

Mr. R. Gil Kerlikowske
Commissioner
U.S. Customs and Border Protection
U.S. Department of Homeland Security
1300 Pennsylvania Avenue, N.W.
Washington, D.C. 20229

April 6, 2016

Petition to exclude all cotton lint, yarn, fabric and other cotton goods produced in Turkmenistan, including Ikea Group’s “Nyponros” and “Malou” cotton duvet covers and pillowcases/shams, from importation into the United States, because they are manufactured “wholly or in part” with forced labor

Dear Commissioner Kerlikowske:

The undersigned organizations hereby submit this petition pursuant to 19 CFR §12.42 *et seq.* to request a determination from the United States Customs and Border Protection (CBP) that cotton products imported from Turkmenistan are manufactured “wholly or in part” with cotton harvested by forced labor and are thereby prohibited from entry into the United States under the Tariff Act of 1930, 19 U.S.C. §1307. The Tariff Act prohibits the importation of “goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country . . . by forced labor.” The information contained in this petition demonstrates that cotton products manufactured in Turkmenistan and purchased and imported into the United States by Ikea Group and Gamby Global, Inc. are a prohibited class of merchandise under 19 C.F.R 12.42 *et seq.*¹

First, manufacturers in Turkmenistan use only cotton produced with forced labor² to manufacture cotton yarn, fabrics, linens, apparel and other cotton products. In Turkmenistan, all cotton is produced for a

¹ 19 CFR 12.42(b) states, “Any person outside the Customs Service who has reason to believe that merchandise produced in the circumstances mentioned in paragraph (a) of this section is being, or is likely to be, imported into the United States and, if the production is with the use of forced labor or indentured labor under penal sanctions, that merchandise of the same class is being produced in the United States in such quantities as to meet the consumptive demands of the United States may communicate his belief to any port director or the Commissioner of Customs. Every such communication shall contain, or be accompanied by, (1) a full statement of the reasons for the belief, (2) a detailed description or sample of the merchandise, and (3) all pertinent facts obtainable as to the production of the merchandise abroad. If the foreign merchandise is believed to be mined, produced, or manufactured with the use of forced labor or indentured labor under penal sanctions, such communication shall also contain (4) detailed information as to the production and consumption of the particular class of merchandise in the United States and the names and addresses of domestic producers likely to be interested in the matter.

² The definition of forced labor in the Tariff Act of 1930 was copied directly from the International Labor Organization’s (ILO) Forced Labour Convention, 1930 (No. 29), a treaty concluded by the ILO member states, including the United States, the same year. In 1957, ILO members states updated Convention 29 by adopting Abolition of Forced Labour Convention, 1957 (No. 105) to specifically prohibit certain forms of forced labor commonly being practiced at the time, including the systematic use of forced labor as a “method of mobilising and

government monopoly through a state-order system for cotton production in which Turkmen citizens are forcibly mobilized to grow and harvest cotton by the government under menace of penalty.

The government uses coercion to ensure compliance with the cotton production plan. The president of Turkmenistan assigns cotton production quotas to regional governors and threatens them with the loss of their positions for failure to fulfill the assigned quotas. Regional and district-level officials threaten the heads of Farmers Associations with the loss of their jobs if they do not fulfill their cotton quotas. Heads of Farmers Associations threaten farmers with the loss of their land for failure to deliver their cotton quotas. The first time a farmer falls short of the production quota, the Farmers Association is likely to penalize him with a reprimand or a fine, but the second time it is likely to result in the loss of the lease to farm the land.

To harvest cotton, regional governors assign responsibilities to district and city officials, who in turn deliver orders to school administrators, other public institutions, and businesses. Authorities force public sector workers, including teachers, doctors, nurses, and staff of government offices to pick cotton, pay a bribe, or hire a replacement worker, under threat of losing their job. Officials also force businesses to contribute labor, financially or in-kind, under threat of closing the business.

Findings and reports of US government agencies, the International Labour Organization (ILO) and United Nations (UN) Human Rights Committee support the conclusion that cotton is produced in Turkmenistan with a forced labor system.

The U.S. Department of Labor has listed cotton from Turkmenistan on the List of Goods Produced by Child Labor or Forced Labor since 2009.³ The US Department of State stated in its 2014 Human Rights Report on Turkmenistan: “The law prohibits all forced or compulsory labor;” “there were reports of adult forced labor in the cotton industry;” and “there were reports that some children picked cotton to earn extra money or in place of a parent.”⁴ In the 2015 Trafficking in Persons Report, the State Department reported, “Participation in the cotton harvest is compulsory for some public sector employees, who face termination if they refuse to work or are unable to pay for a surrogate worker. State officials in the Lebap and Dashoguz regions reportedly required some business owners to send staff to pick cotton.”⁵

The ILO Committee of Experts on the Application of Conventions and Recommendations included direct requests on C.29 and C.105 to the Turkmen government in its annual reports in 2011 and 2013 specifically concerning the application of the Convention Article 1(b) and the “imposition of forced

using labour for purposes of economic development” in place in certain states of the Soviet Union at that time. Id. at Art. 1(b).

³ US Department of Labor, “List of Goods Produced by Child Labor or Forced Labor,” at <http://www.dol.gov/ilab/reports/child-labor/list-of-goods/>

⁴ US Department of State, “2014 Human Rights Report: Turkmenistan,” at <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236654>

⁵ US Department of State, Office to Monitor and Combat Trafficking in Persons, “2015 Trafficking in Persons Report: Turkmenistan,” at <http://www.state.gov/j/tip/rls/tiprpt/countries/2015/243554.htm>.

labour as a method of mobilizing and using labour for purposes of economic development.”⁶ The Committee once again included a direct request to the Turkmen government in its 2016 report, concluding:

“The Committee notes with *deep concern* the widespread use of forced labour in cotton production which affects farmers, businesses and private and public sector workers, including teachers, doctors and nurses, under threat of losing their jobs, salary cuts, loss of land and extraordinary investigations. The Committee recalls that, for the purposes of Conventions Nos 29 and 105, the terms “forced or compulsory labour” are defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. In this context, voluntary offer refers to the freely given and informed consent of workers to enter into an employment relationship, as well as their freedom to leave their employment at any time, without fear of retaliation or loss of any privilege. Accordingly, while temporary transfers of employment might be inherent to certain professions and activities, the Committee considers that the application in practice of provisions, orders or regulations allowing for the systematic transfer of workers for the performance of activities which are unrelated to their ordinary occupations (for example, the transfer of a health-care professional to perform agricultural work) should be carefully examined in order to ensure that such practice would not result in a contractual relationship based on the will of the parties turning into work by compulsion of law. The Committee also recalls that, although certain forms of compulsory work or service (such as work that is part of the normal civic obligations of citizens and minor communal services) are explicitly excluded from the scope of the forced labour Conventions, these exceptions do not include work with a certain quantitative significance and used for the purposes of economic development. *The Committee therefore strongly urges the Government to take effective measures without delay to ensure the complete elimination of the use of compulsory labour of public and private sector workers in cotton farming, and requests the Government to provide information on the specific measures taken to this end, in both law and practice, and the concrete results achieved.*” (emphasis in original)⁷

State-orchestrated forced labor in Turkmenistan occurs in the context of an appalling human rights situation that prevents independent civil society and trade union monitoring of this crime. The UN Committee Against Torture reported it “is deeply concerned over the numerous and consistent allegations about the widespread practice of torture and ill-treatment of detainees...persons deprived of their liberty are tortured, ill-treated and threatened by public officers, especially at the moment of apprehension and during pretrial detention, to extract confessions and as an additional punishment after the confession.”⁸

⁶ International Labour Organization, CEACR, “Direct Request (CEACR) - adopted 2011, published 103rd ILC session (2012) Abolition of Forced Labour Convention, 1957 (No. 105) - Turkmenistan (Ratification: 1997) available at http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:2699323 and International Labour Organization, CEACR, “Direct Request (CEACR) - adopted 2013, published 103rd ILC session (2014) Abolition of Forced Labour Convention, 1957 (No. 105) - Turkmenistan (Ratification: 1997) available at http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3146802

⁷ International Labour Organization, “Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part 1A),” ILC.105/III(1A), http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_448720.pdf, at pages 214-216.

⁸ United Nations Committee Against Torture, “Consideration of reports submitted by States parties under article 19 of the Convention: Concluding observations of the Committee against Torture- Turkmenistan,”

The UN Committee on Civil and Political Rights reported the Turkmen government “systematically does not respect the right to freedom of expression” and “expresses concern at reports of the harassment and intimidation of journalists and human rights defenders.”⁹ The UN Committee on Economic, Social and Cultural Rights reported it “is concerned that that the National Trade Union Centre is the only trade union in the State party, that it is controlled by the Government of Turkmenistan, and that the absence of independent trade unions may lead to various violations of workers’ rights.”¹⁰ Leading human rights organizations, including Amnesty International and Human Rights Watch, also report the Turkmen government is responsible for hundreds of forced disappearances; denies freedoms of association, movement, expression and religion; and refuses cooperation with UN human rights bodies.¹¹ The denial of freedom of association, including the right of workers to form independent trade unions, and freedom of expression means no company can credibly claim their compliance programs effectively monitor and ensure no forced labor exists in their Turkmen supply chain.

Second, Ikea Group is sourcing cotton goods, including the linen products under the names “Nyponros” and “Malou,” from Turkmenistan and selling the same products to customers in the U.S.. Ikea publicly confirmed its purchase of cotton goods in Turkmenistan, stating:

“We know of the challenges that exist in the cotton industry in Turkmenistan when it comes to forced labor. Therefore, we have implemented enhanced controls and third-party testing in the cotton fields and in production. Today we have one supplier in the country.”¹²

The Ikea products manufactured in Turkmenistan with cotton produced in Turkmenistan are currently available for purchase in the United States through Ikea’s sales website (Exhibit A).

Ikea Group designs, procures and sells furniture, appliances, small motor vehicles and home accessories. As of February 10, 2016, Ikea owns and operates 380 stores in 47 countries, with 41 of these stores in the

CAT/C/TKM/CO/1, 15 June 2011,

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/TKM/CO/1&Lang=En

⁹ United Nations Human Rights Committee, “Consideration of reports submitted by States parties under article 40 of the Covenant on Civil and Political Rights: Concluding observations of the Human Rights Committee- Turkmenistan,” CCPR/C/TKM/CO/1, 19 April 2012,

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/TKM/CO/1&Lang=En

¹⁰ United Nations Committee on Economic, Social and Cultural Rights, “Consideration of reports submitted by States parties under articles 16 and 17 of the Covenant- Turkmenistan,” E/C.12/TKM/CO/1, 13 December 2011,

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E/C.12/TKM/CO/1&Lang=En

¹¹ See <http://provetheyalive.org/>, <http://www.hrw.org/world-report/2015/country-chapters/turkmenistan>, <https://www.amnesty.org/en/countries/europe-and-central-asia/turkmenistan/report-turkmenistan/>

¹² Westerberg, Ola, “Campaign Protests IKEA, Big Clothing Chains Selling Turkmenistan Cotton,” *TT News Agency, Sweden*, 16 February 2016, <https://www.occrp.org/en/daily/4944-campaign-protests-ikea-big-clothing-chains-selling-turkmenistan-cotton>

US.¹³ The company is owned by Stichting Interogo (“INGKA”) Foundation, and Ikea Group’s parent company is INGKA Holding B.V.¹⁴

Third, textile and fabric importer and distributor Gamby Global, Inc. has imported cotton fabric from Turkmenistan, most recently in February 2016, when Gamby Global, Inc. imported 11 tons of cotton fabric into Charleston, South Carolina (Exhibit B). Since Turkmenistan does not import one single bale of cotton, cotton grown and harvested by forced labor is the sole component of the cotton yarn, cotton fabric and other cotton goods processed in Turkmenistan (Exhibit C).

Gamby Global, Inc. operates as an importer and distributor of textiles and fabrics. The company was incorporated in 1949 as W. Gamby & Co., Inc. and changed its name to Gamby Global, Inc. in October 2009. Gamby Global, Inc. is based in New York, New York.

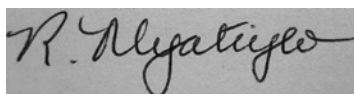
Based on this petition and the information provided in support thereof, there is sufficient evidence for the Department of Homeland Security to issue an **exclusion order on cotton lint, yarn, fabric and cotton goods from Turkmenistan, including Ikea Group’s “Nyponros” and “Malou” cotton duvet covers and pillowcases/shams**, because they are made “wholly or in part” with forced labor; and publish the findings in the Federal Register pursuant to 19 CFR §12.42(f).

Furthermore, pending publication of a final determination by the Secretary of Homeland Security, there is reasonable basis for an **immediate detention order** on all pending and future imports of goods manufactured in Turkmenistan using cotton grown and harvested under the Government’s forced labor system of cotton production; and we request that **all port directors are directed to withhold release into the United States all shipments of cotton products exported from Turkmenistan** pending a final determination as provided under 19 CFR §12.42(e).

Finally, we ask that you please help the people of Turkmenistan and do everything legally within your power to help combat the scourge of forced labor in Turkmenistan by ending the trade of illicit cotton products that are produced with forced labor. This important step is vital to end government-sponsored forced labor in Turkmenistan.

Please contact us should you need any additional information.

Sincerely,



Ruslan Myatiev, Director, Alternative Turkmenistan News

¹³ Inter Ikea Systems B.V., “Bringing the Ikea Concept Worldwide,” at <http://franchisor.ikea.com/bringing-the-ikea-concept-worldwide/> accessed 17 February 2016; <http://info.ikea-usa.com/StoreLocator/StoreLocator.aspx> accessed 17 February 2016.

¹⁴ See Ikea, “About the Ikea Group,” http://www.ikea.com/ms/en_JP/about_ikea/facts_and_figures/about_ikea_group/index.html

Ruslan Myatiyev is a Turkmen national, founder and director of Alternative Turkmenistan News (ATN). He established ATN in 2010 in the Netherlands in order to increase access to information for citizens of Turkmenistan and to broadly disseminate news from Turkmenistan, one of the most restricted countries in the world. He has developed a network of informants throughout Turkmenistan, including government officials, farmers, rural residents, public-sector workers and businessmen. Mr. Myatiyev works with the network to monitor and report on the Turkmen government's use of systematic forced labor in the cotton sector, and works with the Cotton Campaign to advocate for ending of the practice.



Matthew Fischer-Daly, Cotton Campaign Coordinator, International Labor Rights Forum

The Cotton Campaign is a global coalition of human rights organizations, trade unions, business associations and investors dedicated to eradicating child labor and forced labor in cotton production. International Labor Rights Forum is a human rights organization that advocates for workers globally.



Brian Campbell, Legal Adviser to the Cotton Campaign

CC: Lisa L. Burley Chief, Cargo Security, Carriers and Restricted Merchandise Branch, Regulations and Rulings, U.S. Customs and Border Protection (CBP), Department of Homeland Security.

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