1_0/Rendered/PDF/Official0Docum0UZ00Closing0Package0.pdf.

In the first quarter of 2015, the President, Prime Minister, Ministers of Agriculture and Water Resources, Economy, Finance, Foreign Economic Relations, and Investments and Trade and representatives from Khlopkoprom²⁷ set the national production target; the Prime Minister issued quotas to the regional hokims, and Khlopkoprom issued quotas to farmers via annual procurement contracts. During the 2015 cotton harvest the government replaced Khlopkoprom and consolidated control over cotton procurement and sales with the establishment of the state-controlled enterprise Uzpahtasanoateksport.²⁸ This consolidation made Uzpahtasanoateksport responsible for managing farm leases, gin operations, and domestic and international sales of cotton.

Through joint-stock companies, which are co-owned by the government and undisclosed individuals widely thought to be local officials,²⁹ the government controls inputs for cotton production.³⁰ For each input or service needed for cotton production, a joint-stock company operates a monopoly over its supply, including the supply of cotton seeds,³¹ fertilizers, defoliants, pesticides, and other agro-chemicals;³² agriculture equipment supply and services;³³ oil and oil-based lubricants,³⁴ and insurance.³⁵ To maintain control over the diverse network of joint stock companies, the Finance Ministry controls the flow of expenditures and income for cotton and cotton seed production through a cashless system of credit managed by the Selkhozfond, an agricultural fund housed in the Finance Ministry, to which only the highest level government officials have access and knowledge of its use.³⁶

The Selkhozfond wire transfers funds into special accounts that the commercial banks house for cotton production, which are then allocated to accounts for specific farms based on the farmer's purchase contract. The banks do not provide farmers with cash, despite the national legal prohibition of cashless financial transactions,³⁷ and leaving farmers without liquidity in a cash-based rural economy. Instead, banks record payments in the accounts of input suppliers on behalf of the farmers, who merely sign documents confirming that they received the inputs. Farmers use this credit in their accounts and their future cotton yield as collateral to secure loans. Commercial banks provide loans to farmers at 3%

²⁷ Khlopkoprom (also known as Uzhlopkoprom or Uzpakhtasanoat in Uzbek) is the state-controlled association responsible for procurement of raw cotton and ginning. Its regional divisions interact directly with farmers, including by obtaining farmers' signatures on land leases and annual contracts for the delivery of cotton quotas.

²⁸ Uzpahtasanoateksport was established by Presidential decree on October to consolidate Khlopkoprom, which previously managed farm leasing and gins and the three former foreign trade companies "Uzprommashimpex, Uzmarkazimpex and Uzinterimpex, which previously controlled exports and domestic sales. Decree available at: http://www.norma.uz/raznoe/ukaz_prezidenta_respubliki_uzbekistan7.

²⁹ While the owners of the non-state shares are not publicly known, Uzbek citizens understand them to be owned by government officials, typically regional or district-level governors, many of whom gained control over input supply companies after reforms in 2000. Cotton Campaign interview with farmer, name and place withheld, September 26, 2012.

³⁰ Ilkhamov, Alisher and Muradov, Bakhodyr, "Uzbekistan's Cotton Sector: Financial Flows and Distribution of Resources," October 2014, <http://www.opensocietyfoundations.org/reports/uzbekistan-s-cotton-sector-financial-flows-and-distribution-resources>.

³¹ Uzdonmakhsulot.

³² Uzkhimprom (also known as Khimprom and in Uzbek Uzkimyosanoat). Its subsidiary Utsel'khozkhimiya (Uzkishlokkimie in Uzbek) is responsible for distribution of fertilizers and agro-chemicals to farmers.

³³ Uzelkhoz mash leasing leases agricultural equipment to farmers, including tractors, which are maintained by the state company Uzagromash service and the limited liability corporation Agrotech service.

³⁴ Uzbekneftegaz manages oil and gas extraction, processing and distribution of fuel and other oil and gas products.

³⁵ Uzagrostrakh (Uzagrosugurta in Uzbek) provides insurance.

³⁶ Ilkhamov, Alisher and Muradov, Bakhodyr, "Uzbekistan's Cotton Sector: Financial Flows and Distribution of Resources," October 2014, <http://www.opensocietyfoundations.org/reports/uzbekistan-s-cotton-sector-financial-flows-and-distribution-resources>.

³⁷ Ilkhamov and Muradov, *Ibid*, page 19.

interest, 1% for the Selkhozfond and 2% for the bank, for up to 18 months, and without the option for use of the loans for any purpose other than cotton production.³⁸

From quota setting through the harvest, the regional hokims oversee farmers' progress toward the fulfillment of their assigned procurement quotas. The hokims employ the support of district-level officials, the police, prosecutor general, and occasionally the Prime Minister. The oversight system is known as "cotton collection headquarters"³⁹ and involves, by some estimates, 200 meetings each year that farmers are required to attend.⁴⁰ In addition to the threats and unwarranted property seizures, officials threaten and exert physical and verbal abuse against farmers at these regular meetings.⁴¹

Under government-imposed lease contracts, farmers are obliged to sell their cotton to one of the state-controlled gins, which are managed by Uzpahtasanoateksport, IKT's sole supplier. After annual sales, the Selkhozfond transfers payments for the cotton delivered, previously through Khlopkoproms and since October 2015 through Uzpahtasanoateksport, which pays the farmers. Under the loan agreements used to obtain inputs, the farmers are obliged to pay the banks prior to using the funds for any other purpose.

The state procurement price for cotton is set by the Finance Ministry, and is below the government's estimate of production costs.⁴² The low price makes it impossible for farmers to hire voluntary labor with decent salaries, invest in the farm, or receive a profit from cotton production.

The government uses coercion to enforce the production quotas it assigns to farmers, a practice that was particularly overt in 2015. The government's 2015 "re-optimization" plan for agriculture punished farmers in debt or who failed to meet production quotas by taking back their land. During the last week of July, the Shahrisabz district head of government and prosecutor destroyed farmers' corn crops and claimed the farmers should have planted cotton.⁴³ In October, the prime minister ordered bailiffs and police to repossess the farmers' property for debts or unfulfilled production quotas. They confiscated livestock, tractors, even televisions without court orders or valuation processes. For example, on October 30 police seized sheep and cows from Ulugbek Botirov, a farmer in the Yakkabog district of Kashkadarya region, following orders from the district prosecutor to penalize farmers who had not fulfilled state-assigned cotton production quotas.⁴⁴ Two farmers reported:

A farmer from Syrdarya said:

"They have found a good way to deal [with people who fail to produce the quota]. The police and prosecutors come and seize your other crops. The farmer can never make a profit then. It's a big deal if he can even cover his expenses for cotton. As far as I know, there are no farmers who are

³⁸ Ilkhamov and Muradov, *Ibid.*, page 20.

³⁹ Uzbek-German Forum for Human Rights, "Cotton, It's not a plant – It's Politics," 2012, <http://uzbekgermanforum.org/wp-content/uploads/2012/12/cotton-its-not-a-plant-its-politics-online.pdf>.

⁴⁰ Hornidge, Anna-Katharina and Shtaltovna, Anastasiya, "A Comparative Study on Cotton Production in Kazakhstan and Uzbekistan," Center for Development Research (ZEF), University of Bonn, 2014, http://www.zef.de/uploads/tx_zefportal/Publications/ZEF-Cotton_Kasachstan-web.pdf, page 23.

⁴¹ Uzbek-German Forum for Human Rights (UGF), "The Cover-up: Whitewashing Uzbekistan's White Gold - Persecution of Independent Monitors to Cover up Mass Forced Labor in the Cotton Sector," March 2016, <http://harvestreport2015.uzbekgermanforum.org/>, at Chapter "Forced Labor System of Cotton Production in 2015."

⁴² Ilkhamov and Muradov, 2014, *Ibid.*, pages 20-23.

⁴³ "В Узбекистане местные чиновники целенаправленно уничтожают урожай фермеров," August 5, 2015, *Radio Free Europe, Radio Liberty*, "Ozodlik," <http://www.ozodlik.org/content/article/27171258.html>.

⁴⁴ Uzbek-German Forum for Human Rights, monitor's report, November 8, 2015.

not in debt to the banks. Everyone is in debt millions [of soum]. To cover them, they seize our vegetable crops, wheat, rice, and confiscate our belongings to pay the state banks.”⁴⁵

A farmer from Kashkadarya said:

“I didn’t fulfill the cotton production plan this year, but I don’t have any debt. But because I didn’t meet the quota the police came and took my brother’s car. We have a family farm. They haven’t given it back. The [police] go to the houses of people with a lot of debt and take everything, anything they can find, without any documents. If [the farmer] has cattle, they sell the cattle...”

Once procured from farmers, the centrally-controlled Uzpahtasanoateksport manages all cotton exports and domestic sales in Uzbekistan. The income from cotton sales disappears into the extra-budgetary Selkhozfond (Agricultural Fund), housed in the Ministry of Finance, which is completely non-transparent and to which only the highest level government officials have access and knowledge of its use.⁴⁶ As explained by a former government official, “although revenues from cotton exports and domestic sales are controlled by the state, the revenues and expenditures of the Selkhozfond are not included in the state budget. Since all financial operations connected to the cultivation and sale of cotton are carried out through the Selkhozfond, they are thus hidden from the public. The income portion of the state budget...does not show any direct revenues coming from cotton exports.”⁴⁷

The government’s control of monopolies for agricultural inputs and purchasing, setting of the procurement price below production costs, and cashless system of credit through commercial banks keeps farmers in status of bonded laborers of the state agriculture industry. The government denies farmers the asset of land ownership, the ability to bargain with input suppliers, liquidity, and a price adequate to afford investments in the farms and hiring of labor in decent working conditions. Under the authority of the central government and with the complicity of the commercial banks, officials enforce production quotas assigned to farmers and debts owed by farmers to the government via the banks by confiscating farmers’ land and other property, bringing criminal charges, and using physical and verbal abuse against farmers. As a result, the farmers are forced laborers of the government, obliged to fulfill production quotas or face a penalty.

(2) More than one million citizens, including children, are forced to harvest cotton by the Government of Uzbekistan under threat of penalty, in violation of international law prohibiting forced labor.

To harvest the 2015 cotton crop, officials once again forced more than a million people, including students, teachers, doctors, nurses, and employees of government agencies and private businesses to the cotton fields, against their will and under threat of penalty, especially losing their jobs.⁴⁸ The government forcibly mobilized teachers and medical workers to the fields *en masse*, despite stated policy commitments not to recruit from these sectors. People picked cotton for shifts of 15–40 days, working

⁴⁵ Cited in UGF, “The Cover-up: Whitewashing Uzbekistan’s White Gold - Persecution of Independent Monitors to Cover up Mass Forced Labor in the Cotton Sector,” March 2016, <http://harvestreport2015.uzbekgermanforum.org/>, at Chapter “Forced Labor System of Cotton Production in 2015,” page 18.

⁴⁶ Ilkhamov and Muradov, 2014, Ibid.

⁴⁷ Ilkhamov and Muradov, 2014, Ibid, at page 16.

⁴⁸ For details and supporting evidence of the information in this section, see Uzbek-German Forum for Human Rights (UGF), “The Cover-up: Whitewashing Uzbekistan’s White Gold - Persecution of Independent Monitors to Cover up Mass Forced Labor in the Cotton Sector,” March 2016, <http://harvestreport2015.uzbekgermanforum.org/>.

long hours, and enduring abysmal living conditions, including overcrowding and insufficient access to safe drinking water and hygiene facilities. People with the means could avoid fieldwork by hiring replacement workers to pick cotton in their name or by paying off their supervisors. Officials and business owners, themselves under pressure to support the national plan, ordered 40% or more of their employees to pick cotton, often in written directives.⁴⁹

Although the Uzbek government sustained the policy it adopted in 2014 of no longer using forced child labor in the annual cotton harvest, child labor persisted in the 2015 harvest.⁵⁰ The policy resulted in more than a million children removed from forced labor in 2014 and demonstrated the Uzbek government's ability to unilaterally change labor practices in the cotton sector. Unfortunately, the government has not changed other policies that ensure the continued, albeit significantly reduced, use of child labor in the cotton fields. The central government continued to order local officials to fulfill their portion of the national cotton production plan under threat of punishment, including dismissal, leading some local authorities to mobilize child labor rather than risk failing to meet their quotas. The government again mobilized third-year high-school students under threat of dismissal from school without exempting students under 18, the legal age for cotton work. Additionally, the government forced adults to fulfill unobtainable state-assigned work quotas in the cotton fields, resulting in children helping their parents fulfill their quotas to escape punishment.

Uzbek citizens subsidized the government's cotton industry with both their labor and incomes.⁵¹ Officials sold exemptions from field work to citizens. The exemption fees ranged from USD 90 up to USD 400. Officials' threats of penalties for failing to fulfill work quotas led citizens with adequate financial resources to hire people to work in their place. The average rate for substitute cotton pickers was USD 7 per day. Notably, an average monthly salary for a nurse is USD 80. Officials also extorted payments from business owners who could not provide labor. For example, in Tashkent, officials from city hall and tax authorities charged shop owners approximately USD 84 if they did not provide a worker to pick cotton for ten days.⁵² Forced payments from businesses, payments to replacement workers, and payments to compensate for unmet quotas made under the threat of penalty, amounted to a massive, unregulated, and unaccounted for direct subsidy to the government's forced labor-based cotton production system and/or corrupt officials.

The government also undermined education and health care by mobilizing teachers and health care workers *en masse* across the country to harvest cotton, leaving schools and medical facilities understaffed.⁵³ Employees who remained at work while their colleagues picked cotton had to work extra for no overtime pay to cover their colleagues' absences, especially as some institutions such as schools and hospitals experienced tremendous pressure to appear to be functioning normally. Many colleges (the equivalent of high school) and universities suspended classes entirely for students at the harvest.

⁴⁹ Copies of examples of the government's written orders are posted online at <http://harvestreport2015.uzbekgermanforum.org/>, by clicking on "The Uzbek Government's Forced Labor System Chain of Command."

⁵⁰ See UGF, 2016, *Ibid.*, at chapter "Forced Mobilization of Labor in 2015," available at <http://harvestreport2015.uzbekgermanforum.org/?chapter=1>.

⁵¹ See UGF, 2016, *Ibid.*, at chapter "Forced Mobilization of Labor in 2015," available at <http://harvestreport2015.uzbekgermanforum.org/?chapter=3>

⁵² "Предприниматели крупнейших рынков Ташкента жалуются на «хлопковые поборы»," *Radio Free Europe/Radio Liberty "Ozodlik"*, September 7, 2015, <http://www.ozodlik.org/content/article/27229845.html>.

⁵³ See UGF, 2016, *Ibid.*, at chapter "Forced Mobilization of Labor in 2015," available at <http://harvestreport2015.uzbekgermanforum.org/?chapter=1>.

(3) The Government of Uzbekistan does not allow independent oversight of the cotton sector.

In 2015, while maintaining the state-orchestrated system of forced labor intact, the Uzbek government cooperated with the ILO only on procedural steps and undertook extensive efforts to claim compliance with its commitments to the World Bank to apply labor laws. In addition to its loan agreements regarding labor law enforcement with the World Bank, the government committed to permit third party monitoring of child and forced labor in Bank project areas. It was agreed that this monitoring would be conducted by the ILO, together with the Uzbek Labor Ministry, Federation of Trade Unions of Uzbekistan (FTUZ) and Chamber of Commerce and Industry of Uzbekistan (CCIU). The government participated in training workshops with the ILO and committed to not mobilize employees of the education and health care sectors, yet, as the ILO reported, compulsory labor continued for employees in both sectors.⁵⁴ The Labor Ministry and FTUZ set up complaint hotlines, but not only did citizens lack confidence to use them,⁵⁵ officials threatened complainants.⁵⁶

Fear pervaded the cotton production cycle and undermined ILO monitoring. Independent monitors who conducted extensive field research⁵⁷ in 2015 reported that people were directly threatened or understood implicit threats if they refused to pick cotton, most crucially that they would lose their jobs.⁵⁸ Independent monitors discovered that officials forced students and public sector workers to sign statements “agreeing” to pick cotton, instructed them what to tell international monitors, and threatened and exacted penalties, such as dismissal, against those who attempted to refuse. The climate of fear prevented people from using a complaint hotline run by the Labor Ministry and state-controlled trade union FTUZ, and from speaking openly to the ILO’s monitoring teams, which were comprised of one international member and five officials from government or government-controlled organizations.⁵⁹

Despite the government’s efforts to hide its use of forced labor, the ILO monitoring report found: (1) the practices of officials responsible for meeting cotton quotas did not change; (2) there were indicators of forced labor related to widespread organized recruitment of adults to pick cotton; and (3) public sector workers in the education and health care sectors were compelled to contribute labor or payments.⁶⁰ The report states the ILO received information from diverse sources that is “worrying,” that is “consistent enough to be accorded attention,” and that concludes “forced labour is more widespread than the monitoring process alone suggests.”⁶¹ The report adds that education and health care officials presented monitors with apparently inaccurate attendance records.⁶² The ILO’s report concludes that “Robust

⁵⁴ International Labour Organization (ILO), “Third Party Monitoring of the use of child and forced labour during the Uzbekistan 2015 Cotton Harvest - An assessment submitted to the World Bank by the International Labour Office,” November 20, 2015, at page 2 “Key Findings”.

⁵⁵ ILO, 2015, *Ibid.*, at page 2, “Key Findings” and paras. 34 and 36.

⁵⁶ See UGF, 2016, *Ibid.*, at chapter “Climate of Fear,” available at <http://harvestreport2015.uzbekgermanforum.org/?chapter=2>.

⁵⁷ See UGF, 2016, *Ibid.*, chapter “Methodology,” available at <http://harvestreport2015.uzbekgermanforum.org/?page=methodology>.

⁵⁸ See UGF, 2016, *Ibid.*, chapter “Climate of Fear,” available at <http://harvestreport2015.uzbekgermanforum.org/?chapter=2>.

⁵⁹ International Labour Organization (ILO), “Third Party Monitoring of the use of child and forced labour during the Uzbekistan 2015 Cotton Harvest - An assessment submitted to the World Bank by the International Labour Office,” November 20, 2015, at paras. 12, 14, 15, 36, 60, 62, and 63 and UGF, 2015, *Ibid.*, at chapter “Climate of Fear,” available at <http://harvestreport2015.uzbekgermanforum.org/?chapter=2>.

⁶⁰ ILO, November 20, 2015, *Ibid.*

⁶¹ ILO, *Ibid.* at paras. 59 and 61.

⁶² ILO, *Ibid.*, at para. 45.

further steps are required to remove the risk of forced labour.”⁶³ In its 2016 report, the ILO Committee of Experts requested the government demonstrate concrete results and sanction perpetrators of forced labor.⁶⁴

Throughout 2015, officials increased the frequency and severity of attacks against independent human rights monitors, repeatedly assaulting, arresting, and fabricating charges against the citizens for documenting state-led forced labor. For example, police arrested human rights defender and complainant Elena Urlaeva and subjected her to a body cavity search on May 31, while she was documenting forced mobilization of teachers and physicians near the city of Chinaz in Tashkent region. In August, the prosecutor’s office threatened to press criminal charges against a human rights monitor in Karakalpakstan, under criminal code article 244, Establishment, Direction of or Participation in Religious Extremist, Separatist, Fundamentalist or Other Banned Organizations, which carries up to 20 years imprisonment. The prosecutor’s threats prevented the monitor from participating in a labor rights monitoring workshop and conducting monitoring. Police again arrested Ms. Urlaeva on September 19, after she spoke with and photographed cotton pickers in Kuyichirchik district of Tashkent region, and police arrested and beat Dmitry Tikhonov on September 20, after he interviewed people and photographed the mobilization of cotton pickers from the city of Angren in Tashkent region. Police arrested Elena Urlaeva and Malohat Eshankulova on September 29, while they interviewed students forced to pick cotton in Khazarasp district, Khorezm region, and ordered body cavity searches of the two women during their 14 hours of detention. On October 20, police opened charges against Dmitry Tikhonov, falsely characterizing his monitoring of the mobilization of cotton pickers from Angren as “disorderly conduct.” On the same day as the charges, his home office was burned down, destroying his archive of evidence of forced labor, and additional materials stored were confiscated from a room in his house untouched by the fire. Continued intimidation by security services forced Mr. Tikhonov to flee Uzbekistan. Further, Elena Urlaeva, who had checked into the Tashkent City Psychiatric Clinic on March 9 after experiencing multiple traumatic events, was subsequently denied release from the facility despite being in good health. In late April, Urlaeva’s doctor informed her and her son that she was in good health and would be released on May 2. However, the hospital refused to release her without citing any medical reason, raising serious concerns that the government pressured the hospital to use her confinement in the hospital as a means of arbitrary detention. She was released on June 2 following significant pressure from Uzbekistan’s international partners.

The United Nations Human Rights Committee has also raised concerns about forced labor and the treatment of individuals attempting to monitor labor practices. The Committee requested the government of Uzbekistan provide an update by July 2016 on its implementation of the Committee’s recommendations, which included:

“put an end to forced labour in the cotton and silk sectors, inter alia by enforcing effectively the legal framework prohibiting child and forced labour, including by rigorously prosecuting those responsible for violations and improving working and living conditions. The State party should also review its laws and practices to ensure financial transparency and address corruption in the cotton industry and take all necessary measures to prevent deaths in connection with the cotton

⁶³ ILO, *Ibid.*, at para. 69.

⁶⁴ ILO, Committee of Experts on the Application of Conventions and Recommendations: Individual Observation concerning Abolition of Forced Labor Convention, 1957 (No. 105) Uzbekistan, 2016. The Committee of Experts on the Application of Conventions and Recommendations (CEACR) is an independent body composed of legal experts charged with examining the application of ILO Conventions and Recommendations by ILO member States. The reports of the Committee of Experts are available at: <http://www.ilo.org/public/libdoc/ilo/P/09661/>.

harvesting, investigate thoroughly such cases when they occur and provide effective remedies, including adequate compensation, to victims' families.”

And:

“Take immediate steps to provide, in practice, effective protection of independent journalists, government critics and dissidents, human rights defenders and other activists against any actions that may constitute harassment, persecution or undue interference in the exercise of their professional activities or of their right to freedom of opinion and expression, and ensure that such acts are thoroughly and independently investigated, prosecuted and sanctioned, and that victims are provided with effective remedies.”⁶⁵

B. The IFC has not fulfilled its due diligence responsibilities in its IKT investment

In addition to its standards which explicitly address forced and child labor, the IFC's Sustainability Framework recognizes that business should respect human rights, which means to avoid infringing on the human rights of others and address adverse human rights impacts business may cause or contribute to.⁶⁶ Despite its policies, through its loan to IKT, the IFC is knowingly financing a company that has perpetuated and benefited from forced labor since it established operations in Uzbekistan. Forced labor continues to be present in its supply chain. Rather than addressing labor abuses in its supply chain, IKT has to date publicly dodged its link to labor abuses in the cotton sector. In 2013, responding to a petition that led United States Customs to investigate and eventually block IKT shipments to the U.S., IKT stated “Indorama denies use of child and/or forced labor in any of its operations in Uzbekistan and invites any organization making such allegations to visit our operations in Uzbekistan and verify,”⁶⁷ avoiding the focus of the issue on its cotton suppliers and mischaracterizing the ability of independent monitors to operate in Uzbekistan.

As described in the IFC Environmental and Social Action Plan for the loan to IKT, the company committed to:

- Enhance and upgrade the design and operation of its existing environmental and social management system to meet applicable national laws and regulations, IFC Performance Standards and applicable World Bank General and sector-specific Environmental, Health and Safety Guidelines. Its procedures manual, which the company will provide to IFC, will include amongst other things identification of environmental and social risks and impacts for its direct and supply chain operations and management programs;
- Develop and implement a corporate environmental and social policy statement on child labor and forced labor issues in the cotton supply chain and ensure knowledge of the policy by all staff and suppliers;
- Source cotton from areas monitored by the International Labour Organization (ILO) under the World Bank-sponsored projects; and,

⁶⁵ United Nations Human Rights Committee, “Concluding observations of the Human Rights Committee: Uzbekistan,” New York, July 8-9, 2015, CCPR_C_UZB_CO_4, at paras. 19 and 23, available at http://www.ccrprcentre.org/doc/2015/07/CCPR_C_UZB_CO_4.docx

⁶⁶ IFC Policy on Environmental and Social Sustainability, para. 12; IFC Performance Standard 1, para. 3.

⁶⁷ Business and Human Rights Resource Centre, “Indorama's Response re: petition calling on US Customs to stop imports from company due to use of cotton harvested with forced labour in Uzbekistan,” June 12, 2013, available at <https://business-humanrights.org/en/complaint-calls-on-us-customs-agency-to-halt-imports-from-daewoo-intl-indorama-for-using-uzbek-cotton-allegedly-harvested-with-forced-labour#c73389> (last accessed June 20, 2016).

- Review its approach to obtaining and analyzing information received from cotton companies (focusing on cotton supply traceability), in consultation with IFC, and regularly and fully disclose this information to IFC.⁶⁸

The proposed plan to mitigate the problem of forced labor is grossly inadequate and, in any event, unworkable in the context of Uzbekistan.

As outlined in the IFC's Policy on Environmental and Social Sustainability, environmental and social due diligence typically includes interview of relevant stakeholders where appropriate.⁶⁹ While the IFC documents refer to the work of the Cotton Campaign, the IFC did not in the course of its due diligence interview members of the Cotton Campaign working on these issues or independent members of civil society in Uzbekistan, including complainants Tikhonov, Urlaeva, and complainant No. 4.

First, IFC has failed to account for the systematic nature of forced labor.⁷⁰ As detailed in the previous section, the state-order system of cotton production remains intact, and coercion remains the means through which the government mobilizes farmers to produce cotton and other citizens to harvest it. Neither IFC nor its client, IKT, has examined or acknowledged the full nature and scope of forced labor in Uzbekistan. While IKT and IFC recognized the mobilization of workers to pick cotton and noted that this runs contrary to the ILO's definition of forced labor, they did not identify and address the widespread practice of forcing farmers to grow cotton that occurs in Uzbekistan.⁷¹ In addition to the forced mobilization of labor to harvest cotton, farmers growing cotton supplied to IKT are compelled to grow and deliver the cotton by the Government of Uzbekistan under menace of penalty, as discussed above. As a result, regardless of whether their cotton is harvested by hand or machine, it will be produced by forced labor so long as the government uses coercion against farmers.

Related to this, the complainants take issue with the IFC's rationale for the project. In its response to the well-documented concerns about forced labor in the supply chain of IKT, the IFC stated: "Understanding the risks involved in cotton supply chain, IFC's investment in IKT is aiming to contribute to the

⁶⁸ IFC, Indorama Kokand: Environmental & Social Action Plan – Appraisal," available at <http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/78e3b305216fcd8a85257a8b0075079d/df7b3e2e4b3b854985257eb40705488?opendocument> (last accessed June 7, 2016).

⁶⁹ IFC Policy on Environmental and Social Sustainability, para. 28(ii).

⁷⁰ The World Bank has recognized this, as the World Bank Inspection Panel highlighted in its 2013 Eligibility Report: "both Requesters and Management point to government systems as the direct cause of the labor practices and alleged harm." Inspection Panel, Report and Recommendations on Request for Inspection, Republic of Uzbekistan: Second Rural Enterprise Support Project and Additional Financing for Second Rural Enterprise Support Project (P126962), Report No. 83254-UZ, (December 9, 2013), at para. 71.

⁷¹ For the risks identified by the IFC see: International Finance Corporation (IFC), "Indorama Kokand: Summary of Investment Information: E&S Risks/Impacts and Mitigation," available at <http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/78e3b305216fcd8a85257a8b0075079d/cdb4928a7751013385257eb40070100e?opendocument> (last accessed May 29, 2016). For reports on forced labor of farmers in Uzbekistan, see: 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," June 2013, available at http://www.cottoncampaign.org/uploads/3/9/4/7/39474145/systemicproblem-forcedlabour_uzbekistan_cotton_continues.pdf; Uzbek-German Forum for Human Rights, "Forced Labor in Uzbekistan: Report on the 2013 Cotton Harvest, May 2014, available at http://www.cottoncampaign.org/uploads/3/9/4/7/39474145/forced_labor-in-uzbekistan-report-2013.pdf; Uzbek-German Forum for Human Rights, "The Government's Riches, the People's Burden," April 2015, available at http://www.cottoncampaign.org/uploads/3/9/4/7/39474145/cotton_harvest_online_gro%C3%9F.pdf; Uzbek-German Forum for Human Rights, "The Cover-up: Whitewashing Uzbekistan's White Gold," March 2016, available at <http://harvestreport2015.uzbekgermanforum.org/>.

elimination of child and forced labor by mobilizing the effort of a significant private sector investor in Uzbekistan to contribute to the process.”⁷² Considering, as highlighted above, that IKT has failed to acknowledge the problem of child and forced labor in its supply chain in the past and overlooked the extreme obstacles that independent monitors must overcome in order to document these labor abuses, the complainants question IKT’s track record of and commitment to addressing labor and other human rights abuses linked to the cotton sector.

Second, IFC failed to assess whether IKT is able to manage the risks of forced labor in its supply chain, which is completely reliant on cotton made with forced labor supplied by one government monopoly supplier. To the contrary, it acknowledged that IKT is likely to continue to have forced labor in its supply chain. Despite this acknowledgement, the corrective action outlined in the Environment and Social Action Plan is vague: “For instances where is identified that cotton has been sourced from areas not subject to monitoring, agree with IFC on a practical approach to managing such cotton. Further, the company will notify IFC when such gaps are identified and associated corrective action implemented within 3 business days.”

According to IFC Performance Standard 2.27:

“Where there is a high risk of child labor or forced labor in the primary supply chain...[t]he **client** will monitor its primary supply chain on an ongoing basis in order to identify any significant changes in its supply chain. If new risks or incidents of child and/or forced labor are identified, the client will take appropriate steps to remedy them.”

IFC Performance Standard 2.29 states:

“The ability of the client to fully address these risks will depend upon the client’s level of management control or influence over its primary suppliers. Where remedy is not possible, the client will shift the project’s primary supply chain over time to suppliers that can demonstrate that they are complying with this Performance Standard.”

The IFC Social and Environmental Policy further recognizes that not all risks can be mitigated nor violations remedied stating, “Certain risks may require IFC to refrain from supporting the proposed business activity.”⁷³

The IFC’s own due diligence demonstrates that IKT has limited ability to manage or avoid the risk of forced labor in its supply chain in Uzbekistan. The IFC notes that the company “has limited leverage to influence its supply chain and the country-wide and sector-wide employment practices in cotton harvesting.”⁷⁴ It also explicitly recognizes that “it is possible that the company may not always comply

⁷² IFC, Indorama Kokand: Summary of Investment Information: E&S Risks/Impacts and Mitigation, PS 1: Assessment and Management of Environmental and Social Risks and Impacts, available at <http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/78e3b305216fcd8a85257a8b0075079d/df7b3e2e4b3b854985257eb400705488?opendocument> (last accessed June 20, 2016).

⁷³ *Id.* International Finance Corporation, “International Finance Corporation’s Policy on Environmental and Social Sustainability,” 1 January 2012, at para. 23

⁷⁴ IFC, “Indorama Kokand: Environmental and Social Review Summary- Environmental and Social Categorization and Rationale,” September 2, 2015.

with the supply chain provisions of PS 2 related to child and forced labor.”⁷⁵ The IFC reinforced this in its brief response to the Cotton Campaign’s letter highlighted concerns with this investment.⁷⁶

Under its Policy on Environmental and Social Sustainability, the IFC undertakes to “only finance investment activities that are expected to meet the requirements of the Performance Standards within a reasonable period of time.”⁷⁷ There is no evidence that the IKT will meet the requirements of PS 2 within a reasonable time or at all, as the IFC has acknowledged.

Neither IFC nor IKT identified any potential alternative sources of cotton produced without forced labor because no alternative suppliers are allowed to operate by law. IFC’s Social and Environmental Sustainability Policy states that a client’s ability to achieve environmental or social outcomes consistent with the Performance Standards may be dependent on the actions of its primary supplier.⁷⁸ In such cases, IFC policy states, “IFC, as part of its own due diligence process, will review clients’ identification of third party risks, and will determine whether such risks are manageable, and if so under what conditions, so as to create outcomes consistent with the Performance Standards.”⁷⁹

For Indorama and other cotton processors in Uzbekistan, the sole source of cotton is the government’s forced labor system of production. Uzbekistan does not import any raw cotton. IKT is required to purchase cotton in order to meet the production demands at its facility, and there is no reason to believe that IKT will be able to obtain an alternative supply of cotton that is manufactured outside the Government of Uzbekistan’s forced labor system, which is prohibited by law. Uzpahtasanoateksport is IKT’s only supplier. IKT has no influence over its supplier because as a monopoly enterprise, all production and supply of cotton is managed by Uzpahtasanoateksport, including farm production and gin processing. IKT cannot switch to an alternative supplier, because there are none available by law. To date, no attempt to exempt cotton farmers from the state-order system has succeeded.⁸⁰ Even in the current World Bank project in South Karakalpakstan, which intends to exempt farmers from production quotas, does not provide the farmers a means to sell their cotton to any buyer other than the government-controlled monopoly, obtain a higher price, manage the farmland autonomously, access competitive input markets, or access a banking system that provides adequate credit and liquidity. Uzbekistan has not permitted farms to operate and sell cotton outside the state-order system.

⁷⁵ IFC, “Indorama Kokand: Environmental and Social Review Summary - Environmental and Social Mitigation Measures, PS1: Assessment and Management of Environmental and Social Risks and Impacts,” September 2, 2015.

⁷⁶ IFC, Letter to the Cotton Campaign, December 23, 2015, available at http://www.cottoncampaign.org/uploads/3/9/4/7/39474145/ifc_response_cottoncampaign_december2015.pdf.

⁷⁷ IFC Policy on Environmental and Social Sustainability, para. 22.

⁷⁸ See IFC. Environmental and Social Sustainability Policy at para. 23, available at http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+sustainability/our+approach/risk+management/environmental+and+social+sustainability+policy.



⁷⁹ *Id.*

⁸⁰ For example, the US-based Central Asia Cotton Seed Company (CASC) has produced cotton fiber and cotton seed in Uzbekistan since 1997, with some financial support from the World Bank. The US Embassy in Uzbekistan reported the government failed to fulfill the agreement: “Local [Government of Uzbekistan] authorities are interfering in the management of [Central Asia Seed Company’s] farms by keeping farmers under state production plans, even though the original business plan, approved by the GOU, states the company’s farms are exempt from state orders.” (US Department of State, Cable from AMEMBASSY TASHKENT to RUEHC/SECSTATE. 2008 *Report on Investment Disputes and Expropriation*, at para 4. (June 18, 2008) (Unclassified).

In fact, Indorama’s main local competitor Daewoo International admitted in an online statement that its Uzbekistan operations are only able to source cotton produced in the state’s system.⁸¹ Daewoo went on to confirm that “it cannot be free from the issue of alleged forced labor in Uzbekistan.”⁸²

While the IFC and IKT report having met with Uzbek officials, neither report any specific commitments from government officials to ensure they could supply IKT with cotton produced outside the government’s forced labor system. Despite its commitments to uphold national and international laws prohibiting forced and child labor in World Bank project areas, the Uzbek government used forced labor in the project areas throughout 2015.⁸³

Summary of violations of national law and international conventions by the Uzbek government in World Bank project areas, reported in 2015:

Practice  Violation(s) 	ILO Conventions Nos. 29, 105	ILO Convention No. 182	Uzbek national law
School administrators forced students to pick cotton under threat of expulsion ⁸⁴	X		X
Government officials forced farmers to fulfill production quotas under threat of penalties. ⁸⁵	X		X
Government officials penalized farmers for not fulfilling production orders, including by destroying crops and verbal abuse. ⁸⁶			

⁸¹ Daewoo International, “Daewoo International re: purchasing cotton produced in Uzbekistan with child & forced labour,” *Business and Human Rights Resource Centre*, February 19, 2013, available at <http://www.business-humanrights.org/Documents/CottonCampaignHandM>, stating “First of all, we, Daewoo International Corporation fully understand that the Uzbek forced labor issue must be solved as soon as possible without reference to adult or child. Because Daewoo International Corporation, having interests of **local company operating the textile business cannot be free from this issue** and, will continue to deal with the Uzbek forced labor issue until it disappear perfectly.... In Uzbekistan, Ministry for Foreign Economic Relations exclusively export and supply cotton to local textile companies and also have 3 state-owned companies, UZMARKAZIMPEX, UZPROMMASHIMPEX, UZINTERIMPEX. . . Thus, Daewoo Textiles have also being interested in this issue and considerably tried to solve it. Daewoo Textile have consistently suggested the change in the policy of forced child labor toward Cabinet of Ministries of Uzbekistan (Uzbekengelsanoat) since the issue of Uzbek forced child labor was brought up in 2005.”

⁸² Daewoo International, Letter to the Cotton Campaign, June 11, 2013, copy available upon request.

⁸³ For further details, see Uzbek-German Forum for Human Rights, “The Cover-up: Whitewashing Uzbekistan’s White Gold,” in particular chapter “ILO and World Bank Engagement in Uzbekistan,” <http://harvestreport2015.uzbekgermanforum.org/?chapter=5>.

⁸⁴ Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 3, <http://uzbekgermanforum.org/chronicle-of-forced-labour-in-uzbekistan-issue-3-2015/>; Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 4, <http://uzbekgermanforum.org/hronicle-of-forced-labour-in-uzbekistan-issue-4-2015/>, Reports 5, 6, 8; Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Iss. 5, http://uzbekgermanforum.org/wp-content/uploads/2015/10/UGF_Cotton-Chronicle_Issue-5_30.09.2015.pdf, Report 3, 8; Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 7, Reports 7 and 9.

⁸⁵ Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 7, Report 10.

⁸⁶ Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 1, <http://uzbekgermanforum.org/chronicle-of-forced-labour-in-uzbekistan-issue-1-2015/>; Uzbek-German Forum for

Government officials ordered private- and public-sector administrators and mahallas to mobilize people to pick cotton. ⁸⁷	X		X
Administrators of education and healthcare institutions forced employees to pick cotton under threat of job loss or fines. ⁸⁸	X		X
Administrators of public-sector institutions in non-education and health sectors forced employees to pick cotton under threat of job loss or fines. ⁸⁹	X		X
Administrators of joint-venture companies forced employees to pick cotton under threat of job loss. ⁹⁰	X		X
Mahallas forced welfare recipients to pick cotton under threat of cutting payments. ⁹¹	X		X
Government officials extorted businesses for contributions to the harvest. ⁹²	X		X
Police forced women to pick cotton under threat of filing prostitution charges. ⁹³	X		X
Children picked cotton to help parents fulfill their state-assigned harvest quotas and avoid penalties. ⁹⁴	X	X	X

Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 2, <http://uzbekgermanforum.org/chronicle-of-forced-labour-in-uzbekistan-issue-2-2015/>.

⁸⁷ Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 3, <http://uzbekgermanforum.org/chronicle-of-forced-labour-in-uzbekistan-issue-3-2015/>; Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 4, <http://uzbekgermanforum.org/hronicle-of-forced-labour-in-uzbekistan-issue-4-2015/>, Report 1.

⁸⁸ Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 5, http://uzbekgermanforum.org/wp-content/uploads/2015/10/UGF_Cotton-Chronicle_Issue-5_30.09.2015.pdf, Reports 2, 4, 8, 12; Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 6, http://uzbekgermanforum.org/wp-content/uploads/2015/10/UGF_Cotton-Chronicle_Issue-6_14.10.2015.pdf, Report 7, 9, 19, 21, 22.

⁸⁹ Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 2, <http://uzbekgermanforum.org/chronicle-of-forced-labour-in-uzbekistan-issue-2-2015/>; Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 6, http://uzbekgermanforum.org/wp-content/uploads/2015/10/UGF_Cotton-Chronicle_Issue-6_14.10.2015.pdf, Report 19.

⁹⁰ Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 6, http://uzbekgermanforum.org/wp-content/uploads/2015/10/UGF_Cotton-Chronicle_Issue-6_14.10.2015.pdf, Report 3.

⁹¹ Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 3, <http://uzbekgermanforum.org/chronicle-of-forced-labour-in-uzbekistan-issue-3-2015/>; Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 4, <http://uzbekgermanforum.org/hronicle-of-forced-labour-in-uzbekistan-issue-4-2015/>, Reports 4 and 5.

⁹² Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 3, <http://uzbekgermanforum.org/chronicle-of-forced-labour-in-uzbekistan-issue-3-2015/>; Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 4, <http://uzbekgermanforum.org/hronicle-of-forced-labour-in-uzbekistan-issue-4-2015/>, Report 2.

⁹³ Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 6, http://uzbekgermanforum.org/wp-content/uploads/2015/10/UGF_Cotton-Chronicle_Issue-6_14.10.2015.pdf, Report 12.

⁹⁴ Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 5, http://uzbekgermanforum.org/wp-content/uploads/2015/10/UGF_Cotton-Chronicle_Issue-5_30.09.2015.pdf, Report 1.

Administrators required employees to sign agreements to pick cotton and to be dismissed if they refused. ⁹⁵	X		
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The IFC’s reliance on IKT sourcing cotton from areas monitored by the ILO under the arrangement with the World Bank does not address the risk of forced and child labor within IKT’s supply chain. Monitoring can only identify an abuse, it does not end or remedy it. As discussed above, ILO monitoring has continued to highlight forced labor practices and independent monitors, including three of the complainants, have brought to the ILO and World Bank’s attention their own documentation of forced labor within World Bank project areas. In sourcing cotton from ILO-monitored areas, IKT is continuing to source cotton that is planted and harvested with forced labor. Further, the corrective action outlined in the Environment and Social Action Plan seeks to address instances where IKT identifies that cotton has been sourced from areas not subject to monitoring, rather than the presence of forced labor in the supply chain.

IFC also did not work with IKT to determine possible remediation measures to address past incidents of forced labor within its supply chain. The IFC’s Policy on Environmental and Social Sustainability provides: “Where there are significant environmental or social impacts with the business activity, including past or present adverse impacts caused by others, IFC works with its client to determine possible remediation measures.”⁹⁶

Third, IFC failed to adequately assess the “downstream” effects of IKT’s use of forced labor-made cotton in its products, which includes exposing IKT’s downstream customers to potential legal liability for violating U.S. laws. The IFC investment in IKT would facilitate the processing and subsequent manufacturing of products that are illegal to import into the United States. As a result, IFC’s underlying rationale for financing IKT’s expanded production in Uzbekistan, which is “increased exports of higher value-added products in a priority sector for Uzbekistan,” failed to account for legal prohibitions that will prevent IKT from achieving the goal.⁹⁷

As described in its annual report, IKT’s business plan specifically envisions being able to sell its product to the U.S. consumer market, either whole or as part of another company’s textile product.⁹⁸ To achieve its overall production and sales goals, IKT’s parent company Indorama relies on expanding its supply of product from its Uzbekistan unit, which was an integral reason Indorama exceeded even its own expectation by reaping profits of over USD 75m in 2014.⁹⁹ Indorama achieved this success through its highest ever sales volume from IKT and its other spinning units, which provided 67% of Indorama’s total sales “as a result of addition to existing capacities in Indonesia and Uzbekistan.”¹⁰⁰

⁹⁵ Uzbek-German Forum for Human Rights, *Chronicle of Forced Labour in Uzbekistan*, Issue 3, <http://uzbekgermanforum.org/chronicle-of-forced-labour-in-uzbekistan-issue-3-2015/>

⁹⁶ IFC Policy on Environmental and Social Sustainability, para. 26.

⁹⁷ IFC, “Indorama Kokand: Summary of Investment Information – Development Result,” September 2, 2015, available at

<http://ifcextapps.ifc.org/ifcext/spiwebsite1.nsf/78e3b305216fcdba85257a8b0075079d/cdb4928a7751013385257eb40070100e?opendocument>

⁹⁸ Indorama Synthetics, 2014 Annual Report at p. 29, http://www.indorama.co.id/pdf/_b_Indorama-AR-2014.pdf. (The 2015 outlook seems positive given the continuing growth in the domestic and other emerging markets, a strong economic recovery in USA and prospects of improvement in the European economies, with the ongoing fiscal stimulus.)

⁹⁹ Indorama Synthetics, 2014 Annual Report at p. 8, http://www.indorama.co.id/pdf/_b_Indorama-AR-2014.pdf.

¹⁰⁰ Id. at 6

U.S. law prohibits the importation of any good made “wholly or in part” with forced labor.¹⁰¹ In 2013, the Cotton Campaign and International Labor Rights Forum filed a legal petition to the U.S. government’s Department of Homeland Security requesting that IKT’s product be barred from entering the U.S. for violating U.S. laws that prohibit a company from trading or otherwise benefiting from forced labor by profiting from it.¹⁰² Since then, IKT has been under investigation by the U.S. government,¹⁰³ and in late 2013, Indorama was prevented from importing a shipment of cotton products and required to re-export pursuant to U.S. regulations.¹⁰⁴ The U.S. government recently tightened import restrictions by expanding the reach of the law to include apparel or any other product that contains forced labor-made cotton.¹⁰⁵

IKT’s proposed expansion plans will create even more significant challenges for law enforcement agencies of the U.S. government, which will need to prevent any product made with cotton from Uzbekistan from entering into the U.S.

Finally, despite extensively pointing to ILO monitoring linked to World Bank projects to mitigate the risks of forced and child labor, the IFC has not worked with IKT to identify or seek to mitigate risks to independent labor monitors who feed into the ILO monitoring and report forced and child labor practices to the feedback mechanism.

C. The IFC has not fulfilled its due diligence and supervision responsibilities regarding its investment in Hamkor Bank and support to Asaka and Hamkor Banks through the Global Trade Finance Program (GTFP)

There is no evidence that IFC has conducted the necessary due diligence or met its supervision responsibilities with respect to its investment in Hamkor Bank and support to Asaka and Hamkor Banks through the GTFP. Despite the risks that these banks are contributing to the perpetuation of forced labor, as discussed above, there is no evidence that IFC has highlighted this risk in its due diligence or has worked with client banks in Uzbekistan to identify and mitigate the risk of forced labor in their portfolio or the role that they play in perpetuating forced labor.

The IFC’s Policy on Environmental and Social Sustainability provides: “In order to appropriately identify the environmental and social risks related to FI investments during the appraisal process, IFC reviews the existing portfolio and prospective business activities of its FI clients to identify activities where the FIs and IFC could be exposed to risks as a result of their investments, and defines requirements for managing these risks. IFC reviews the implementation capacity of FIs as well as their ESMS, as required by

¹⁰¹ 19 U.S.C. §1307 (as amended)

¹⁰² See International Labor Rights Forum, “Tariff Act Complaint: ILRF Calls on U.S. Customs Service to Halt Imports of Forced Labor Cotton from Uzbekistan,” May 15, 2013, available at <http://laborrights.org/publications/tariff-act-complaint-ilrf-calls-us-customs-service-halt-imports-forced-labor-cotton>.

¹⁰³ Letter from U.S. Department of Homeland Security, Immigration and Customs Enforcement to Matthew M. Fischer-Daly, regarding ICE FOIA Case Number 2014FOIA08532, March 7, 2014, [“You have requested any and all determinations from the United States Customs and Border Protection (CBP) concerning cotton and cotton products from Uzbekistan. Any and all records for actions taken by United States Immigration and Customs Enforcement to detain, hold, and/or investigate cotton products from Uzbekistan...” “I have determined that the information you are seeking relates to an ongoing law enforcement investigation.”]

¹⁰⁴ 12Uz.com, “В ЧЕМ ПРИЧИНА ЗАДЕРЖАНИЯ КОНТЕЙНЕРА С 22 ТОННАМИ УЗБЕКСКОЙ ПРЯЖИ В США?” December 31, 2013, available at http://www.cottoncampaign.org/uploads/3/9/4/7/39474145/12uz.com31december2013_shipment_article.pdf

¹⁰⁵ Trade Facilitation and Trade Enforcement Act of 2015, Public Law No: 114-125 (2016).

Performance Standard 1.”¹⁰⁶ According to the Environmental and Social Categorization Rationale regarding the IFC’s most recent senior loan to Hamkor, Hamkor will be required to demonstrate ongoing compliance of its micro small and medium enterprises portfolio with IFC Exclusion List and national E & S laws of Uzbekistan. The IFC’s exclusion list provides that all financial intermediaries must exclude “production or activities involving harmful or exploitative forms of forced labor/harmful child labor.”¹⁰⁷ Similarly, Uzbekistan’s laws prohibit forced and child labor as discussed above.

With respect to advisory services, the IFC is similarly required to screen each activity against the IFC exclusion list and review each proposed activity for environmental and social risk. If the IFC had done this properly with respect to its support to Asaka and Hamkor Banks through the GTFP, it should have identified cotton investments within its portfolio and recognized the risk of forced labor. There is no evidence that it did so or that it supervised management of these risks.

D. The complainants request a compliance review of the IFC loan to IKT, loan to and equity investment in Hamkor Bank, and support to Hamkor Bank and Asaka Bank through its Global Trade Finance Program.

Please review the IFC’s compliance with its Policy on Environmental and Social Sustainability with respect to its loan to IKT, loan and equity investment in Hamkor Bank, and support to Hamkor Bank and Asaka Bank through its Global Trade Finance Program.

As described above, we believe that the IFC has violated its due diligence and supervision responsibilities with respect to each of these investments.

We believe IFC should suspend its investment in IKT until IKT can demonstrate its ability to source forced labor free cotton, which depends on the government ceasing state-orchestrated forced labor and repression of independent labor monitoring, in accordance with its policies and standards. Similarly, we believe that IFC should also suspend its investments in Hamkor Bank and other banks in Uzbekistan until it can be sure that the banks:

- (a) No longer participate in the coercive financial system that is used to force farmers to fulfill state-assigned production quotas have remedied past instances of this which have harmed farmers or others; and
- (b) Do not finance IKT or other companies directly involved in the cotton system and utilizing or benefiting from the government’s forced labor system.

Annex 1: Uzbek-German Forum for Human Rights, "The Government’s Riches, the People’s Burden," April 2015, available at http://www.cottoncampaign.org/uploads/3/9/4/7/39474145/cotton_harvest_online_gro%C3%9F.pdf.

Annex 2: Uzbek-German Forum for Human Rights, "The Cover-up: Whitewashing Uzbekistan's White Gold," March 2016, available at <http://harvestreport2015.uzbekgermanforum.org/>.

¹⁰⁶ IFC Policy on Environmental and Social Sustainability, para. 34.

¹⁰⁷http://www.ifc.org/wps/wcm/connect/corp_ext_content/ifc_external_corporate_site/ifc+projects+database/project/s/aips+added+value/ifc_project_exclusion_list