

Alternative Report to the United Nations Human Rights Committee

Republic of Korea, 115th Session

Submitted by KTNC Watch

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I. INTRODUCTION

1. Korean Trans National Corporation Watch (KTNC Watch) is a network of NGOs based in Korea working in various fields ranging from human rights and corporate social responsibility to energy/climate policy and labor rights. The network was formed with the view to bring together various expertise and experience to monitor transnational corporations registered in Korea and address issues arising from their operations.

2. Member organizations in 2015 are as follows: Advocates for Public Interest Law/ GongGam Human Rights Law Foundation/ Korean Lawyers for Public Interest and Human Rights/ Korean House for International Solidarity/ MINBYUN-Lawyers for a Democratic Society - Committee for International Labor Rights/ Korean Confederation of Trade Unions/ Center for Good Corporations.

3. This report is to provide relevant information with regard to the issue 3 of the List of issues in relation to the fourth periodic report of the Republic of Korea.

II. Effective Remedies Unavailable to the Victims of Human Rights Violations by Korean Companies Oversea

A. Difficulties in seeking remedies for the victims of human rights violations occurred abroad by Korean corporations

4. Although the Government replied that crimes committed abroad by Korean companies or employees of Korean companies can be punished according to Korean law, it is almost impossible for victims abroad to seek the remedy in Korea and awarded the compensation entitled.

5. For example, Sajo-Oyang, a company based in Korea, and its employees were not punished in Korea for human rights violations they have committed at all. In June 2011, it was revealed that forced labor abuses and unpaid and underpaid wages took place in Oyang 75, which was the fishing vessel owned by Sajo-Oyang and operated in New Zealand's EEZ. Indonesian crews suffered from physical and verbal abuses, and even sexual harassment; they were forced to work without break and were provided inadequate meals both in quality and quantity. They had no choice but to endure the human rights abuses and inhumane working condition due to the guarantees and securities they had paid to the manning agencies at the time of departure. Many of them were required to hand over birth certificates, family identity documents, and education certificates; sometimes even required to pay a cash bond up to \$US 300.¹

6. After 32 crews walked off from Oyang 75 in June 2011, Sajo-Oyang tried to cajole the crews. While crews were in New Zealand, Sajo-Oyang sent the forged document that they had sent the unpaid wages to their account; however, it was turned

¹ Department of State of the United States, 2012 The Trafficking in Persons Report, p. 210

out that they had not paid wages but merely tried to send the crews back to Indonesia. When the complaint of physical abuse, sexual assault, delay of wages, forging documents, and breaches of the Seamen Act was filed to Korean prosecutor's office, Officers from Sajo-Oyang even visited Indonesia and threatened and forced crews not to bring any cases against the company to receive the unpaid wages. Due to the financial difficulties, many of the crews did sign the documents that stated that they would not accuse the Sajo-Oyang officers.

7. Several actions were taken on behalf of the crews in Korea, but could not bring effective remedy to the crews. The complaint filed to National Human Rights Commission of Korea (NHRCK) for battery and assault, sexual harassment, and wage discrimination, was dismissed all the claims except sexual harassment on the basis that NHRCK did not have jurisdiction over the disputes between private parties. Sexual harassment claim, however, was also decided against the crews due to lack of evidence.² Meanwhile, Korean government launched joint inquiry team for the investigation of problems in the Korean-flagged fishing vessels operated in New Zealand's EEZ. The joint inquiry team issued the report based on their investigation including visit to New Zealand, clarifying that all the allegations upon Sajo-Oyang such as human rights abuses, delay of wages, counterfeiting, and breaches of Seamen Act were factual. Subsequently, case of physical abuse against Indonesian crew by Korean crews and case of forging employment contracts and confirmation of wage payments by staffs of Sajo-Oyang were transferred to the Prosecutor's office. However, the cases were not prosecuted at first instance; it was only after the appeal that the case was reopened for investigation. Seoul Western District Court decided that the perpetrators were sentenced suspension of prosecution for the physical abuses and suspension of execution of five months imprisonment for forging documents. Thus, none of the measures taken by Korean government served as an effective remedy to the victims of forced labor.³

B. Malfunctioning of National Contact Point

8. The National Contact Point (NCP) of the Republic of Korea has not been effective in resolving human rights violations either. Ever since its establishment, Korean NCP has never served as good offices between the relevant parties but dismissed all the case without reviewing the merits.

9. On 20 June 2013, the Republic of Korea's NCP dismissed the specific instance concerning POSCO's violation of the OECD Guidelines for Multinational Enterprises in India. The instance was made as POSCO failed to conduct an impact assessment as well as stakeholder consultation with all affected communities even though the project would cause forced displacement of about 20,000 indigenous people. Korean NCP

² http://www.hani.co.kr/arti/english_edition/e_international/532524.html

³ http://koreatimes.co.kr/www/news/nation/2014/10/113_165858.html

concluded that it was the Indian government's responsibility to approve the project and Korean government had no responsibility with regard to the project in India.⁴

10. After the decision from the Republic of Korea's NCP, in October 2013, the government of the Republic of Korea has not responded to the joint statements by the UN Special Procedure mandate holders urging the suspension of the POSCO project in India while the alleged human rights concerns are being examined and addressed.⁵ In July 2014, the government of the Republic of Korea replied to the joint allegation letter sent by the UN Special Rapporteurs made in February 2014⁶ that the Republic of Korea's NCP was in charge of human rights abuses by the Republic of Korea's corporations outside of the country. However, the Republic of Korea's NCP has never made any decisions regarding substantive issues nor has it taken effective measures.

11. Korean NCP also has issue with impartiality in terms of selection of the members. After undergoing a restructuring in 2014, the Korean NCP claims that it consists the members as independent experts from the civil society to participate in the NCP. However, all the members⁷ are from quasi government organization or have close tie with the government, thus, they lack the independence from the government. In addition, civil society and trade unions are excluded from the selection procedure of the members.

III. KOMSCO's Failure to Take Measures Against Forced Labor in Its Supply Chain Under the Standards Under ICCPR

A. Continued Use of Forced Labor in Uzbek Cotton Sector

12. The widespread and systematic use of forced labor in the cotton sector is a serious and systematic human rights violation by the government of Uzbekistan. Under the state-controlled system of cotton production, the government forcibly mobilizes farmers to cultivate and the general population to harvest cotton. In addition, authorities force children and adults to weed the cotton fields during the springtime. Students are

⁴ Initial Assessment by Korean NCP for the OECD Guidelines for Multinational Enterprises, Korean Trans National Corporations Watch et al. vs. POSCO et al., Korea National Contact Point, 20 July 2013 (Korean only) <http://bit.ly/1NmBGI3>

⁵ India: Urgent call to halt Odisha mega-steel project amid serious human rights concerns, Office of the High Commissioner for Human Rights, 1 October 2013, <http://bit.ly/1Jy5mpm>

⁶ 28th Session of the UN Human Rights Council, Communications report of Special Procedures, A/HRC/28/85. p. 158, 19 February 2015

⁷ Members are from three entities: the Institute for Industrial Policy Studies, Korean Standards Association, and Korea Trade Promotion Corporation (KOTRA).

sent to the cotton fields through the education system under the threat of expulsion from school, forced to work under the indecent conditions without proper compensation. Adults are not exempted from the forcible mobilization: farmers, workers in public and private sector, and beneficiaries of the social welfare system are massively mobilized to contribute to the national cotton production plan, with threats to lose their jobs, salaries, and social welfare support.

13. Due to the international pressure, the Uzbek government does not systematically mobilize children to harvest cotton since 2012; however, the use of forced labor of adults, especially employees from the public sector, is still widespread. In 2014, it was reported that Uzbek government increased the use of forced labor of adults to pick cotton, apparently to compensate for reduced numbers of children. Furthermore, the government failed to end the use of child labor in cotton production as in some regions local authorities forcibly mobilized children, particularly in the later weeks of the harvest, to meet quotas assigned by the same central government authorities that simultaneously decreed that children should not be forced to pick cotton.⁸

14. According to the report released in August 2015, the Uzbek government forcibly mobilized approximately 500,000 people to weed cotton fields for weeding and preparing the cotton field during the spring of 2015. Among the areas where the forced labor occurred, areas such as the Karakalpakstan districts Beruni and Eilikkala and Tashkent region, the World Bank project areas are included.⁹

B. KOMSCO's Continued Use of Uzbek Cotton Despite the Awareness of Forced Labor in Uzbek Cotton Sector

15. Despite the full awareness on the widespread and systematic use of forced labor and child labor in Uzbekistan's cotton industry, Korea Minting, Security Printing & ID Card Operating Corporation (KOMSCO) has continuously source the tainted cotton from the Uzbekistan. Being a wholly state-owned enterprise, KOMSCO has been the sole manufacturer of Korea currency and security paper such as banknotes, gift certificates and passport pages.

16. In fact, the knowledge of the forced labor in its supply chain has had no effect on KOMSCO's operation in Uzbekistan. Despite repeated comments from MPs during the Parliamentary Inspection, KOMSCO continues to ignore the existence of the forced labor of children and adults in Uzbek's cotton industry and has not made any

⁸Uzbek-German Forum for Human Rights, "Preliminary Report on Forced Labor During Uzbekistan's 2014 Cotton Harvest," 7 November 2014, <http://uzbekgermanforum.org/wp-content/uploads/2014/11/Forced-Labor-During-Uzbekistans-2014-Cotton-Harvest.pdf>.

⁹ Uzbek-German Forum for Human Right, "Uzbek Government Continued Systematic Forced Labor to Weed the Cotton Fields in 2015," August 2015, <http://uzbekgermanforum.org/wp-content/uploads/2015/09/Weeding-Report-2015.pdf>

changes in its operation. GKD continues to operate its facilities without ceasing; rather, its production has constantly increased, and the cotton pulp produced by GKD now accounts for 14% of the domestic market.¹⁰ After all, KOMSCO encourages and supports the forced labor system in Uzbek cotton industry by maintaining its operation in Uzbekistan despite of acknowledging forced labor.

17. The Government claims that ‘KOMSCO has been promoting cooperation with the World Bank since 2015 (Response of the Government of Korea to List of Issues, para.6)’, it cannot be considered as the efforts to eradicate existence of the forced labor in its supply chain. First of all, the incidents of forced labor are still reported from the area where the World Bank operates. According to the report released by the Uzbek-German Forum for Human Rights, the workers are still mobilized to the cotton field in the World Bank project areas. In addition, no measure has taken in line with the cooperation with the World Bank. In fact, the World Bank can only enter into any form of MOU or contracts with the State parties, Thus, KOMSCO was not able to make MOU with the World Bank. In terms of cooperation with the World Bank, KOMSCO merely has a plan to buy the cotton from the World Bank project area, where are not free from the forced labor. Thus, KOMSCO’s alleged ‘cooperation with the World Bank’ can by no means serve as the effective measures to address corporate responsibility of KOMSCO.

IV. Suggested Recommendations

18. Take measures to adopt the legislative framework to ensure that the individuals, groups and entities, including corporations and other business entities incorporated or domiciled in its territory and/or its jurisdiction, to respect Covenant rights outside the territory of the Republic of Korea.

19. Provide the accessible remedies for the victims of human rights violations committed by individuals, groups and corporations and other business entities incorporated or based in the Republic of Korea.

20. Review the operation of the NCP and take measures of reform to ensure independency, expertise, enforceability in order to offer effective remedy to the victims of the human rights violations by the Republic of Korean corporations’ activities.

21. Adopt the measures to monitor and regulate the business entities’ activities to abide by the Covenant rights, especially throughout their global supply chains.

¹⁰ Press Release, MP Maengwoo Park, Oct. 14, 2014