

Final Statement by the UK National Contact Point for the OECD Guidelines for Multinational Enterprises

Complaint from the European Centre for Constitutional and Human Rights (ECCHR) against ICT Cotton Limited (in Uzbekistan)

Background

OECD Guidelines for Multinational Enterprises

1. The OECD Guidelines for Multinational Enterprises (the Guidelines) comprise a set of voluntary principles and standards for responsible business conduct, in a variety of areas including human rights, disclosure, employment and industrial relations, environment, combating bribery, consumer interests, science and technology, competition, and taxation.
2. The Guidelines are not legally binding. However, OECD governments and a number of non-OECD governments are committed to encouraging multinational enterprises operating in or from their territories to observe the Guidelines wherever they operate, while taking into account the particular circumstances of each host country.
3. The Guidelines are implemented in adhering countries by National Contact Points (NCPs) which are charged with raising awareness of the Guidelines amongst businesses and civil society. NCPs are also responsible for dealing with complaints that the Guidelines have been breached by multinational enterprises operating in or from their territories.

UK NCP complaint procedure

4. The UK NCP complaint process is broadly divided into the following key stages:
 - a) Initial Assessment - This consists of a desk-based analysis of the complaint, the company's response and any additional information provided by the parties. The UK NCP will use this information to decide whether further consideration of a complaint is warranted;
 - b) Conciliation/mediation OR examination - If a case is accepted, the UK NCP will offer conciliation/mediation to both parties with the aim of reaching a settlement agreeable to both. Should

conciliation/mediation fail to achieve a resolution or should the parties decline the offer then the UK NCP will examine the complaint in order to assess whether it is justified;

- c) Final Statement – If a mediated settlement has been reached, the UK NCP will publish a Final Statement with details of the agreement. If conciliation/mediation is refused or fails to achieve an agreement, the UK NCP will examine the complaint and prepare and publish a Final Statement with a clear statement as to whether or not the Guidelines have been breached and, if appropriate, recommendations to the company to assist it in bringing its conduct into line with the Guidelines;
 - d) Follow up – Where the Final Statement includes such recommendations, it will specify a date by which both parties are asked to update the UK NCP on the company's progress towards meeting these recommendations. The UK NCP will then publish a further statement reflecting the parties' responses and, where appropriate, the NCP's conclusions on those responses.
5. The complaint process, together with the UK NCP's Initial Assessments, Final Statements and Follow Up Statements, is published on the UK NCP's website:
<http://www.bis.gov.uk/nationalcontactpoint>

Complaint from the ECCHR and response from ICT Cotton

6. On 7 December 2010, Leigh Day & Co Solicitors, acting on behalf of the ECCHR, wrote to the UK NCP raising a number of concerns which the ECCHR considered constitute a Specific Instance under the Guidelines in respect of the operations of the UK registered company ICT Cotton Limited (ICTC) in Uzbekistan. The ECCHR alleged that, by buying cotton, allegedly produced through the systematic use of child and forced labour in Uzbekistan, ICTC breached the following Chapters of the Guidelines:

"II. General Policies

Enterprises should take fully into account established policies in the countries in which they operate, and consider the views of other stakeholders. In this regard, enterprises should:

- 1. Contribute to economic, social and environmental progress with a view to achieving sustainable development.*
- 2. Respect the human rights of those affected by their activities consistent with the host government's international obligations and commitments.*

[...]

10. Encourage, where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the Guidelines.”

“IV. Employment and Industrial Relations

Enterprises should, within the framework of applicable law, regulations and prevailing labour relations and employment practices:

[...]

1.(b) Contribute to the effective abolition of child labour.

1.(c) Contribute to the elimination of all forms of forced or compulsory labour.”

7. More information about the allegations made by the ECCHR in respect of ICTC can be found in the Initial Assessment which is available on the UK NCP’s website¹.
8. ICTC wrote to the UK NCP on 8 February 2011 and firmly rejected all of ECCHR’s allegations. More information about ICTC’s response can be found in the Initial Assessment which is available on the UK NCP’s website².

UK NCP process in this Specific Instance

9. On 8 March 2011, the UK NCP concluded its Initial Assessment on this complaint³, accepting for further consideration the alleged breach by ICTC of Chapters II(1), II(2), II(10), IV(1)(b) and IV(1)(c) of the Guidelines. In particular, the Initial Assessment concluded that the UK NCP would attempt to facilitate a negotiated settlement on the following issues: ICTC and the ECCHR’s mutual recognition as reasonable partners in addressing the issues of forced and child labour in Uzbekistan; ICTC’s policy of buying cotton from Uzbekistan; ICTC’s capacity to influence the government of Uzbekistan in relation to the use of forced and child labour; and ICTC’s disclosure of information relating to its operations in Uzbekistan. **The acceptance of this Specific Instance for further consideration by the UK NCP does not mean that the UK NCP considers that ICTC acted inconsistently with the Guidelines.**

¹ <http://www.bis.gov.uk/assets/biscore/business-sectors/docs/i/11-765-initial-assessment-npc-ict-cotton.pdf>

² Ibid.

³ [Ibid.](#)

10. The UK NCP offered, and both parties accepted, conciliation/mediation. The UK NCP therefore appointed ACAS⁴ mediator Dr Karl Mackie to serve as conciliator-mediator. The parties met at a conciliation meeting in London on 2 June 2011. The meeting was chaired by Dr Mackie. No mediation was required as the parties agreed a mutually acceptable solution to the complaint through conciliation. The main points of the agreement are:

“ICT notes that ECCHR and other organisations strongly hold the view that there is systematic use of forced child labour in cotton picking in Uzbekistan and for this reason ECCHR believes that cessation of trading is an appropriate step. Although ICT itself does not believe that such systematic abuses are adopted in Uzbekistan and for this reason does not accept the request to cease trading, it acknowledges that it is important to avoid any such practices. It also acknowledges that businesses have a responsibility to take active steps to help to prevent such practices in their industry and to investigate the concerns properly, so that appropriate action can be taken to prevent any such practices if they are shown to occur in the industry either in Uzbekistan or elsewhere.

With this in mind, ICT is prepared to take appropriate actions as agreed with ECCHR and ECCHR is prepared to drop the request for cessation of trading for the time being.

ICT, supporting human rights and being against any form of systematic abuse of child labour anywhere, would immediately suspend business relations with any supplier who will, beyond reasonable doubt, be found to have used such practices.

ECCHR and ICT will inform each other and exchange views on a regular basis in the next 12 months. To review progress on these issues within 12 months and meet ECCHR for a further discussion on lessons learned, and possibilities for further action which might assist progress on the issues above. This meeting will be facilitated by the NCP.”

Outcome of the conciliation

11. Following discussions which took place between 2 and 20 June 2011, the parties reached an agreement. Both parties have also agreed that no outstanding issues from the ECCHR’s original complaint need to be examined by the UK NCP.

UK NCP conclusions

⁴ Advisory, Conciliation and Arbitration Service.

12. Following the successful conclusion of the conciliation process by Dr Karl Mackie and the agreement reached by the parties, the UK NCP will close the complaint. The UK NCP will not carry out an examination of the allegations contained in the ECCHR's complaint or make a statement as to whether there has been a breach of the Guidelines.
13. The UK NCP congratulates both parties for their efforts in reaching a mutually acceptable outcome and for constructively engaging in the discussions.

11 July 2011

UK National Contact Point for the OECD Guidelines for Multinational Enterprises

**Nick Van Benschoten,
Sergio Moreno**