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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject: COMMISSION STAFF WORKING DOCUMENT  
Report on the assessment of the application for GSP+ by the Republic of Uzbekistan  
*Accompanying the document*  
Commission Delegated Regulation (EU) .../.... amending Annex III to Regulation (EU) No 978/2012 to include the Republic of Uzbekistan among the countries benefiting from tariff preferences under the GSP+

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Delegations will find attached document SWD(2020) 297 final.

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**COMMISSION STAFF WORKING DOCUMENT**

**Report on the assessment of the application for GSP+ by the Republic of Uzbekistan**

*Accompanying the document*

**Commission Delegated Regulation (EU) .../....**

**amending Annex III to Regulation (EU) No 978/2012 to include the Republic of Uzbekistan among the countries benefiting from tariff preferences under the GSP+**

{C(2020) 8259 final}

## 1. INTRODUCTION

1. The special incentive arrangement for sustainable development and good governance (GSP+) provides additional tariff preferences to developing countries which are vulnerable due to a lack of diversification of exports and insufficient integration within the international trading system. The GSP+ scheme supports these countries to assume the special burdens and responsibilities resulting from the ratification and effective implementation of 27 core international conventions on human and labour rights, environmental protection, and good governance.

Vulnerable developing countries that, upon formal application, fulfil the eligibility criteria linked to the relevant 27 international conventions, should be able to benefit from the additional tariff preferences.

2. The Republic of Uzbekistan submitted a request for GSP+ preferences to the Commission on 04 June 2020.

## 2. LEGAL BACKGROUND FOR GRANTING GSP+

3. In accordance with the eligibility criteria for GSP+ as set out in Article 9(1) of Regulation (EU) No 978/2012 of the European Parliament and the Council ('GSP Regulation')<sup>1</sup>, GSP+ preferences may be granted to a country which:

- (a) is considered to be vulnerable;
- (b) has ratified all the conventions listed in Annex VIII to the GSP Regulation (hereafter the 'relevant conventions') and the most recent available conclusions of the monitoring bodies under those conventions do not identify a serious failure to effectively implement any of those conventions;
- (c) in relation to any of the relevant conventions, it has not formulated a reservation which is prohibited by any of those conventions or which, for the purposes of Article 9 of the GSP Regulation, is considered to be incompatible with the object and purpose of that convention;
- (d) accepts without reservation the reporting requirements imposed by each convention and gives binding undertakings referred to in points (d), (e) and (f) of Article 9(1) of the GSP Regulation.

4. The vulnerability criteria are defined in Annex VII of the GSP Regulation as follows:

- (a) in terms of value, the seven largest GSP sections of the imports from the country into the Union represent more than the threshold of 75 % in value of total imports from that country, as an average during the last three consecutive years;
- (b) GSP imports from the country into the Union represent less than the threshold of 7.4 % in value of the total GSP imports into the Union originating in GSP beneficiary countries, as an average during the last three consecutive years.

5. For the purposes of Article 9 of the GSP Regulation, reservations are considered to be incompatible with the object and purpose of a convention if:

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<sup>1</sup> OJ L 303, 31.10.2012, p. 1.

- (a) a process explicitly set out for that purpose under the convention has so determined; or
- (b) in the absence of such a process, the Union and/or a qualified majority of Member States party to the convention, in accordance with their respective competences as established in the Treaties, objected to the reservation on the grounds that it is incompatible with the object and purpose of the convention and opposed the entry into force of the convention as between them and the country making the reservation in accordance with the provisions of the Vienna Convention on the Law of Treaties.

**3. SERIOUS FAILURE TO EFFECTIVELY IMPLEMENT ANY OF THE CONVENTIONS IN THE CONTEXT OF GSP+**

- 6. The concept of “serious failure” used in the assessment of applications for GSP+ is applied in accordance with the GSP+ objective to support and enhance the implementation of key international conventions in the beneficiary country. The GSP Regulation stipulates that GSP+ is designed – *inter alia* – to help vulnerable developing countries assume the special burdens and responsibilities resulting from the ratification and effective implementation of the relevant conventions (see recital 11 of the GSP Regulation). The general approach is that, as developing countries, all applicants experience problems of implementation. This should not lead to the exclusion of countries from the scheme – even developed countries have shortcomings. GSP+ recognises that developing countries have special needs in this respect and provides additional incentives.
- 7. In accordance with the GSP Regulation (Article 9.1 b), “serious failure” to implement is identified through the most recent available conclusions of the relevant monitoring bodies under the conventions. The ILO has an established practice for identifying “serious failure” in the effective application in law and/or practice of its conventions<sup>2</sup>. Drawing on ILO practice, taking into account the purpose of GSP+, and having regard to the specificities of the conventions on human rights, environment, and good governance, a set of general principles has been used for the “serious failure” benchmark in a way that is meaningful and that ensures a consistent application across all 27 conventions. Such consistent application is fundamental to respect the non-discrimination principle including under WTO law.
- 8. In order to establish whether a serious failure to effectively implement exists, the analysis encompasses the three areas generally used by the relevant monitoring bodies when assessing the implementation of conventions. These are: (1) shortcomings detected in the country’s implementation record, (2) positive elements where the country shows progress, and (3) constraints encountered by the country,

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<sup>2</sup> In particular, for the purposes of GSP, a serious failure to effectively implement ILO conventions occurs when the tripartite Conference Committee on the Application of Standards (CAS), in the context of the yearly International Labour Conference, examines cases of serious failure to implement a convention and highlights situations of special concern in its General Report. CAS selects cases on the basis of the observations made by the Committee of Experts on the Application of the Conventions and Recommendations (CEACR), that indicate more serious or long-standing cases of failure to fulfil obligations, with special notes (“footnotes”) marking the gravity of the problems in the application of the Conventions. A further supervisory procedure, the Committee on Freedom of Association (CFA), exists to examine complaints by employers’ and workers’ organizations of violations of freedom of association and collective bargaining (fundamental Conventions N° 87 and N° 98).

which limit its ability to achieve effective implementation. Progress in areas where shortcomings have not been identified is not reflected in this report.

#### **4. ANALYSIS OF THE REPUBLIC OF UZBEKISTAN'S APPLICATION**

##### **A. Vulnerability**

9. As required by point (a) of Article 9(1) of the GSP Regulation and in line with its Annex VII, the Republic of Uzbekistan is to be considered vulnerable.

Indeed, the seven largest GSP sections of Uzbekistan's imports into the Union of products listed in Annex IX represent around 95.1% of all imports as an average of the last three consecutive years (2017-2019), which is more than the threshold of 75% in value of its total GSP imports of products listed in that Annex.

Additionally, the imports of GSP products listed in Annex IX into the Union represent around 0.14% as an average of the last three consecutive years (2017-2019), which is less than the threshold of 7.4 % in value of the total imports into the Union of products listed in that Annex originating in countries listed in Annex II.

##### **B. Ratification**

10. As required by point (b) of Article 9(1) of the GSP Regulation, the Republic of Uzbekistan has ratified all conventions listed in Annex VIII of the GSP Regulation.

##### **C. Reservations**

11. The Republic of Uzbekistan has formulated the following reservations on the relevant conventions:

- Stockholm Convention on Persistent Organic Pollutants:

In accordance with the Article 25, paragraph 4 of the Stockholm Convention, the Republic of Uzbekistan declares that any amendment to Annex A, B or C shall enter into force for the Republic of Uzbekistan only after it has deposited its instrument of ratification, acceptance, approval, or accession with respect thereto.

- United Nations Convention Against Corruption:

In accordance with paragraph 3 of the Article 66 of the Convention the Republic of Uzbekistan declares that it does not consider itself bound by the provisions of paragraph 2 of Article 66 of the Convention.

These reservations are provided for in the texts of the two Conventions<sup>3</sup> and therefore, are not considered to be incompatible with the object and purpose of the respective conventions. Therefore, the criterion under point (c) of Article 9(1) of the GSP Regulation is also met.

##### **D. Absence of serious failure to effectively implement relevant conventions**

12. **Overview**

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<sup>3</sup> Article 25, paragraph 4 of the Stockholm Convention and Article 66, paragraph 3 of the UN Convention Against Corruption, respectively, both explicitly allow for the formulated reservations.

Since 2016, Uzbekistan has embarked upon a path of economic and political reforms. A number of achievements highlight the political will to modernise and transform the country. These include a significant reduction of child and forced labour, wide-ranging measures to fight corruption, judicial and administrative reforms, improvement of transparency in law enforcement, and market-oriented economic reforms such as currency liberalisation. This novel approach puts Uzbekistan positively in the spotlight in Central Asia, a region which is itself the object of renewed attention in the context of the EU Connectivity Strategy (September 2018) and the New EU Strategy on Central Asia (June 2019). Moreover, the overall picture of Uzbekistan's implementation of the core human and labour rights conventions listed in Annex VIII of the GSP Regulation demonstrates the government's commitment to improve its human rights and labour rights record.

Uzbekistan has established an ongoing cooperation with international human rights mechanisms and bodies. National action plans are in place for the implementation of the recommendations issued by the United Nations Human Rights Committee after it considered the fourth periodic report of Uzbekistan (2016); and of the recommendations issued by the Committee on the Elimination of Discrimination against Women (2017), as well as a National Strategy on Human Rights and associated implementation roadmap (June 2020).

Following Uzbekistan's Universal Periodic Review in May 2018, the country accepted 198 recommendations (93%) from UN Member States, an increase of 37% with respect to Uzbekistan's second UPR cycle. The accepted recommendations relate to the legal and general framework of implementation, universal and cross-cutting issues, civil and political rights, economic, social, and cultural rights, women's rights, and rights of other vulnerable groups and persons. The remaining recommendations relate to LGBTQI rights. The accepted recommendations also state that Uzbekistan should seek to deepen cooperation with the UN, and in particular extend a standing invitation to UN Special Procedures and accept UN Special Rapporteurs' outstanding requests for access to visit Uzbekistan including the Special Rapporteur on Torture. Since 2017, Uzbekistan has been visited by several UN Special Procedures including the UN Special Rapporteur for Freedom of Religion or Belief and the UN Special Rapporteur on the independence of judges and lawyers. From 1 January 2021 Uzbekistan will be a member of the Human Rights Council for 2021-2022.

Uzbekistan has fully cooperated with the European Commission and the External Action Service (EEAS) in providing information on the implementation of the conventions in preparation for their GSP+ application, despite the significant challenges posed by the COVID-19 crisis. The Government has also clearly stated its commitment to effectively implement GSP+ conventions throughout our dialogue and in the binding undertaking which is part of Uzbekistan's GSP+ application.

The implementation of further legislative and policy initiatives will be closely monitored by the Commission and the EEAS, including the establishment of a fully independent National Preventive Mechanism; on-going criminal justice reforms and consultations on the decriminalisation of same-sex relationships; the development of a new Labour Code taking into account ILO recommendations on Conventions N°87, N°98, N°100 and N°111; measures envisaged to ensure full elimination of forced labour in the new context of a fully privatised cotton production; measures to ensure

freedom of association and peaceful assembly; the development of climate and environment action plans and Nationally Determined Contributions; and the work of the newly established independent anti-corruption body.

Monitoring and co-operation under GSP+, with particular focus on the salient shortcomings identified below, will provide further incentives for the Republic of Uzbekistan to address the remaining gaps between the country's obligations under the relevant conventions and their effective implementation.

## **Core human rights (UN) conventions**

### **13. International Convention on the Elimination of All Forms of Racial Discrimination**

In its report of 27 January 2020, the Committee on the Elimination of Racial Discrimination (CERD) identified the following salient shortcomings:

- Lack of definition of racial discrimination in the national legislation and a lack of legislation of general application forbidding racial discrimination [paragraph 6];
- The legislation does not fully meet the provisions of Article 4 of the Convention, in particular on freedom of expression and the right to peaceful assembly of ethnic groups [paragraph 8];
- Absence of framework legislation on the rights of persons belonging to ethnic minority groups [paragraph 10]; and
- The situation of stateless persons and the lack of concrete measures to facilitate their acquisition of Uzbek citizenship [paragraph 20].

The following elements of progress were noted:

- Amendment to the Law on Civil Acts Registration (July 2018);
- Decree of the President of Uzbekistan on the approval of the regulations on the procedure for granting political asylum (May 2017);
- Amendment to the Citizenship Act (23 September 2016);
- Creation of the Committee on Inter-Ethnic Relations and Friendly Ties with Foreign Countries in May 2017;
- Action plan on cooperation with the Office of the United Nations High Commissioner for Human Rights, in 2017;
- Amendments to Ombudsman Act (by Act No. ZRU-441 of 29 August 2017 and 14 March 2019).



- Provision in the Citizenship Law (March 2020)\*, conferring citizenship to registered stateless people who were granted permanent residence in Uzbekistan before 1 January 1995; 50 000 people were reported to have received Uzbek citizenship in 2020.

Having analysed the above salient shortcomings and the elements of progress, it is considered that there is no serious failure to effectively implement the Convention on the Elimination of All Forms of Racial Discrimination.

#### 14. **International Covenant on Civil and Political Rights**

In its report of 1 May 2020, the Human Rights Committee (HRC) found the following salient shortcomings:

- Continuing reports of discrimination, harassment, and violence against lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI) persons by State officials and private individuals; high level of impunity for these crimes; consensual same-sex relations between adult males continue to be criminalised under Article 120 of Criminal Code (...) [paragraph 10];
- Reports of forced and early marriage, and the persistence of de facto polygamy despite their prohibition by law; domestic violence and marital rape not explicitly criminalized in the newly adopted relevant legislation (...) [paragraph 14];
- The overly broad and vague definitions contained in the Counter-Extremism Act, in particular those of “extremism”, “extremist activity”, and “extremist materials”, and the use of such legislation to unduly restrict freedoms of religion, expression, assembly and association [paragraph 20];
- Continued reports of torture and ill-treatment, including sexual violence and rape, by prison officials and law enforcement personnel against persons deprived of liberty, including individuals detained on what appear to be politically motivated charges; reports of reprisals against those who report these abuses; high level of impunity in these cases (...) [paragraph 24];
- Concerns that Article 221 of Criminal Code continues to be used to extend prison sentences of human rights defenders, government critics, and persons convicted of religious extremism [paragraph 30];
- The compulsory residence registration system (*propiska*) is still retained, which unduly restricts the freedom of movement of individuals and of their choice of residence, in particular in the Tashkent region; permission to leave the country is still required (...) [paragraph 36];
- Current legislation continues to criminalise proselytism and other missionary activities, as well as any religious activity by unregistered religious organisations [paragraph 42];

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\* Recent development, which took place after the publication of the relevant monitoring body report.



- Defamation, insult of the President, insult, and dissemination of false information continue to be criminalised. Ongoing imprisonment of individuals on extremism-related and other politically motivated charges, including independent journalists, human rights defenders, and bloggers, for the peaceful expression of critical views [paragraph 44];
- Undue restrictions on the right to peaceful assembly in law and in practice, including the requirement to obtain de facto prior authorisation for holding mass events, despite the law only requiring prior notification, and restricting the holding of such events to specifically designated sites (...) [paragraph 46];
- Current legislation continues to impose restrictions on the right to freedom of association, including: (a) unreasonable and burdensome legal and administrative requirements for registering NGOs and political parties; (b) an extensive list of reasons to deny registration; (c) the requirement for NGOs to obtain de facto approval from the Ministry of Justice when travelling abroad or receiving funds from foreign sources; and (d) the prohibition of NGOs from participating in “political activities” [paragraph 48].

The following elements of progress were noted:

- The Guarantees of Equal Rights and Opportunities for Women and Men Act and the Protection of Women from Harassment and Violence Act, in 2019;
- Amendment of Article 15 of the Family Code to establish the same age for marriage for both women and men at 18 years, in 2019;
- Amendments to the Ombudsman Act to expand the Ombudsman’s powers to allow it to receive complaints from persons deprived of liberty and to serve as the national preventive mechanism, in 2017 and 2019;
- Decree on measures to enhance the role of civil society institutions in the process of democratic renewal of the country, in 2018;
- Establishment of the Economic Crimes and Corruption Unit as part of the Economic Crimes Department of the Office of the Procurator-General, in 2018;
- The Anti-Corruption Act, in 2017;
- Presidential decree on the establishment of the Supreme Judicial Council, in 2017;
- The prohibition of the employment of underage workers in the cotton harvest, as well as the prohibition of the involvement of organisations of the health and education sector and the engagement of their employees as part of their work assignments, in 2017;
- Presidential decree prohibiting the use of evidence obtained in breach of the provisions of the Criminal Procedure Code, including through the use of torture or psychological and physical pressure, in 2017;

- Ongoing changes to *propiska* system including amendments to the *Propiska* Law (14 May 2020); and abolition of the exit visa system\*;
- Ongoing work on a draft law on Peaceful Assembly, as well as draft Non-Governmental Organisations (NGO) Code in consultation with civil society and international institutions\*.
- Ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (2008).

Having analysed the above salient shortcomings and the elements of progress, and considering the Government's willingness to address the issues and clearly stated commitment to effectively implement the International Covenant on Civil and Political Rights (see also point 12 above), it is considered that there is no serious failure to effectively implement the International Covenant on Civil and Political Rights. The authorities cooperate with international organisations and pursue legislative reforms to further improve freedom of association, assembly, and movement; and address the issue of torture and other inhumane or degrading treatment including through the establishment of a National Preventive Mechanism and the prohibition of the use of evidence obtained through torture in criminal proceedings (see also point 17 below). Future monitoring would pay close attention to the salient shortcomings identified above.

## 15. **International Covenant on Economic, Social, and Cultural Rights**

In its report of 13 June 2014, the Committee on Economic, Social, and Cultural Rights (CESCR) found the following salient shortcomings:

- Reports that children remain involved in the cotton harvest, subjected to hazardous working conditions, and absent from school for up to two months during the academic year [paragraph 19];
- Failure to ensure that rural hospitals are sufficient in quantity and are adequately staffed and equipped, lack of a national health insurance scheme with universal coverage and lack of information on mental health [paragraph 23];
- Lack of water supply and sanitation management, especially in the regions affected by the drought and the Aral Sea catastrophe [paragraph 25];
- Low employment rate among persons with disabilities and lack of trained staff in schools and inadequate school curricula [paragraph 10].

The following elements of progress were noted:

- ILO Third Party Monitoring has confirmed in 2018 and 2019 that child labour is no longer systematically or systemically used in the cotton harvest in Uzbekistan\*;

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\* Recent development, which took place after the publication of the relevant monitoring body report.

- Ratification or accession to several international instruments:
  - The Optional Protocols to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, and on the involvement of children in armed conflict (2008);
  - The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2008);
  - The United Nations Convention against Corruption\*\* (2008);
  - The World Health Organisation Framework Convention on Tobacco Control (2012);
  - International Labour Organisation (ILO) Conventions No. 182 and No. 138\*\*.
- Adoption of several policies and programmes:
  - Adoption of the ILO Decent Work Country Programme (2014, extended until 2020\*); the raising of the minimum employment age from 14 to 15 in the Labour Code; and the establishment of an interagency monitoring system to prevent forced labour;
  - Joining the Istanbul Anti-Corruption Action Plan of the Anti-Corruption Network for Eastern Europe and Central Asia (2010) and establishment of a Working Group to develop an anticorruption law<sup>4</sup>;
  - New edition of the law on Social Protection of Disabled People (2008) and the Environmental Control Act (2013);
  - Criminalization of human trafficking (Article 135 of the Criminal Code); adoption of the Law on Counteraction to Human Trafficking (2008), supplemented in August 2020\* with assistance measures for human trafficking victims, and the inclusion of employment guarantees for human trafficking victims in the Labour Code;
  - Nutrition improvement strategy (2009–2011) and the accession to the European Charter on Counteracting Obesity and the Vienna Declaration on Nutrition and Non-communicable Diseases;
  - Presidential decree No. UP-5590 of December 2018 approved the Concept of development of the health system of the Republic of Uzbekistan for 2019-2025\*;
  - Resolution no. PP-3606 adopted by the President of the Republic of Uzbekistan "On measures to radically improve the system of psychiatric care", in 2018\*;

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\*\* Ratification of this Convention is also a GSP+ entry criterion.

<sup>4</sup> See also developments outlined in point 21 below on the UN Convention against Corruption.

\* Recent development, which took place after the publication of the relevant monitoring body report.

- Decree "On measures to radically improve the system of state support for persons with disabilities", in 2017 which establishes a specialised body under the Ministry of Health\*.

Having analysed the above salient shortcomings and the elements of progress since 2014 (considering that the CESCR report dates from 2014), it is considered that there is no serious failure to effectively implement the International Covenant on Economic, Social, and Cultural Rights.

## 16. **Convention on the Elimination of All Forms of Discrimination Against Women**

In its report of 24 November 2015, the Committee on the Elimination of Discrimination against Women (CEDAW) found the following salient shortcomings:

- Prevailing domestic and sexual violence; cases remain underreported and are taken mainly to local bodies known as “*mahalla*” [paragraph 17];
- Low percentage of women in political and public life, in particular in decision-making positions [paragraph 21];
- Situation of women in detention; lack of a conducive environment for lodging complaints about their treatment, as well as intersecting forms of discrimination and forced sterilisation, ill-treatment and abuse of women human rights defenders in detention [paragraph 31];
- Practices of early marriage and polygamy remain, in particular in rural areas [paragraph 33];
- Increase in the use of sterilisation as a method of contraception due to the lack and/or inaccessibility of reversible contraceptive methods and allegations of forced sterilisation [paragraph 27].

The following elements of progress were noted:

- Adoption of an Action plan for 2015-2016 on the prevention of trafficking in persons, in 2015 and the National plan of action on the implementation of the concluding observations of the Committee, in 2010.
- Criminalization of human trafficking (Article 135 of the Criminal Code); adoption of the Law on Counteraction to Human Trafficking (2008) and the inclusion of employment guarantees for human trafficking victims in the Labour Code;
- Ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2008).

- Guarantees of Equal Rights and Opportunities for Women and Men Act and the Protection of Women from Harassment and Violence Act, in 2019\*;
- On-going development of Uzbekistan’s Gender Equality strategy 2020-2030\*;
- Amendment of Article 15 of the Family Code to establish the same age for marriage for both women and men at 18 years, in 2019\*;

Having analysed the above salient shortcomings and the the elements of progress since 2015 (considering that the CEDAW report dates from 2015), it is considered that there is no serious failure to effectively implement the Convention on the Elimination of All Forms of Discrimination Against Women.

#### 17. **Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment**

In its report of 14 January 2020, the Committee against Torture (CAT) found the following salient shortcomings:

- Reports that prosecutors and judges tend to disregard and decline to investigate allegations of torture; lack of data on the number of persons acquitted of all charges following confirmation of torture allegations raised in court [paragraph 8];
- Reports of arbitrary detention, surveillance, and harassment, aimed at deterring human rights defenders from carrying out their work [paragraph 17];
- Failure to undertake an independent investigation into allegations of threats and violence against persons in detention facilities and need to ensure that effective complaints mechanisms are accessible, particularly to women in detention [paragraph 14];
- Failure to carry out an impartial and effective investigation into the events of May 2005 in Andijan [paragraph 19];
- Failure to ensure that every person deprived of his or her liberty enjoys, in practice, all the fundamental legal safeguards and to ensure unimpeded access to an independent lawyer of their choice [paragraph 29];
- Consistent reports that torture and ill-treatment are frequently committed in prisons, denial of adequate health care, and ongoing practice of subjecting prisoners to forced labour in certain prison colonies [paragraph 37].
- Failure to ensure the effective and independent monitoring of places of detention; non-governmental organizations are unable to conduct unannounced monitoring and the International Committee of the Red Cross has not yet agreed to resume visiting places of detention [paragraph 43];

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\* Recent development, which took place after the publication of the relevant monitoring body report.

- Failure to ensure that victims of torture and ill-treatment obtain compensation, including the means for as full a rehabilitation as possible [paragraph 49];
- Concerns remain about the situation of children in detention, including those held in pre-trial detention; the imposition of solitary confinement and the placement of 167 girls in two closed specialized educational detention centres [paragraph 53].
- Lack of ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; [paragraph 46]

The following elements of progress were noted:

- The extension until 2020 of the Decent Work Programme;
- The closure of Jaslyk prison (UYA 64/OF1), where acts of torture were documented in the past, as a federal prison in 2019;
- Visits to Uzbekistan by the Special Rapporteur on freedom of religion or belief, in 2017, and the Special Rapporteur on the independence of judges and lawyers, in 2019, and assurances for an invitation to the Special Rapporteur on torture and other cruel, inhuman, or degrading treatment or punishment.
- adoption of several legislative measures:
  - Act of 29 March 2017 adding Article 415-1 to the code of criminal procedure, stipulating that courts shall remedy failures in investigations of significant breaches of criminal procedure law;
  - Action plan on cooperation with the Office of the United Nations High Commissioner for Human Rights, in 2017;
  - Amendments to the Ombudsman Act that stipulate that persons deprived of liberty are entitled to make an unlimited number of written complaints to the ombudsman, and that the ombudsman can conduct preventive monitoring of all detention facilities, in 2017;
  - Act No. ZRU-497 of 11 October 2018 to strengthen the independence and enhance the role of the legal profession and Bar Chamber, in 2018, and Presidential Decree No. UP-5441, in 2018;
  - Act on the protection of women from harassment and violence, in 2019;
  - Law No. 617 on fundamental legal safeguards (May 2020) and Law No. 625 on the personal safety of detained persons (June 2020)\*.
- amendment of policies, programmes and administrative measures to give effect to the Convention, including presidential decrees on:

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\* Recent development, which took place after the publication of the relevant monitoring body report.

- Measures for the reform of the legal and judicial system and the creation of the Supreme Judicial Council, in 2016;
- The setting up of public help desks for processing of citizens' claims and complaints, in 2016;
- Prohibiting the use of evidence obtained in breach of the provisions of the criminal procedure code, rendering coerced evidence inadmissible in criminal cases and establishing criminal liability for the falsification of evidence, in 2017;
- Boosting the effectiveness of internal affairs bodies and related measures including Article 95-1 of the criminal procedure code; amendments to the Procuratorial Service Act, in 2016 and 2017; and a rule added to Article 22 of the criminal procedure code requiring courts to verify reports of torture, in 2016 and 2017;
- The on-going reform of the penitentiary system (2018-2021) aiming to align the new Penitentiary Code with international standards\*<sup>\*</sup>; and
- The Programme for the digitalisation of the activities of the judiciary 2020-2023\*.

Having analysed the above salient shortcomings and the elements of progress, and considering the Government's willingness to address the issues and a clearly stated commitment to effectively implement the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, it is considered that there is no serious failure to effectively implement the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The authorities cooperate with international organisations to address the issue of use of torture and other cruel, inhuman, or degrading treatment, for example through the 2017 Action Plan for cooperation with the OHCHR and the draft National Action Plan to implement the recommendations of the Committee against Torture. Further, the authorities have taken legislative and other steps aiming to combat torture and other cruel, inhuman, or degrading treatment; and are pursuing further reforms such as the review of the Penitentiary Code to align it with international standards. Future monitoring would pay close attention to the salient shortcomings identified above.

## 18. **Convention on the Rights of the Child**

In its report of 10 July 2013, the Committee on Rights of the Child (CRC) found the following salient shortcomings:

- Ongoing reports of torture and ill-treatment that are routinely used in investigations; the use of solitary confinement and frequent use of forced labour as a form of children punishment in public institutions such as schools and orphanages [paragraph 38];

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\* Recent development, which took place after the publication of the relevant monitoring body report.



- Failure to reduce the placement of children in institutional care and to ensure that this placement occurs based on the best interests of the child, with full consideration of the views of the child and his/her family; and to ensure alternative care systems have monitoring and support mechanisms, in particular regarding reports of children being subject to abuse and sexual violence [paragraph 47];
- Substantial numbers of children with one or both parents employed as migrant workers in situation of vulnerability and with no special protection measures [paragraph 63];
- Uzbekistan continues to have no holistic juvenile justice system and its laws on juvenile justice are fragmented. Failure to provide timely and adequate legal aid and alternative measures to detention and to ensure that children in conflict with the law, particularly girls, are detained in separate facilities from adult detainees [paragraph 69].

The following elements of progress were noted:

- Adoption of several legislative measures:
  - Law on “The Bodies of Guardianship” in October 2011;
  - Law on “Prevention of Child Neglect and Juvenile Delinquency” in September 2010;
  - Laws providing a framework for social and cultural youth development, including the 2014 Tutorship and Guardianship Act, the Youth Policy Act and the 2017 Act on the Protection of Children from Information Harmful to their Health, which defines a minor as a person under the age of 18\*.
  - Law on “Guarantees of the Rights of the Child” in January 2008 –amended and supplemented in 2016 and 2017\*.
- The ratification of and/or accession to the:
  - The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography in 2008;
  - The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict in 2008;
  - The 2003 World Health Organisation Framework Convention on Tobacco Control in 2012;
  - International Labour Organisation Convention (ILO) No. 138 in 2009 and ILO Convention No. 182 in 2008; \*\*

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\* Recent development, which took place after the publication of the relevant monitoring body report.

\*\* Ratification of this Convention is also a GSP+ entry criterion.

- Ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (2008).
- adoption of the following policy measures:
  - On-going review of the Penitentiary system (2018 -2021) including measures to improve the system for the serving of sentences by juvenile prisoners and improve offender rehabilitation\*;
  - Establishment of the position of Children’s Ombudsman in 2019\*;
  - Establishment of a Department for Information and Analyses, and a Department for Culture, Education, Health and Social Protection under the Executive Office of the Cabinet of Ministers in 2012;
  - Establishment of an Interagency Working Group to monitor the observance of the rights and freedoms by law enforcement bodies and other government agencies in 2012; and
  - Establishment of a General Directorate for Monitoring of legislation observance in the Ministry of Justice in 2012.

Having analyzed the above salient shortcomings and the elements of progress since 2013 (considering that the CRC report dates from 2013), it is considered that there is no serious failure to effectively implement the Convention on the Rights of the Child.

## 19. Core labour rights (ILO) Conventions

Uzbekistan has made significant progress in the elimination of child labour. The ILO, in its Third-Party Monitoring (TPM) of the cotton harvest in Uzbekistan in 2018 and 2019, confirmed the elimination of systematic or systemic use of child labour for cotton harvest<sup>5</sup>.

TPM conclusions on the 2018 harvest were noted by the Committee of Experts on the Application of the Conventions and Recommendations (CEACR) in its observation on Convention N° 182 in its report published in 2020. The CEACR notes from the report of the ILO TPM of child labour and forced labour during the 2018 cotton harvest, published on 1 April 2019, that Uzbekistan demonstrated major progress in the eradication of child labour in the cotton harvest of 2018. It notes with *satisfaction* from the conclusions of the TPM report of 2018 that children are no longer involved in the cotton harvest and the systematic or systemic child labour is no longer a matter of concern.

This is a significant achievement regarding effective application of **Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour**, which will need to be sustained by maintaining

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<sup>5</sup> Report of the ILO Third-Party Monitoring of child labour and forced labour during the 2018 cotton harvest in Uzbekistan, released on 1 April 2019; Report of the Third-Party Monitoring during the 2019 cotton harvest released on 5 February 2020.

effective domestic capacity to monitor and control once the ILO hands over its monitoring following the 2020 harvest.

Regarding **Convention concerning Minimum Age for Admission to Employment, No. 138**, no serious failure to apply the Convention in national law has been detected by the ILO monitoring bodies, yet efforts need to continue to ensure effective protection of children working in the informal economy, self-employed, or unpaid, notably through enhancing the capacity of the state labour inspectorate to monitor and control application.

At the 108th International Labour Conference in 2019<sup>6</sup>, the ILO Conference Committee on the Application of Standards did not list Uzbekistan as a country case<sup>7</sup>; nor has the country been ‘double footnoted’<sup>8</sup> by the Committee of Experts on the Application of the Conventions and Recommendations (CEACR) in its reports published in 2019 and 2020.

Observations made by the CEACR point to several salient shortcomings in relation with the other fundamental Conventions:

### **Convention concerning Forced or Compulsory Labour, No. 29**

Salient shortcomings:

- Need to fully eliminate adult forced/coerced labour in cotton farming, including use of military conscripts (see also Convention concerning the Abolition of Forced Labour No. 105).
- Need to strengthen investigations, prosecutions, convictions of trafficking in persons, as well as protection and assistance to victims of trafficking.

The following elements of progress were noted:

- Ratification of the Protocol of 2014 to Convention 29 (September 2019) and adoption of an implementation Action Plan;
- Strengthened institutional framework on trafficking in persons: National Commission for combating trafficking in persons and forced labour established (President Decree No 5775 of July 2019) to coordinate activities of state and territorial bodies self-government bodies of citizens and non-governmental/non-profit organizations with two sub-commissions (on Combating Trafficking in Human Beings, and on Combating Forced Labour) as well as regional commissions. All levels are meeting regularly.

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<sup>6</sup> The ILO Conference Committee on the Application of Standards did not meet in 2020 since the International Labour Conference did not take place due to the COVID-19 pandemic. The CEACR Report was published as usual in February 2020 in view of the Conference.

<sup>7</sup> Country cases identify serious failure by ILO member states to respect their reporting and other standards-related obligations.

<sup>8</sup> ‘Double footnotes’ identify serious and urgent cases requiring governments to provide information to the CAS.

- Continued efforts to contain risks of trafficking of labour migrants from Uzbekistan: outreach to prospective labour migrants by Agency for Foreign Labour Migration. Budget allocated for assistance to labour migrants abroad, including victims of forced labour (200 billion soum - EUR 16.8 million). Bilateral employment agreements with destination countries.

Adult forced labour in cotton farming needs to be fully eliminated. Efforts need to continue to prevent and protect trafficking in human beings in particular regarding Uzbek labour migrants, who continue being exposed to labour exploitation and conditions amounting to forced labour.

In view of the fact that the country has not been identified as a country case by the monitoring bodies, of the significant elements of progress, and the clearly stated commitment to improve application in law and/or practice, it is considered there is no serious failure to implement the Convention concerning Forced or Compulsory Labour, No 29.

### **Convention concerning the Abolition of Forced Labour, No. 105**

Salient shortcomings:

- There is still significant adult forced labour in cotton production. The ILO Third Party Monitoring of the 2019 harvest found that some 100,000 people (or 5.9% of the total number of pickers) were subject to some form of coercion.
- Use of military conscripts for purposes other than military such as economic development is prohibited under the ILO Conventions concerning forced labour and needs to be eliminated (in law and practice):
  - National legislation does not guarantee non-use of military conscripts for purposes other than military;
  - ILO Third Party Monitoring of 2019 cotton harvest report still detected involvement of military conscripts in the cotton harvest.
- The CEACR has not yet been able to ascertain that application in practice of legal provisions (Criminal Code and Code of Administrative Offences) involving compulsory labour as punishment for expression of political or ideological views and for participation in strikes is compatible with Convention N°105.

The following elements of progress were noted:

- ILO Third Party Monitoring (TPM) of the 2019 cotton harvest concluded the end of systemic or systematic use of adult forced labour;
- End of state order/quota system for cotton production (Resolution of the President N°PP-4633 of March 6, 2020);
- Strengthened regulatory framework on child and forced labour (repeat offences criminalized in amended Criminal Code of 2019 in force since January 2020; fines increased by amendments of 2019 to Administrative Code);

- Efforts to strengthen enforcement capacity - number of staff of the state labour inspectorate supervising harvest doubled from 200 to 400 in 2019 - according to the ILO Third Party Monitoring;
- Broader involvement of Civil Society Organisations (CSOs) in ILO TPM (from 8 in 2018 to 15 in 2019) and in national mechanisms to control forced labour in general (such as the new National Commission for combating trafficking in persons and forced labour).

The end of systematic use of adult forced labour in the 2019 cotton harvest as assessed by the ILO TPM is a significant element of progress. However, the remaining use of forced/coerced labour, including use of military conscripts prohibited under the ILO conventions on forced labour, needs to be eliminated. The end of production quotas applying from 2020 onwards and the switch to full privatization of the entire chain of cotton production create conditions for a full elimination of coerced mobilisation of labour but also significant challenges as regards supervision and control, as well as pickers' hiring and remuneration systems and working conditions overall. After the 2020 harvest, ILO will hand monitoring over to domestic stakeholders. The system in place - state labour inspectorate, involvement of trade unions, and local CSOs - will need to be maintained and enhanced.

In view of the fact that the country has not been identified as a country case by the monitoring bodies, of the significant elements of progress, and the clearly stated commitment to improve application in law and/or practice, it is considered there is no serious failure to implement the convention.

### **Convention concerning Freedom of Association and Protection of the Right to Organise, No. 87**

CEACR has not yet been able to examine the first regular report on the application of Convention N°87 submitted by the government following its ratification by Uzbekistan in December 2016. However, CEACR comments to Convention N°98 (ratified in 1992) point to several issues of relevance for freedom of association.

Salient shortcomings:

- Continuous allegations of repression when it comes to organising independent trade unions, reported by ILO CEACR (also in relation to Convention N°98, report published in 2019).
- The independence of trade unions' and employers' organisations as well as their capacity to ensure full representation is not ensured yet in practice:
  - the main trade-union organisation - Federation of Trade Unions of Uzbekistan (FTUU/FPU) - is not a full member of the International Trade Union Confederation - ITUC (associated status since 2015); control of FPU by the government reported to ILO CEACR (also in relation to Convention N°98, report published in 2019);
  - the new independent employers' organisation (Confederation of Employers, registered in November 2018) has no independent staff or facilities. The

Chamber of Commerce and Industry remains Uzbekistan's employers' organisation at the International Employers' Organisation.

The following elements of progress were noted:

- The law on trade unions of 2019 facilitates the establishment of independent trade unions.
- A first independent employers' organisation was established in November 2018.

The new Trade Union Law is supportive to trade-union pluralism but application in practice will need to be demonstrated. Constraints in national legislation on CSOs and application in practice of registration procedures also hamper the development of independent trade unions. The independence and representativeness of trade unions' and employers' organisations as well as their capacity to full representation is not ensured yet in practice.

Without prejudice to the CEACR future examination, the assessment is based on the relevant elements from CEACR comments to Convention No.98 and additional information collected during the assessment. In view of this, the significant elements of progress, and the clearly stated commitment to improve application in law and/or practice, it is considered there is no serious failure to implement the Convention concerning Freedom of Association and Protection of the Right to Organise, No. 87.

### **Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, No. 98**

There is no case open at the ILO Committee on Freedom of Association.

Salient shortcomings:

- CEACR report published in 2019 recalls that for a number of years it has been requesting amendments of the Labour Code to guarantee trade-unions' participation in collective bargaining at enterprise level;
- A draft law regulating collective labour disputes has not been adopted. ILO CEACR (report published in 2019) requested information on existing mechanisms (joint recommendations on labour dispute commissions by FTUU and CCI agreed with the Ministry of Labour and Social Protection of the Population in 2015).

The convention is not fully applied into national law. Revisions to the Labour Code are expected to address compliance in law with Convention 98, notably on regulation of individual and collective labour disputes. The proposal for amendments was finalised and submitted to the national Parliament during the last quarter of 2020.

In view of the fact that the country has not been identified as a country case by the monitoring bodies and the clearly stated commitment to improve application in law and/or practice, it is considered there is no serious failure to implement the convention.

## **Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, No. 100**

Salient shortcoming:

- ILO CEACR (Report published in 2019) recalls that for a number of years it has been requesting amendments to the Labour Code to fully reflect the principle of equal remuneration for work of equal value.

The convention is not fully applied into national law. The revised Labour Code is expected to align national legislation with the ILO C100. The proposal for amendments was finalised and submitted to the national Parliament during the last quarter of 2020.

In view of the fact that the country has not been identified as a country case by the monitoring bodies and the clearly stated commitment to improve application in law and/or practice, it is considered there is no serious failure to implement the convention.

## **Convention concerning Discrimination in Respect of Employment and Occupation, No. 111**

Salient shortcomings:

- For several years ILO CEACR has been requesting amendments to the legislation in particular to:
  - define and prohibit quid pro quo and hostile environment sexual harassment (CEACR has raised the issue since 2005 (CEACR report published in 2019);
  - ensure protection on all grounds of discrimination (political opinion, colour), and prohibit indirect discrimination in employment and occupation (CEACR report published in 2019); and
  - fully reflect the principle of equal treatment, notably to ensure that measures aimed at reconciling work and family are available to men and women on an equal footing (CEEACR report published in 2019).

The following elements of progress were noted:

- The ban on women labour in certain industries or professions was lifted (President Decree “On measures to further strengthen guarantees of labour rights and support women’s business activities” of 2019, No. PP-4235);
- Law №562. "On guarantees of equal rights and opportunities for women and men" adopted in August 2019 and signed by the President in November 2019;
- Awareness raising efforts by State Labour Inspectorate (over 7,000 events in 2019).

The convention is not fully applied into national law. The revised Labour Code is expected to align national legislation with the ILO Convention N° 111. The proposal for amendments was finalised and submitted to the national Parliament during the last quarter of 2020.



In view of the fact that the country has not been identified as a country case by the monitoring bodies, of the significant elements of progress, and the clearly stated commitment to improve application in law and/or practice, it is considered there is no serious failure to implement the convention.

Overall, it is considered there is no serious failure to effectively implement the core labour rights ILO conventions. However, salient shortcomings remain to be addressed, and the transition of the entire cotton production to a privatised market-based system will be particularly challenging for the elimination of forced labour. A close monitoring of further developments with regard to the above shortcomings and to the conclusions of the ILO supervisory bodies will be necessary, in particular on the legislative processes where proposals needed to fully transpose the Conventions into national law are still pending.

## 20. **Environment and Climate Conventions**

### **CITES**

The following shortcomings were identified:

- No adequate national legislation in place for the protection of endangered flora.

The following elements of progress were noted:

- Draft revised legislation prepared and additional observations by the Secretariat provided in July 2018; further draft legislation prepared in October 2020. Secretariat commended substantive legislative progress in 2018. However, proper follow up and implementation still has to take place.
- Uzbekistan has adequate national legislation in place on the protection and trade in endangered fauna.

### **Convention on Biological Diversity (CBD)**

No salient shortcomings have been identified.

Nevertheless, the Commission would like to:

- reiterate the importance of implementing the revised National Biodiversity Strategy Action Plan (NBSAPs);
- underline the need for stepping up action in face of continued biodiversity loss;
- highlight the goal of an ambitious post-2020 biodiversity framework, to be adopted at CBD COP15 in 2021, with measurable and time-bound targets to effectively address the drivers of loss and to galvanise support at the highest political level and among the wider public, similar to the 1.5 degrees target for climate change.

### **Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and their Disposal**

The following shortcoming was identified:

- Uzbekistan did not submit its national report for the year 2018, as per its obligations under the Basel Convention.

Efforts need to be made to ensure the submission of this report and the timely submission of future reports.

In view of the relatively small number of shortcomings, the elements of progress, and the stated commitment to effective implementation, it is considered there is no serious failure to effectively implement the environment and climate conventions. However, a follow up of further developments with regard to the above points will be necessary.

## **21. Good Governance Conventions**

### **International Drug Control Conventions**

The International Narcotics Control Board (INCB) in its 2018 report and mission from May 2019 made the following recommendations:

- Increase cooperation with EU-funded cooperation programme Central Asia Drug Action Programme (CADAP) to further reduce drug demand;
- Regulation on the pharmaceutical system to address increasing pharmaceutical drug addiction;
- Regular update of the list of New Psychoactive Substances (NPS);
- Use of the Early Warning system and regular data exchange with United Nations Office on Drugs and Crime (UNODC) on NPS.

Other elements of progress include:

- Designation of a specialised Committee for Illicit Drug Control working in cooperation with the Ministry of Health;
- Efforts on drug demand reduction.

In view of the fact that the INCB observation that Uzbekistan has gradually strengthened its efforts in drug control and the clearly stated commitment to effective implementation, it is considered there is no serious failure to effectively implement the International Drug Conventions.

### **United Nations Convention against Corruption**

The Implementation Review Group (IRG), following its country visit to Uzbekistan in June-July 2015, issued the following recommendations to further strengthen Uzbekistan's existing anti-corruption measures:

- Bring the definitions of public officials into line with the requirements of Article 2 of the Convention;

- Adopt measures to implement Article 15 of the Convention fully, including establishment of the promise, offering, and soliciting of bribes as offences, incorporation of the element of “for the official himself or herself or another person or entity” in the relevant legislative provisions and the inclusion of non-property-related advantages as bribes;
- Establish active bribery of a foreign public official or an official of a public international organization as a criminal offence (Article 16 (1));
- Adopt further measures to ensure the full implementation of the provisions of Article 25 of the Convention (Obstruction of justice);
- Adopt measures to establish an effective mechanism for prosecuting legal persons for participation in the offences established in accordance with the Convention, without prejudice to the criminal liability of the natural persons who have committed the offences (Article 26);
- Adopt measures aimed at the full implementation of Article 32 of the Convention (protection of witnesses and reporting persons);
- Adopt further measures to ensure that entities or persons who have suffered damage as a result of an act of corruption have the right to initiate legal proceedings to obtain compensation, irrespective of the type of damage suffered (Article 35);
- Adopt measures to further improve the specialisation of anti-corruption units and the professional training of their staff, and to ensure their autonomy and independence (Article 36);
- Adopt measures to implement paragraph 4 of Article 37 of the Convention (cooperation with law enforcement);

The following elements of progress were noted:

- Combatting corruption is high amongst the priorities of the President; this is reflected in the implementation of a 5-year programme 2017-2021 to combat corruption, including planned legislation on public oversight and administrative procedures\*;
- Adoption of the new Law on Anti-corruption (2017)\*;
- Set up of the Republican inter-agency Commission Against Corruption, chaired by the Prosecutor General’s office\*;
- Drafting of a new Criminal Code and Criminal Procedure Code and law on Declaration of income, property, and conflict of interest of civil servants\*;
- The creation of a designated Anti-corruption agency on 29 June 2020\*;

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\* Recent development, which took place after the publication of the relevant monitoring body report.

- Public awareness-raising programme on zero-tolerance towards corruption\* .

In view of the significant elements of progress and the clearly stated commitment to effective implementation, it is considered there is no serious failure to effectively implement the good governance conventions; however, a follow up of further developments with regard to the above recommendations will be necessary.

## 22. *Conclusion*

In view of the above, it is considered that there is no serious failure to effectively implement any of the core conventions listed in Annex VIII of the GSP Regulation. The Commission notes that the monitoring bodies for a number of these conventions detected salient shortcomings in connection to the above listed conventions. In their monitoring, the Commission and the EEAS will be paying particular attention to the salient shortcomings in implementation mentioned above.

**E. Binding undertakings**

22. The Republic of Uzbekistan has submitted the binding undertakings as provided in Article 9(1)(d), (e), and (f) of Regulation (EU) 978 (2012) and Article 1(2)(b) of Commission Delegated Regulation (EU) No 155/2013.

**F. Conclusion**

23. The Republic of Uzbekistan meets the eligibility criteria of Article 9(1) of the GSP Regulation.