

Land Grabbing and the Exploitation of Farmers
Implications for Indorama Agro
Briefing to EBRD Annual Meeting
Samarkand, May 2023

Introduction

In 2021, EBRD approved two loans of USD 70 million, in aggregate, to Indorama Agro LLC (IAL) to support private sector investment in the cotton farming sector in Uzbekistan.¹ A Cabinet of Ministers decree of 2018², ordered the transfer of 50,000 hectares of land in Kashkadarya and Syrdarya regions to IAL where 2,897 farms operated. Of these 2,897 farms, 1,068 farms are now under the control of IAL, acquired via so-called ‘voluntary’ land lease terminations. In effect, the land was illegally seized through forced written statements taken from farmers under pressure or by deception.

Land Grabbing

All agricultural land in Uzbekistan remains in state ownership and farmers generally lease their land for a period of 30-50 years. Farmers’ rights are extremely poorly protected and land leases can be terminated through coercive and corrupt practices by local officials (hokims). On January 9, 2019, the government of Uzbekistan adopted a resolution "On Additional Measures to Optimize the Land of Farms and Other Agricultural Enterprises, and the Efficient Use of Agricultural Land".³ The objective was to "optimize farms and dekhans" (small size farms)" and transfer land to more "successful" farmers. In practice, the "optimization" has turned into a mass illegal seizure of farmers’ land in violation of their existing long-term land lease agreements because of the absence of effective mechanisms for allocating land based on market principles.⁴ In many cases, land transfers have been carried out by local officials in the interests of cotton clusters (vertically integrated private companies that cultivate, process and/or manufacture finished cotton products) to ensure that the terminations were ‘voluntary’ and would incur no compensation for loss of land, assets, or income.

¹ <https://www.ebrd.com/work-with-us/projects/psd/50879.html>

² <https://lex.uz/ru/docs/3860099>

³ <https://lex.uz/docs/4149388>

⁴ <https://www.uzbekforum.org/land-grabs-the-new-red-flag-for-uzbek-cotton-sector/>

In many cases, local authorities use illegal methods of pressure by forcing farmers to write applications for voluntary termination of the land lease agreement, often leaving a blank date on the leases. If the farmer fails to fulfill his contractual obligations to supply cotton to the cluster, the hokims use these applications to seize the land without notice. However, according to Uzbek law, failure to fulfill contractual obligations does not in itself constitute grounds to terminate land lease agreements.

According to article 24 of the Land Code of Uzbekistan⁵ the land plots given to farms under a long-term lease should be used strictly for their stated purpose. The land cannot be privatized, and it is not an object of purchase, sale, pledge, donation, or exchange. The lease agreement for a land plot may be changed or terminated by agreement of the parties, and if the parties fail to agree, only by a court decision.

The transfer of land to IAL took place between 2018 and 2019 on the condition that farmers would be offered employment with the company. However, these commitments have not been upheld. Since 2019, IAL has made hundreds of workers redundant, including 1,200 irrigators and 392 brigade leaders, in a series of restructuring efforts that include changing the employment status of workers into service providers.⁶ Moreover, no compensation has been paid for the termination of land lease agreements to those farmers who refused to be employed by the company. In the absence of independent associations that represent their interests, farmers have been left destitute with little or no redress.

IAL's direct farming operations in Syrdarya have largely failed. The company has conceded that smallholder farmers produce up to 4 times the yields of large-scale farms. The company has therefore abandoned its initial policy of consolidating approximately 26,000 hectares of smallholder farms in Syrdarya which it received via forced land lease terminations into one large direct farming operation by reducing the size of land plots for the cultivation of cotton and wheat. To this end, the company has outsourced its employer responsibilities to Nano Unit Workers (NUMs), former farmers, whose contracts expired at the end of 2022. These NUMs are now classed as Nano Unit Contractors (NUCs) or service providers, although the activities in their contracts are essentially the same as their previous contracts. Only two days' notice was given to NUMs that their contracts would not be extended, leaving them little opportunity to seek alternative employment and no negotiations were held with the trade union, a violation of the Uzbek Labour Code. The trade union leader in Syrdarya, along with 44 other NUMs, filed a complaint with the administrative court but was later "persuaded" by the regional hokim and prosecutor general to accept slightly improved conditions as a NUC. Nonetheless,

⁵ <https://lex.uz/docs/149947>

⁶ <https://www.uzbekforum.org/will-uzbekistans-first-democratically-elected-trade-union-survive/>

an investigation by the Labour Inspectorate resulted in a warning to the company for violation of the collective bargaining agreement.

In effect, farmers whose land was taken have now been tasked with improving yields but without the modicum of autonomy they had as leaseholders which allowed them small land plots to grow their own produce and graze livestock and without security of employment with the company as had been promised. The original project proposal itself has therefore been radically changed.

The government decree of 2018 also provides for a further transfer of land to IAL in Jizzakh and Fergana regions to be carried out by the end of 2023, although to date no further information on the scale and location of the land plots is available. EBRD's and IFCs loans to IAL extend to this second transfer of land.

The transfer of land to IAL is contingent on investments of \$225 million in cotton and crop production and \$115 million for cotton processing and production of yarn, as well as the creation of 1,500 jobs. Given the evidence of job losses rather than job creation in IAL's operations in Syrdarya and Kashkadarya, it appears that IAL is failing to honour its commitments which does not bode well for the farmers who stand to lose their land and livelihoods in Fergana and Jizzakh.

Hundreds of cases of illegal land confiscations have been documented by Uzbek Forum⁷ and the Uzbek media⁸ throughout the country since the privatization of the agriculture sector began in 2018. Some farmers have succeeded in having their land lease terminations revoked and reinstated. This opens serious questions as to the legality of the foundations of IAL's direct farming operations and raises significant concerns of compliance with EBRD's Performance Standard 5.

Recommendations to EBRD:

- Urge the Uzbek government to support the establishment of an independent body responsible for assessing the legality of land lease terminations in Syrdarya and Kashkadarya regions for the benefit of IAL and provide remedy where land leases were illegally terminated through coercion or deception.
- Ensure adequate compensation for farmers whose land was illegally seized through coercion or deception.
- Desist from financing future activities by IAL in Fergana, Jizzakh and any other regions that may benefit from illegal land confiscations.

⁷<https://www.uzbekforum.org/illegal-land-confiscations-in-uzbekistan-farmers-in-namangan-fight-for-their-rights-and-livelihoods/>

⁸<https://kun.uz/news/2022/06/27/tanojiddan-song-fermerlar-kengashi-payariq-hokimi-qarori-bilan-klasterga-otkazilgan-yerlarni-fermerlarga-qaytarmoqchi>

- Ensure that future land transfers are carried out in a transparent manner in accordance with national legislation and with prior, informed consent of land lease holders.
- Insist that fair, fixed-term employment contracts are offered by IAL to farmers who decide to voluntarily transfer their land to IAL.

Exploitation of Contract Farmers

Indorama cheated us, the farmers. For the money he pays, we can't even cover the costs. If they had told us that they would give us 8,000 thousand soums we would not have worked for them at our own expense.

Farmer, Kasbi district, January 2023.

Privatization of the sector has not superseded the outdated, inefficient, non-transparent system of agricultural management. The system of land allocation and production quotas, which determines which products and how much farmers must grow on the leased land, does not permit farmers to optimize their agricultural output that reflects the characteristics of the soil, access to water, and climate. Farmers often complain that they would be more profitable if they could cultivate other products, but the state requires them to grow cotton and grain.

The cluster system introduced in 2018 to replace the state monopoly of the cotton sector initially created local monopolies in which only one cluster operated in each district. Although there are now several clusters operating in the same districts, the system of guaranteeing the delivery of cotton from farmers to a particular cluster has in effect remained in place. Farmers have no choice over which cluster they can deliver to, leaving them without the bargaining power to negotiate a fair price for their cotton and terms and conditions.

In interviews conducted by Uzbek Forum monitors during the 2022 cotton harvest⁹ and in the first quarter of 2023, farmers contracted to deliver cotton to IAL complained of low prices for their cotton, inflated prices for fuel and fertilizers and high interest loans for pre-financing loans. Despite interventions by the Ministry of Agriculture and the Farmers' Council, a quasi-state body, to ensure futures contracts and minimum prices for cotton, IAL refused to pay farmers the minimum recommended price for the 2022 cotton harvest.

Recommendations to EBRD:

- Ensure that IAL adheres to fair contracting practices, including a guaranteed minimum purchase price for cotton in a futures contract that clearly stipulates

⁹<https://www.uzbekforum.org/uzbek-cotton-harvest-2022-no-systematic-forced-labor-of-pickers-but-government-control-of-the-cotton-sector-puts-farmers-and-workers-at-risk/>

the price of fertilizers, fuel, and other inputs supplied to farmers to grow cotton and grain.

- Ensure that IAL does not prevent farmers from pursuing contractual relations with alternative clusters of their choice and takes all measures to prevent coercion by local authorities to coerce farmers to conclude contracts with IAL.
- Ensure that IAL develops an independent grievance mechanism for farmers supplying cotton and wheat to IAL to ensure timely intervention in the event of violations.
- Convey to the Uzbek government the need to ensure fair contracting practices, as a prerequisite for responsible sourcing and compliance of foreign companies with national and international supply chain laws.
- Urge the Uzbek government to implement legislation that permits farmers to choose and negotiate with clusters of their choice.
- Advocate for and support initiatives to establish independent groups that represent farmers' interests.
- Encourage the Uzbek government to support the establishment of cooperatives and prevent obstruction to their operations.
- Urge the Uzbek government to enforce national legislation that ensures the rights of farmers to a decent livelihood.