

Forced Child Labor in the Uzbekistan Cotton Sector

Enough Talk. Time for Action NOW

Presented by:
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National Research Council
National Academy of Sciences

**Identifying Good Practices for Producers/Purchasers to
Reduce the Use of Child or Forced Labor**

Keck Center of the National Academies
Room 100
500 Fifth Street, N.W. Washington, DC

May 12, 2009

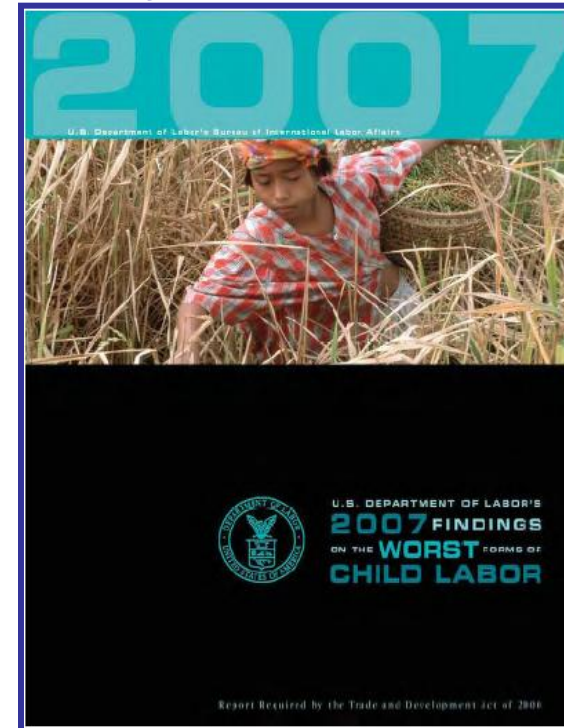


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The views expressed herein address a range of possible actions to be undertaken by National Governments and do not contemplate any actions by any private party or company

Child labor in the Uzbek cotton industry is widely-acknowledged...

By Governments



By Retailers

August 15, 2008

President Islam Abduqanievich Karimov
 Office of the President
 Uzbekistan Street 43
 Tashkent, UZBEKISTAN

President Islam Abduqanievich Karimov
 Embassy of Uzbekistan
 1746 Massachusetts Avenue, N.W.
 Washington, D.C. 20036-1903

Dear President Karimov,

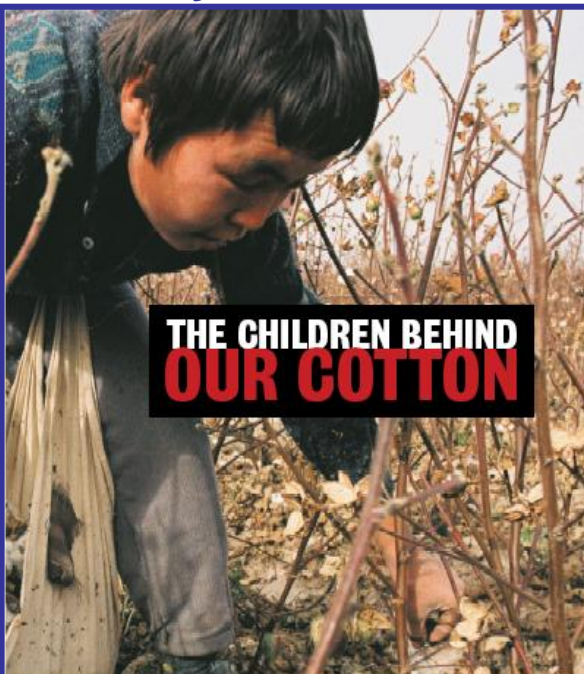
As the trade associations representing the companies that account for over 90 percent of U.S. purchases of cotton and cotton-based merchandise, we respectfully request your immediate attention regarding published reports alleging the forced use of children as young as 10 to 15 years old in harvesting cotton in Uzbekistan.

Reports by non-governmental organizations (NGOs), the British Broadcasting Corporation (BBC) and the news media allege children are forced to work in cotton fields under hazardous conditions in clear violation of international labor standards as well as in violation of the children's basic human rights. The reports allege that the Government of Uzbekistan is directly orchestrating the forced employment of child labor in the harvesting of cotton.

We recognize that the national laws of Uzbekistan prohibit the use of forced and child labor and that Uzbekistan is a signatory to the Convention on the Rights of the Child, and the two ILO (International Labor Organization) Conventions on abolition of forced labor (Conventions 29 and 105). As an ILO member State, Uzbekistan is obligated to respect the principles of the ILO Declaration on Fundamental Principles and Rights at Work, which include the abolition of forced child labor. In addition, we have learned with enthusiasm that Uzbekistan is now a signatory to the ILO Convention on the Worst Forms of Child Labor (Convention 182) and is in the process of becoming a signatory to the Convention on Minimum Age (Convention 138). We commend you and the Parliament of Uzbekistan for taking these actions. Given these recent steps, we look forward to your extension of an invitation to the ILO to offer assistance in implementing these newly-ratified conventions.

Clearly, the legal framework against the use of forced child labor exists in Uzbekistan. Despite this fact, there are continued reports of the systemic and persistent use of forced child labor in the cotton fields of Uzbekistan.

By NGOs



**THE CHILDREN BEHIND
OUR COTTON**



So why does the practice persist?

There is no effective system
to trace apparel inputs



Many models, but none are good enough

There are many **VOLUNTARY** models that
rely on retailers to play detective

International treaties and domestic laws are not enforced



International
Labour
Organization

Minimum Age Convention*

Minimum Age Convention, 1973 (No. 138)

Adopted on 26 June 1973 by the General Conference of the International Labour Organisation at its fifty-eighth session

Entry into force: 19 June 1976, in accordance with article 12

The General Conference of the International Labour Organisation ,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its fifty-eighth session on 6 June 1973, and

Having decided upon the adoption of certain proposals with regard to minimum age for admission to employment, which is the fourth item on the agenda of the session, and

Noting the terms of the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965, and

Considering that the time has come to establish a general instrument on the subject, which would gradually replace the existing ones applicable to limited economic sectors, with a view to achieving the total abolition of child labour, and

Having determined that these proposals shall take the form of an international Convention,

Adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-three the following Convention, which may be cited as the Minimum Age Convention, 1973:

Article 1

Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

Article 2

1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.
2. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.
3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.
4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.

Worst Forms of Child Labor Convention

Worst Forms of Child Labour Convention, 1999 (No. 182)

Adopted on 17 June 1999 by the General Conference of the International Labour Organization at its eighty-seventh session

Entry into force: 19 November 2000, in accordance with article 10

The General Conference of the International Labour Organization ,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 87th Session on 1 June 1999, and

Considering the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment, 1973, which remain fundamental instruments on child labour, and

Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families, and

Recalling the resolution concerning the elimination of child labour adopted by the International Labour Conference at its 83rd Session in 1996, and

Recognizing that child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education, and

Recalling the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, and

Recalling the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, and

Recalling that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, and

Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

Adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Convention, which may be cited as the Worst Forms of Child Labour Convention, 1999.

Article 1

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

Article 2

For the purposes of this Convention, the term "child" shall apply to all persons under the age of 18.

Article 3

The Uzbekistan government signed both ILO Child Labor Conventions and issued a decree in September 2008 prohibiting the practice of forced child labor...yet the government still sent schoolchildren to harvest cotton weeks later.

*While Uzbekistan claims to have ratified Convention 138, the ILO reports that 138 has not been properly deposited. As a result, the ILO does not list Uzbekistan as a Party.

Legislation exists, but it could be clearer and more specific

US law prohibits importation of goods produced using child labor

19 USC § 1307

All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision. The provisions of this section relating to goods, wares, articles, and merchandise mined, produced, or manufactured by forced labor or/and indentured labor, shall take effect on January 1, 1932; but in no case shall such provisions be applicable to goods, wares, articles, or merchandise so mined, produced, or manufactured which are not mined, produced, or manufactured in such quantities in the United States as to meet the consumptive demands of the United States.

“Forced labor”, as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily. For purposes of this section, the term “forced labor or/and indentured labor” includes forced or indentured child labor.

BUT

US imports from Uzbekistan totaled over \$290 million in 2008, including over \$500,000 in cotton yarn, fabric and apparel products

Legislation exists, but it could be clearer and more specific

The Generalized System of Preferences Program has been legislated to exclude countries that permit child labor

19 USC § 2462

(2) Other bases for ineligibility

The President shall not designate any country a beneficiary developing country under this subchapter if any of the following applies:

(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

(H) Such country has not implemented its commitments to eliminate the worst forms of child labor.

BUT

The US imported over \$3 million in mined and agricultural products from Uzbekistan under the GSP program

US Customs could play a more active role in investigating the supply chain

How Uzbek cotton, picked by children, ends up in US stores

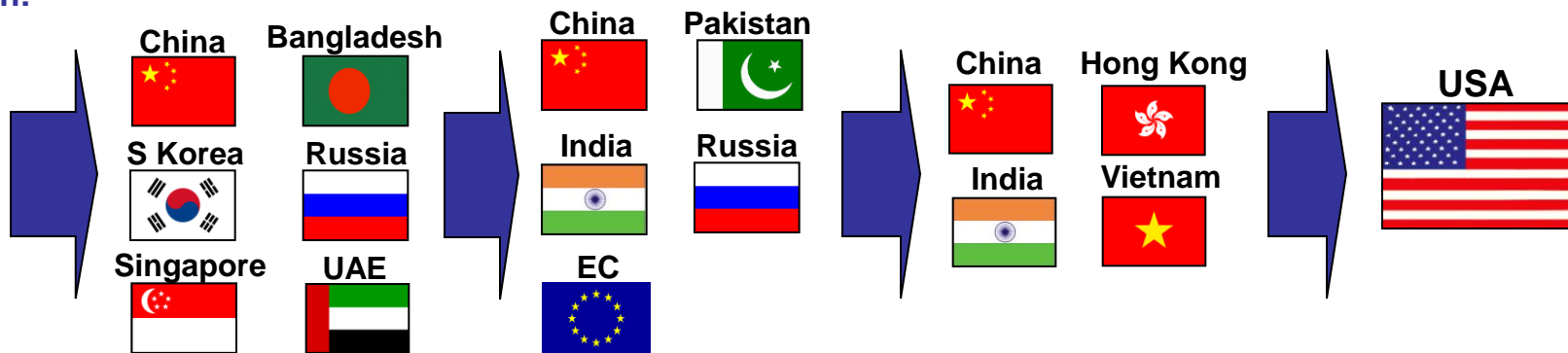
Children forced by the State to pick cotton. Three trading companies created/controlled by the State manage the export of cotton:

Cotton is ginned by Uzbek cotton companies and sold to trading companies (which may include US companies):

Delivered to yarn spinners in :

Yarn delivered to fabric mills/ apparel contractors in:

Apparel products (underwear, t-shirts, etc) are delivered to US Retailers:



It is widely acknowledged that Uzbek cotton is picked by children, purchased by trading companies, sold to yarn spinners, transformed into fabric, and used in garments imported to the US.

Lack of coordination in the US Government

USDA

Mandated under the Food, Conservation and Energy Act of 2008 to form a Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products

DOL

To promote the elimination of the worst forms of child labor, and increasing knowledge and information on child labor, forced labor, and human trafficking.

CBP

To enforce laws prohibiting import of goods manufactured using forced child labor at the US border

ICE

To act on intelligence indicating businesses are practicing forced child labor

DOS/Intel

To provide intelligence on suspected businesses practicing forced child labor

These agencies are equipped to play a role in the fight against forced child labor. But without alignment and coordination there is no focus, and few results.

All these factors contribute to the problem.

But we must FOCUS.

We don't need any more meetings...

800,000

Tons of cotton are exported by Uzbekistan each year

4

Months a year Uzbek children are forced to leave school to pick cotton

1.5

Cents paid per kilogram to child laborers in Uzbekistan

7

The reported age of children forced to pick cotton in Uzbekistan

2,000,000

Number of children estimated to work harvesting cotton in Uzbekistan every year

We need effective, governmental ACTION.

We must focus on the worst form of child labor first.

Let's start with cotton in Uzbekistan harvested using forced child labor.

What is needed to break the cycle?

US Retailer demand may contribute to perpetuating the forced child labor cycle in Uzbekistan

Uzbek cotton, picked by children, ginned and exported by three Uzbek, state-controlled trading companies

Cotton underwear, t-shirts, etc. sold to US apparel retailers

Cotton sold to international trading companies



Demand low-cost garments

Demand lower cost fiber

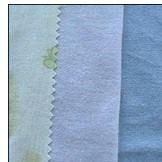
Demand low-cost thread and fabric

Demand low cost fiber

Thread and fabric sold to apparel contractors

Demand low-cost yarn

Cotton sold to yarn spinners



Yarn sold to Fabric manufacturers, apparel contractors



FOCUSED ACTION by the US Government

CBP could notify importers that US Customs will scrutinize imports from specific factories that are known users of Uzbek cotton

Uzbek cotton, picked by children, ginned and exported by three Uzbek, state-controlled trading companies

DHS could investigate who is buying cotton picked by children

Cotton underwear, t-shirts, etc. sold to US apparel retailers



Demand low-cost garments



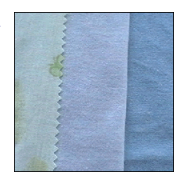
Cotton sold to international trading companies

Demand lower cost fiber



Demand low-cost thread and fabric

Thread and fabric sold to apparel contractors



Demand low-cost yarn

Yarn sold to Fabric manufacturers, apparel contractors

Demand low cost fiber

Cotton sold to yarn spinners



DHS could then investigate who is spinning yarn with Uzbek cotton, and which mills are purchasing that yarn

The US Government has a record of creating enforceable trade policies that businesses must comply with...a similar system could be adopted for cotton

Temporary Denial Orders (TDO):

Another model for identifying specific businesses known to engage in illegal activities:

What are Temporary Denial Orders (TDO)?

A mechanism to sanction companies or individuals for violating laws relating to the control of certain exports, reexports, and activities for 180-day period. **TDOs cut off not only the violator's right to export from the United States, but also the right to receive or participate in exports from the United States.**

Who authorizes them?

TDO's are authorized under the Export Administration Act of 1979 (EAA) and Export Administration Regulations (EAR). The Assistant Secretary for Export Enforcement in the Bureau of Industry and Security is responsible for investigations and charging violators.

Why are TDO's effective?

- Stops illegal trading practices
- Publicly identifies specific trade violators
- Prohibits U.S. companies from engaging with violators
- Ensures violators comply, or continue to face sanctions

A similar policy could be implemented to stop trade in goods violating Section 1307.

Retailers will respect enforceable policies. Tell them what is bad, and they will comply.

Sample Temporary Denial Order

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges;
Winter Aircraft Products SA and Ana Belen Diaz Sanchez; Order Making Denial of Export Privileges Applicable to Related Person

In the Matter of:

Winter Aircraft Products SA
a/k/a Ruf S. Lopez SA, C/Ferrocarril 41,
1 DCHA,
28045 Madrid, Spain

Respondent

and

Ana Belen Diaz Sanchez,
(a/k/a "Ana Vazquez"),
Avda Mediterraneo No. 9, 28007 Madrid,
Spain

Related Person.

Pursuant to section 766.23 of the Export Administration Regulations ("EAR" or "Regulations"), the Bureau of Industry and Security ("BIS"), U.S. Department of Commerce, through its Office of Export Enforcement ("OEE"), has requested that I make the Denial Order that was imposed against Winter Aircraft Products SA (a/k/a Ruf S. Lopez SA) ("Winter Aircraft") on May 24, 2007 (72 FR 29965) applicable to the

But priorities must be aligned, and coordination is necessary

USDA

Mandated under the Food, Conservation and Energy Act of 2008 to form a Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products

DOL

To promote the elimination of the worst forms of child labor, and increasing knowledge and information on child labor, forced labor, and human trafficking.

CBP

To enforce laws prohibiting import of goods manufactured using forced child labor at the US border

DHS

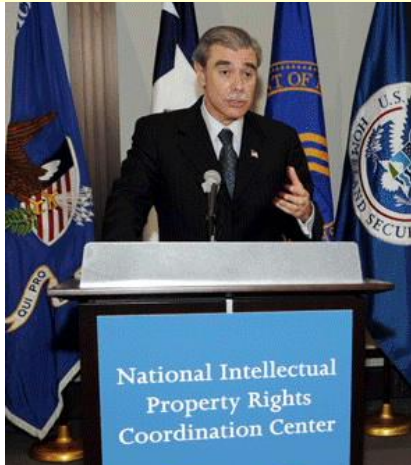
To act on intelligence indicating businesses are practicing forced child labor

DOS/DOJ

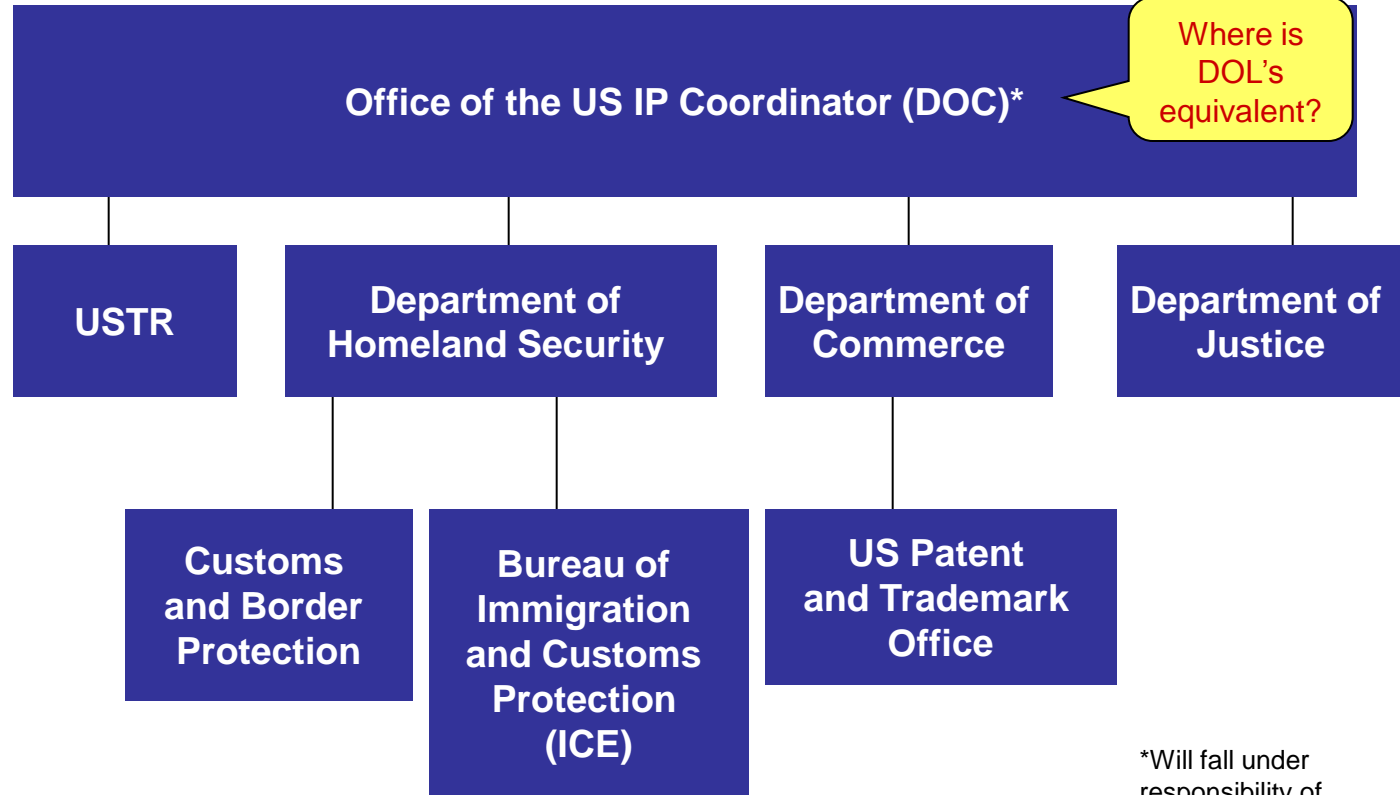
To provide intelligence on suspected businesses practicing forced child labor

These agencies are equipped to play a role in the fight against forced child labor. But without alignment and coordination, there is no focus, and few results.

Let's use another US Government best practice as a model: The Fight Against Counterfeiting and Piracy



The US Strategy Targeting Organized Piracy: The STOP Initiative



Where is DOL's equivalent?

Better Coordination = Results

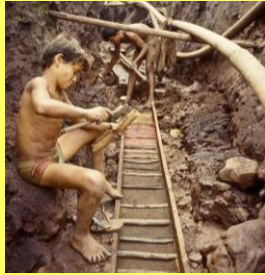
Under the STOP Initiative, the value of seized counterfeit goods increased by 141% to \$110.2 million in 2007. The number of IPR seizures increased by 22%, from 5,940 to 7,245.

*Will fall under responsibility of IP Czar under Obama Administration

The Key to Success = Coordination

The US Government is the best at what it does when it has a mandate and agencies have clearly defined roles

If we first target forced child labor in Uzbekistan cotton harvesting...



Brazil:
Mining



Sierra Leone:
Diamond mining



India:
Brick-making

...a best practice will be created that the rest of the world can follow