



**BITTER TO BETTER: COMPARATIVE ANALYSIS OF DUE-DILIGENCE REGULATIONS IN THE
COCOA INDUSTRY REGARDING HUMAN RIGHTS VIOLATIONS AND PROTECTION FROM
DEFORESTATION**

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I. LIST OF ABBREVIATIONS

ABBREVIATION	MEANING
ANECACAO	Asociación Nacional de Exportadores e Industriales de Cacao del Ecuador
ANVISA	Brazilian Health Regulatory Agency
APEDA	Agricultural & Processed Food Products Export Development Authority
BCE	Before Christian Era
CAGR	Compound Annual Growth Rate
CAGR	Compound annual growth rate
CAN	Cocoa Association of Nigeria
CCN	Coleccion Castro Naranjal
CCN 51	A variety of cocoa
CLT	Consolidation of Labour Laws
CMC	Cocoa Marketing Co. (Ghana) ltd.
CNRPC	Consejo Nacional para la Reactivación de la Producción y la Competitividad
COCOBOD	Ghana Cocoa Board
DCCD	Directorate of Cashew nut & Cocoa Development
DGFT	Directorate General of Foreign Trade
ERP	Economic Recovery Program
EU	The European Union
FAO	Food and Agriculture Organisation
FCC	Federation of Cocoa Commerce
FGD	Focused Group Discussion
GDP	Gross Domestic Product
GEA	Ghana Employers' Association
GHG	The Greenhouse Gas
GIZ	Gesellschaft für Internationale Zusammenarbeit
GmbH	Gesellschaft mit beschränkter Haftung
GNI	Gross National Income
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit
ICCO	International Cocoa Organization
IEC	Importer Exporter Code
IFESH	International Foundation for Education and Self-Help
IITA	International Institute of Tropical Agriculture
ILO	International Labour Organisation
iMPACT	Mars Partnership for African Cocoa Communities of Tomorrow
INEC	Instituto Nacional de Estadística y Censos, Ecuador
MOFA	Ministry of Food and Agriculture
MPT	Public Labour Prosecutor's office
MPT	Public Labour Prosecutor's office
MT	Metric ton
NGCC	Nigerian Goods Clearance Certificate
NPEC	Nigerian Export Promotion Council's
RCPs	Representative Concentration Pathways
SOCODEVI	Société de coopération pour le développement international

STCP	Sustainable Tree Crops Programme
TUCG	Trades Union Congress of Ghana
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNICEF	United Nations International Children's Emergency Fund
USAID	United States Aid for International Development
USD	United States Dollar
USDA	United States Department of Agriculture
UTZ	

II. EXECUTIVE SUMMARY

The research project focuses on the complexities of the cocoa production industry's compliance with norms of the international trade law as well as with those of particular jurisdictions, focusing on six leading cocoa-producing nations: Republic of Ecuador (Ecuador), Republic of Ghana (Ghana), Federal Republic of Nigeria (Nigeria), Federal Republic of Brazil (Brazil), Republic of India (India), and Republic of Indonesia (Indonesia).

The cocoa industry, faces a numerous obstacles pertaining to human rights violations and environmental degradation. Allegations surrounding child labour and deforestation affect cocoa production and its supply chain. To address these issues, the project undertakes a comparative analysis of due diligence regulations across the above-mentioned jurisdictions. Relying on the data from UN reports and agencies like the ILO the research analyses both the legal frameworks and practical implementations of the compliance measures.

The project evaluates the intricacies of cocoa certification and labelling schemes to ensure compliance and ethical practices within the industry. Certification programs such as Fair Trade, Rainforest Alliance, and UTZ provide consumers with assurance regarding the ethical sourcing of cocoa, the project also captures the performance of these certification programmes across these jurisdictions and evaluates the efficacy of these schemes in promoting responsible production practices and fostering transparency. Additionally, the study examines domestic legislative provisions in consonance with and independent of international obligations in each of the cocoa-producing countries. The project provides insights into how to respond to the changing landscape of global cocoa supply chains by analysing the obligations and standards imposed on various stakeholders in the industry.

Thus, the project aims to bring about positive change in the cocoa industry via focusing on adherence to both international and domestic standards that promote sustainability and responsible business practices. This is aimed to be achieved by apprising the relevant stake holders for. To summarize, this research project seeks to bridge the gap between regulatory requirements and industry practices, paving the way for a more transparent and socially responsible cocoa supply chain. The project's examination of domestic and international legislation, combined with a compliance assessment, aims to provide stakeholders with the tools they need to navigate the complexities of global cocoa trade while also upholding the required standards.

III. INTRODUCTION

The research project is for aiding a Swiss startup, Besso that seeks to transform compliance with international trade law using AI-powered simplicity and to thereby make global value chains more inclusive and sustainable. With this not only do legal obligations increase but also societal expectations of brands complying with a basic standard when it comes to apprehensions of violations of human rights and environmental standards, augmenting achievement of SDGs.

The project aims to study the production of Cocoa from the perspective of trade across national boundaries. The project has taken into consideration six countries that produce the maximum amount of cocoa in the world namely, **Ecuador, Ghana, Nigeria, Brazil, India, and Indonesia.** Trade regulations today transcend beyond tariffs and quotas because consideration of environmental concerns and social responsibilities. This augmentation in newer trade policies does not spare the food and beverage industries with the unprecedented challenges. Cocoa industry and Cocoa supply chain in particular are notoriously associated with issues pertaining to human rights and environment as there are frequent allegations related to child labour and deforestation.

Through this we aim to compare due diligence regulations across various jurisdictions that the industry is subjected to. This is also because due diligence constitutes as a critical component of cross-border trade. The source of empirical data includes but is not limited to reports and surveys by the UN and its agencies such as ILO, UNICEF etc. Since the requirement relates to potential trade practices, the objective includes but is not limited to a comparative analysis of but also an examination of how they are practically applied. The project thus attempts to analyse the same through four areas, which in order are,

- An introduction to the cocoa production industry of the nation
- Risks associated with the production and supply chain on fronts such as human rights (slavery, child labour, etc.) and environment (deforestation and carbon footprints, etc.).
- Taking a stock of the national legislative framework as well as the obligations flowing out of international legal instruments.
- Practical application of the concerned legislations and compliance mechanisms.

IV. FEDERATIVE REPUBLIC OF BRAZIL

1. Introduction

Cocoa is a native plant to the Amazon and was discovered as an agricultural crop in Brazil in the 1750s. Cocoa gradually became a large contributor to the Brazilian agricultural economy. Initially, the state of Bahia contributed around 90% of cocoa beans produced in Brazil. However, several reasons including a drop in international cocoa prices, an increase in global production, and the spread of witch broom disease, led to a significant decrease in cocoa production in Brazil in the late 1980s. The production dropped from 400,000 tons annually to an all-time low of 90,000 tons annually.¹ Extensive research was done in the field and aids were provided to the local producers to resuscitate cocoa production. Today, Brazil stands as the world's sixth largest producer of cocoa beans, accounting for approximately 210 thousand metric tons of global cocoa production. Approximately 60,000 hectares of land were under cocoa production in 2022.² Cocoa production directly produces more than 300 thousand jobs spanning each stage of the production and contributes 22 billion BRL to Brazil's GDP annually.³ According to a study conducted by the International Cocoa Organization, Brazil held a share of 3.8% of the total cocoa production in the fiscal year 2020-2021.⁴

Cocoa farming employs around 75,000 producers every year.⁵ The majority of these constitute small and middle-scale producers. According to the data provided by the 2006 Agricultural Census, more than 50% of total cocoa is produced on properties having an area of less than 100 hectares. The census also noted that 40% of the total cocoa production was by family farmers.⁶

Brazil is not only one of the largest producers of cocoa but also an importer of cocoa beans. The Brazilian cocoa production industry possesses a capacity exceeding 300,000 metric tons of cocoa beans every year.⁷ Due to the fall in the annual production of cocoa beans, there arises a need to import raw cocoa beans for production to fully utilize the processing capacity. Other than being one of the largest producers of cocoa, Brazil is also the fifth largest consumer of cocoa. It offers a distinctive and complete cocoa chain, from cultivation to production followed by industry and finally consumption. Each of these stages within themselves has various substages.

Para, Bahia, Espírito Santo, Rondonia, Amazon, and Mato Grosso are the largest cocoa-producing states in Brazil. Para and Bahia alone contribute to 96% of total cocoa production in Brazil. Para

¹ Brazil, Make Mine Fine, <https://www.makeminefine.com/cocoa-sustainability/brazil/>.

² CEPLAC, Brazilian Cocoa, Ministry of Agriculture and Livestock, (2023) <https://www.gov.br/agricultura/pt-br/assuntos/ceplac/publicacoes/outras-publicacoes/cacau-do-brasil-versao-ingles-1>

³ Cocoa Life, <https://www.cocoalife.org/in-the-cocoa-origins/cocoa-life-in-brazil/>.

⁴ Quarterly Bulletin of Cocoa Statistics, Vol. XLIX, No. 4, ICCO, (2023), https://www.icco.org/wp-content/uploads/Production_QBCS-XLIX-No.-4.pdf

⁵ Ministry of Agriculture and Livestock, supra note 2, at 5.

⁶ André Piccolotto et. al, Cocoa Supply Chain, Advances and Challenges Towards the Promotion of Decent Work: Situational Analysis, Cocoa Initiative (Nov. 2018), https://www.cocoainitiative.org/sites/default/files/resources/Cocoa_EN.pdf

⁷ Ministry of Agriculture and Livestock, supra note 2, at 5.

contributes to 49.3% of total cocoa production in Brazil while the State of Bahia contributes around 45% of annual production.⁸

⁹Principal cocoa production areas (>65,000 tons)

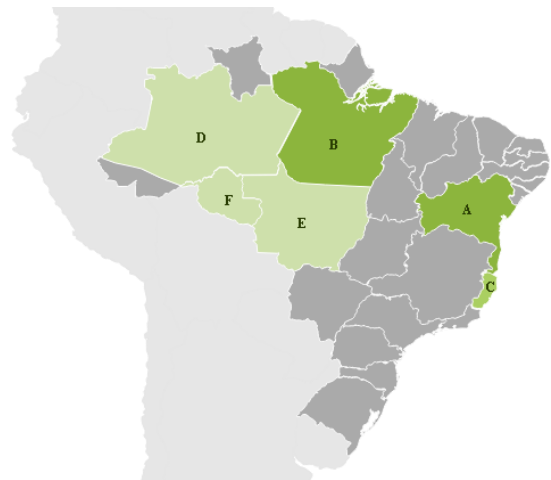
- A. Bahia
- B. Para

Areas with increasing production (>5,000 tons)

- C. Espírito Santo

Low production areas (<2,000 tons)

- D. Amazonas
- E. Mato Grosso
- F. Rondônia



Brazil offers a wide variety of flavours and a variety of cocoa owing to the cocoa plantations in different local environments. These cocoa flavours range from citrus, honey, and spiced flavours in Bahia to brownie and fudge flavours in Para. Brazilian cocoa is also known for its aura and texture of the cocoa inscribed by the cultivation in native forests. Out of the four main cocoa varieties, i.e., forastero, criollo, trinitario, and nacional, the first two varieties originated in the Amazon basin. Traditionally, the farmers employed cabruca agrosystem, especially in Para and Bahia wherein cocoa is cultivated under the shade of dense forest canopy. This system has been recognized to have the potential to minimize deforestation and a route to the environmental conversation. Farming by this system gives an average yield of 0.5 mt/ha. However, Pleno Sol, a newer system is being adopted by larger farms as the average yield of this system is 1mt/ha.¹⁰ It is characterized by complete exposure of cocoa trees to the sun and well-developed irrigation and fertilization conditions. The expansion of the cocoa supply chain using agroforestry systems has the potential to preserve rainforests in Brazil as well as provide better income and poverty alleviation opportunities to the farmers and producers.

2. Risks Associated with in Cocoa Industry: Brazil

The cocoa industry in Brazil, like in other cocoa-producing regions, faces various risks and challenges that extend across environmental, social, and economic dimensions. Some of the key risks associated with cocoa production in Brazil include:

A. Environment

The research conducted in Brazil indicates that 70,000 hectares of land where cocoa is currently found was deforested before 2008 before the imposition of Brazilian Forest Code and the researchers had also observed that there is less deforestation on properties that have cocoa than those who do not. The results of this research have been published in the article titled “The

⁸ André Picolotto, supra note 5.,at 11.

⁹ World Cocoa Foundation, <https://www.worldcocoafoundation.org/initiative/cocoaaction-brasil-en/> (last visited Dec. 23, 2023).

¹⁰ Supra note 1.

sustainable expansion of cacao (*Theobroma cacao*) in the state of Pará and its contribution to the recuperation of degraded areas and fire reduction”¹¹

The Research indicates that under the Brazilian Forest Code 50-80 percent of the property in the Amazon must be kept under native forest cover as a Legal Reserve. The forest areas converted beyond the maximum amount are to be restored for native tree vegetation. Cocoa being a native tree its cultivation is recognized as restoration which has turned cocoa into an attractive proposition for farmers.¹²

i. Carbon Footprint and Climate Change

Research titled as “Carbon Footprint of Brazilian Cocoa produced in Para State” and was published in the Brazilian Journal of Food and Technology¹³. Research findings indicate that there have also been concerns regarding the increasing carbon footprint because of the cocoa production. Pará is Brazil's leading cocoa producer. GHG Protocol methodology was used by the researchers to calculate greenhouse gas emissions with a focus on the Brazilian Trans-Amazon and Xingu regions to provide a comprehensive picture of the carbon footprint from cocoa production (conventional and organic cultivation systems).

The carbon footprint in this research was calculated using original data collected in the Trans-Amazon and Xingu regions of the state of Pará for conventional and organic cocoa cultivation. The harvesting, fermentation, and drying processes were studied, with data collected from nine farms, three of which were conventional, organic, or organic-fairtrade. According to the research it was found that the Carbon Footprint results in 10,462.37 kg CO₂ eq /t cocoa produced in Pará (Brazil) and, after carrying out a suitable composting process and eliminating the emission of methane, the amount of CO₂ released into the atmosphere decreased to 2.59 kg CO₂ eq/kg cocoa.¹⁴

According to agricultural census in Brazil¹⁵, climate change may have a direct impact on the income of over 20, 550 families. As a result, researchers conducted survey to determine how climate change will affect the future spatial configuration of cocoa production in the region.¹⁶ The researchers in this research used RCPs 4.5 and 8.5 from the six selected bioclimatic variables. These RCPs simulate changes based on the set of anthropogenic forcing scenarios related to the concentration of greenhouse gases in the future

¹¹ Adriano Venturieri et al, The Sustainable Expansion of the Cocoa Crop in the State of Pará and Its Contribution to Altered Areas Recovery and Fire Reduction, Scientific Research, <https://www.scirp.org/journal/paperinformation?paperid=118147#:~:text=Through%20this%20paper%2C%20it%20was,the%20reduction%20of%20greenhouse%20gas>.

¹² W. Niether, J. Jacobi, W.J. Blaser, , C. Andres, and L. Armengot, (2020) Cocoa Agroforestry Systems versus Monocultures: A Multi-Dimensional Meta-Analysis. Environmental Research Letters, 15, 13. <https://doi.org/10.1088/1748-9326/abb053>.

¹³ Giovanna Maria Cappa Fernandes & Priscilla Efraim, Carbon footprint of Brazilian cocoa produced in Pará state 25(1-3) Brazilian Journal of Food and Technology (2022).

¹⁴ Ibid.

¹⁵ SIDRA—Agricultural census, <https://sidra.ibge.gov.br/pesquisa/censo-agropecuario/censo-agropecuario-2017>

¹⁶ Supra note 13.

Classes	Current		RCP 4.5		RCP 8.5	
	Area (km ²)	%	Area (km ²)	%	Area (km ²)	%
Conversion zone	1597.95	0.21	15505.92	2.08	56593.59	7.61
Diversification zone	4391.77	0.59	46419.80	6.24	64436.06	8.66
Expansion zone	532394.94	71.55	279644.67	37.58	129174.18	17.36
Intensification zone	73834.26	9.92	53157.47	7.14	21657.23	2.91
Not Recommended zone	131843.07	17.72	349334.13	46.95	472200.93	63.46
Total	744061.99	100.00	744061.99	100.00	744061.99	100.00

<https://doi.org/10.1371/journal.pone.0262729.t002>

Table 1. *Quantification of the adaptation zones.*¹⁷

Source: *Climate change could reduce and spatially reconfigure cocoa cultivation in the Brazilian Amazon by 2050* (Plos One), <https://doi.org/10.1371/journal.pone.0262729.t002>

According to the Research it was found that the decrease in intensification zones as shown Table 1 used by the researchers indicates that current production areas will suffer from a loss of cocoa production suitability. As a result, the regions that currently produce cocoa are likely to suffer from the decrease in production, resulting in losses throughout the production chain. These findings are consistent with those of several other studies that found a decrease in production in many other agricultural crops in Brazil as a result of climate change.

B. Slave Labour

Brazil being among the top 10 producers of cocoa in the world is not immune from the prevalent labour issues. Production processes within the country are not free of problems. There have been cases of slave labour in the main Cocoa producing regions within Brazil. Reports have indicated that workers have been subjected to debt bondage, poor housing and working conditions.¹⁸ According to the detail report published by ILO and MPT in 2018¹⁹, 83 workers were rescued in the three inspection operations from Medicilândia (Pará) and Ilhéus (Bahia), the two regions where the bulk of cocoa is grown.

It was verified in these cases that various partnership and sharecropping rules were violated, these rules form the bedrock of labour relations in cocoa farming within the country. Moreover, there were serious irregularities such as concealment and situations of slave labour found in the cocoa fields. Report also mentions that Labour Prosecutors within those areas were interviewed, and they highlighted disrespect for the land Statute. They classified that situation as false partnership where workers do not have any autonomy on their choice of growing, which techniques to use, where and who to sell their products as provided by the law.

During the research interviews, the competent authorities acknowledged that estimating the size of the problem in the cocoa supply chain is difficult. could indicate that the problem is much larger

¹⁷ Tassio Koiti Igawa, *Climate change could reduce and spatially reconfigure cocoa cultivation in the Brazilian Amazon by 2050* <https://journals.plos.org/plosone/article/figure?id=10.1371/journal.pone.0262729.t002> (last visited, 23 December 2023).

¹⁸ Supply Chain Advances and Challenges toward the Promotion of Decent Work: A Situational Analysis (INTERNATIONAL LABOUR ORGANIZATION AND PUBLIC LABOUR PROSECUTOR'S OFFICE COCOA), https://www.cocoainitiative.org/sites/default/files/resources/Cocoa_EN.pdf.

¹⁹ Ibid.

than previously thought. They do, however, point out that the federal government's lack of structure and budgetary constraints threaten the continuity of inspections, which is critical to eliminating these practices. As a result, cocoa-producing areas receive insufficient inspection. The situation will only worsen unless violations are addressed and stopped. The inspection agencies according to the above report have identified the use of slave labour within the following farms within Brazil.

i. Uruçuca (Bahia)

In September 2017, nine workers were discovered to be working in unhealthy conditions, being paid unfair wages, and being forced to supply their products only to buyers determined by the employers - all of which violates the Land Statute, which should serve as the foundation for labour relations at the site.

ii. Una (Bahia)

A similar situation was discovered months before the inspection in Uruçuca in the municipality of Una, also in the state of Bahia. In June 2017, three workers were rescued from slavery-like conditions. The farm in question had been violating human rights since 2009.

On the farm, two hovels with "very poor maintenance and hygiene conditions" were discovered, with no electricity, toilets, or running water. The two families who lived there had to fetch water from a stream "quite distant" from their homes; the water was carried in used pesticide containers with no treatment.

C. Children in Cocoa Production

According to the report of ILO and Public Labour Prosecutor's office, there are 8000 children and adolescents working in cocoa fields in Brazil.²⁰ The report also mentions that small children and adolescents sitting under cocoa trees expertly pry open the so-called cocoa "pods" to extract the beans. The bean stacks are formed by the children and the child labour is commonly used during the harvest season. The same report also cites a study conducted by PNAD also indicated that at least 7900 children and adolescents between 10 and 17 years of age work in Cocoa Plantations in Brazil.

Report by ILO also highlights the precarity of the families in the Cocoa fields. They attribute low prices paid by the middlemen network to existence of Child labour, according to them in the harvest season there are no resources for hiring temporary labour, therefore children are employed.

²⁰ Supra note 17.

3. Domestic Laws and International Standards

A. Domestic Standards

In Brazil, the primary legislation that addresses human rights violations is the Brazilian Criminal Code (Consolidação das Leis do Trabalho), specifically Articles 149 and 207.

Under the Brazilian Criminal Code,

1. Article 149 deals with the prohibition of slave labour practices, including debt bondage and degrading working conditions. The Code also establishes penalties for those who engage in or benefit from such practices.²¹
2. Article 207 prohibits child labour and imposes specific restrictions and protections for the employment of minors. These provisions apply to the entire Brazilian territory, regardless of the specific jurisdiction.²²

CLT, 1943 in Brazil is a vast legal document with numerous articles covering various aspects of labour law

- 1. Article 58:** Defines standard working hours and the concept of the workday.²³
- 2. Article 59:** Allows for flexible working hours through individual or collective agreements.²⁴
- 3. Article 61:** Deals with overtime pay for work beyond the standard hours²⁵

Brazil Forest Code - The Forest Code (CF for Código Florestal) was approved in 2012 and it is the main legal instrument for regulating land use on private rural lands in Brazil. Its core goal is to promote environmental conservation, agricultural production and socioeconomic development

- I. Article 41 of the Forest Code** It explicitly imposes the obligation by authorizing the Federal Executive to elaborate a program supporting and promoting the conservation of the environment. Furthermore, it encourages the adoption of technologies and good practices that combine agricultural and forestry productivity with the reduction of environmental impacts as a way of enabling ecologically sustainable development²⁶

Role of Ministry of Labour and Employment

Violations of labour rights in cocoa production can be reported and investigated by various Brazilian authorities, such as the Ministry of Labour and Employment, through its inspection

²¹ Brazillian Criminal Code, Article 149.

²² Ibid, Article 207.

²³ Consolidation of Labour Laws (CLT), 1943, Article 58.

²⁴ Ibid, Article 59.

²⁵ Ibid, Article 61.

²⁶ Brazil Forest Code, 2012, Article 41.

services, and the Public Prosecutor's Office, which has the power to initiate legal action and prosecute individuals or companies involved in human rights violations.

Law No. 13.710 creating the National Policy to Encourage the Production of Quality Cocoa.²⁷

This Law establishes the National Policy to Promote Quality Cocoa Production. This National Policy aims to raise the quality standard of Brazilian cocoa by encouraging higher-quality production, industrialization, and commercialization. According to the analysis and certification processes recognized by the Public Authorities, this Law classifies high quality cocoa based on its physical, chemical, and sensory characteristics. The law lays down the requirements which are enlisted as follows. The articles mentioned below are available in Portuguese language in the original document which has been translated in English for the better understanding of the readers.

Article 1	This Law establishes the National Policy to Encourage the Production of Quality Cocoa, with the objective of raising the quality standard of Brazilian cocoa by stimulating the production, industrialization and commercialization of the product in top category. For the purposes of this Law, cocoa classified as of high standard is considered to be of a higher category quality due to its physical, chemical and sensory characteristics, according to analysis and certification processes recognized by the Government.
Article 2	The following are the guidelines of the National Policy to Encourage the Production of Quality Cocoa: I - the environmental, economic and social sustainability of production and producers; II - the technological development of cocoa farming; III - the use of the cultural, environmental, soil and climate diversity of the country for the production of cocoa from superior quality; IV - the adequacy of government action to regional peculiarities and diversities; V - articulation and collaboration between federal, state and municipal public entities and the private sector; VI – the stimulation of local economies and the reduction of regional inequalities; and VII - the valorization of Brazilian Cocoa and access to markets that demand higher quality of the product.
Article 3	The following are instruments of the National Policy to Encourage the Production of Quality Cocoa: I rural credit for production, industrialization and commercialization; II - agricultural research and technological development; III - technical assistance and rural extension; IV - rural insurance; V - managerial training and the training of qualified labour;

²⁷ Food and Agriculture Organization, Law No. 13.710 creating the National Policy to Encourage the Production of Quality Cocoa, <https://www.fao.org/faolex/results/details/en/c/LEX-FAOC178718/>.

	VI - associativism, cooperativism and local productive arrangements; VII - certifications of origin, social and quality of the products; VIII - market information; and
Article 4	In the formulation and execution of the Policy referred to in this Law, the competent bodies shall: I - establish partnerships with public and private entities; II - consider the demands and suggestions of the cocoa sector and consumers; III - to support the internal and external trade of superior quality cocoa; IV - stimulate productive investments aimed at meeting the demands of the cocoa market in top quality or fine; V - to foster the research and development of superior cocoa varieties and production technologies, and industrialisation aimed at raising the quality of the product; VI - promote the use of good agricultural practices; VII - adopt phytosanitary protection actions aimed at raising the quality of cocoa production; VIII - encourage and support the organization of quality cocoa producers; IX - offer lines of credit and financing for the production and differentiated industrialization of cocoa from quality, especially for productive restructuring and

B. International Standards

International Labour Organization - Brazil is a member of the ILO, which establishes international labour standards and promotes social justice and fair labour practices globally

In Brazil, supply chain due diligence obligations are imposed through:

1. **Article 1 of the Convention No. 29-** Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.²⁸
2. **Article 1 of the Convention No. 105** - Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress and not to make use of any form of forced or compulsory labour²⁹
3. **Article 3 of Convention No. 182** This requires states to prohibit and eliminate the WFCL. It defines a child as anyone who is under the age of 18.³⁰

International Cocoa Agreement- Brazil in 2012 also became a signatory to the International Cocoa Agreement

²⁸ ILO Forced Labour Convention, 1930 (No. 29), Article 1.

²⁹ Abolition of Forced Labour Convention 105, Article 1.

³⁰ ILO Convention no 182 on WFCL, Article 3.

Brazilian Chocolate Import Regulations

The report titled Market access brief for Chocolate and Products³¹ gives certain directions to be complied with which are as follows. It is important to note that ANVISA is responsible of the food industry in Brazil

Product Registration	The chocolate, chocolate candies, and similar regular products, without sugar or diet, are exempt from registration.
Label Development	If the label of a product is not in Portuguese, it is possible to place an adhesive label containing all mandatory information in Portuguese over the original label. This label can be placed at origin or in Brazil, but always before its commercialization. In general, the label and tag must contain the following information: <ul style="list-style-type: none"> a) Mandatory items in Front Panel b) Technical name, as defined in the specific Technical Regulations c) Brand d) Information about alcohol content e) Weight/volume indication – note the minimum height for figures and letters, according to the following table
Exporters Pro Forma and Import License	The import operation begins after the commercialization of merchandise is agreed upon by the exporter and importer. For importation, a Pro-Forma Invoice must be created, a standard document used in international commerce, containing all information about the negotiation and details of purchased merchandise. After accepting the Pro Forma Invoice, the importer must get an Import License (LI). The LI is one document issued electronically through the Integrated Foreign Trade System (SISCOMEX) by the importer and approved by ANVISA. The LI is required to clear the product

4. Practical and Actual Application

A. Regulatory Framework and Cocoa Supply Chain

A considerable portion of the cocoa produced globally comes from the farms which involve good socio-environmental practical seals. Cargill in 2013 became the first company to sell UTZ certified cocoa products.³² UTZ and Rainforest Alliance covered more than 21 countries which involved more than 900,000 cocoa producers.³³ According to a report published by Reporter Brasil in 2020³⁴, presence of certifiers in Brazil remains low.

³¹ USDA Foreign Agricultural Service, Market Access Brief for Chocolate and Products.

³² Cargill Cocoa Promise helps first Brazilian cocoa farmers to become UTZ Certified (PR Newswire,, 18 July 2013), <https://www.prnewswire.com/news-releases/cargill-cocoa-promise-helps-first-brazilian-cocoa-farmers-to-become-utz-certified-215998471.html>.

³³ Slave Labour in the Brazilian Cocoa (Reporter Brasil, Nov 2020), <https://reporterbrasil.org.br/wp-content/uploads/2020/10/Monitor-6-Cacau-EN.pdf>.

³⁴ Ibid.

Rainforest alliance for instance does not certify cocoa on Brazilian Farms. UTZ on the other hand certified only an estimate of around 7,000 tonnes in Brazil in 2019 which only amounts to 4% of the country's production in the year 2018/2019 harvest season, which also amounts to only 0.6 % of the total certification done by UTZ³⁵. It is important to note that as depicted in the table below that is a drop from around 14,000 tonnes in 2018.

UTZ COCOA PROGRAM

Estimated Production (MT)				Global Sales (MT)			
	2017	2018	2019		2017	2018	2019
Global UTZ Cocoa Volume (MT)	1,449,882	1,600,161	1,337,340	Global UTZ Cocoa Volume (MT)	1,166,649	965,845	943,436
Brazil	6,113	14,050	8,991	Brazil	2,829	4,041	2,937
Cameroon	68,437	58,957	27,283	Cameroon	71,895	43,283	31,947
Côte d'Ivoire	87,284	973,496	706,072	Côte d'Ivoire	671,954	647,873	573,038
Dominican Republic	28,714	32,873	19,359	Dominican Republic	12,923	13,830	2,338
DR Congo	17,871	26,324	27,189	DR Congo	8,694	10,403	20,293
Ecuador	83,130	64,788	58,139	Ecuador	49,580	42,925	40,074
Ghana	193,566	229,996	300,560	Ghana	176,201	97,386	147,372
Indonesia	80,959	25,162	33,840	Indonesia	84,658	18,429	42,794
Nicaragua	1,417	2,053	2,778	Nicaragua	337	716	1,141
Nigeria	99,314	124,658	116,958	Nigeria	70,876	57,487	60,383
Peru	42,468	31,894	28,092	Peru	20,892	19,500	16,986
Uganda	7,442	6,441	7,725	Uganda	5,289	2,836	2,559
Other*	3,687	2,901	2,554	Other*	2,682	725	1,573

<https://www.rainforest-alliance.org/wp>

5. Conclusion

Violations of basic labour rights are still common in Brazilian cocoa plantations even after presence of various laws and regulations. Serious cases also involve cases of contemporary slavery. The Reporter Basil concludes that cases of child labour or slave labour are less frequent in cocoa industry than in other segments, but it is also true that cocoa has been in under less supervision. There has to be increase in inspections by agencies such as ILO and Labour Prosecutor, one like that happened in 2018, which has been cited in the above sections. The problems also are in the ways how partnership contracts are enforced. The law gives the workers the status of partners however there are several examples which show partners who lack autonomy are treated as employees and earn incomes below the minimum wage. The recent instance of Cargill being fined in case of Child Labour in the cocoa farms in Brazil indicates prevalence of human rights violations.³⁶

³⁵ 2020 Certification Program (Rainforest Alliance) <https://www.rainforest-alliance.org/for-business/2020-certification-program/>.

³⁶ Marcelo Teixeira, Brazil court fines Cargill in case involving child labour on cocoa farm (Reuters, 26 Sept. 2023), <https://www.reuters.com/world/americas/brazil-court-fines-cargill-case-involving-child-labour-cocoa-farms-2023-09-26/>.

V. REPUBLIC OF GHANA

1. Introduction

Cocoa has had a huge impact on Ghana's socio-economic structure. It was first introduced in late 19th Century and today in the early 21st century it is the second largest producer of cocoa. It is the largest producer among the countries which we will be analysing in this report. Since its introduction to Ghana in the late nineteenth century, cocoa has seen multiple periods of dramatic expansions and contractions. Four distinct phases can be identified in regard to cocoa production in Ghana: introduction and exponential growth (1888–1937); stagnation followed by a brief but rapid growth following the country's independence (1938–64); near collapse (1965–82); and recovery and expansion, starting with the introduction of the ERP (1983 to present).³⁷

Figure 12.1 Ghana's Cocoa Production, 1900–2008

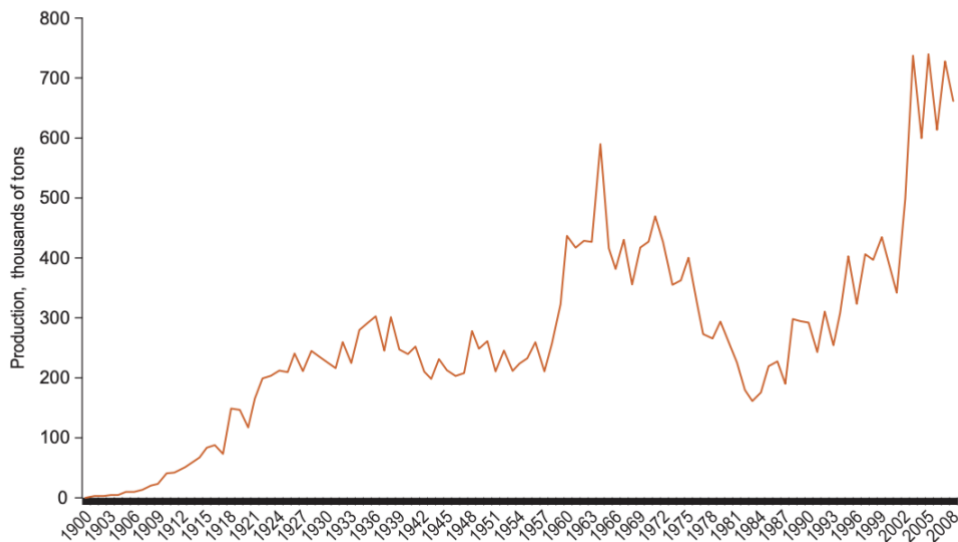


Table 2: *Ghana's Cocoa Production*³⁸

The period from 1990s to mid-2010s has been a great period for Ghana's economy. The GDP grew from US\$6.42 billion in 1992 when the country returned to multi-party democracy to US\$41 billion in 2016.³⁹ GNI per capita which measures the standard of living also grew from US\$440 per capita in 1992 to US\$1480 per capita in 2016.⁴⁰ This represents a CAGR 5.13% over the same period.⁴¹ Moreover, Cocoa amounted for 16.2% export of Ghana's total merchandise export earnings in 2019.⁴² However, does this earning for cocoa and rise in coco amount in transforming

³⁷ , Shashi Kolavalli and Marcella Vigneri, *Cocoa in Ghana: Shaping The Success of an Economy*, In: P. Chuhan-Pole and A. Manka (Eds.), *YES, AFRICA CAN: SUCCESS STORIES FROM A DYNAMIC CONTINENT* (World Bank, Washington DC) 201-217 (2011).

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² UN comtrade (United Nations), <https://comtrade.un.org/data>.

the lives of the farmers who grow the cocoa? As per the reports available, as of 2013 around 26.9% of the farmers live below poverty line.⁴³ Although this is a huge improvement⁴⁴ since the 1990s where the poverty was above 60%,⁴⁵ the country still has to more proactive steps to make sure there is holistic development of the cocoa industry. The issue of the poverty has far-reaching impacts on other parts of our research, mainly the methods of production (sustainability), child labour, and deforestation. Lacking the resources to modernise agricultural operations or hire adequate adult workers, less fortunate cocoa growers are frequently forced to rely on child labour for sustenance. Furthermore, impoverished farmers cannot afford more sophisticated agricultural methods such as fertilisers and pesticides, which contributes to the low productivity of their cocoa plants and, as a result, their low wages.

2. Domestic and International Standards

A. International Conventions Affecting Cocoa Industry

Convention	Ratification Status	Implications
UN Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment	(✓) 07 Sep 2000	<ul style="list-style-type: none"> Human rights standards in the cocoa industry ensure no cruel and inhumane treatment.
UN Convention on the Elimination of All Forms of Discrimination against Women	(✓) 02 Jan 1986	<ul style="list-style-type: none"> Women farmers form 25% of cocoa farmers⁴⁶ and this leads to women empowerment in the cocoa industry and securing their economic and social rights.
UN International Convention on the Protection of the Rights of All Migrant Workers and Members of their families	(✓) 07 Sep 2000	<ul style="list-style-type: none"> Migrant labourers play an essential role in cocoa production.⁴⁷ This ensures the enforcement of labour standards for migrant workers.
ILO C. 29, Forced Labour	(✓) 20 May 1957	<ul style="list-style-type: none"> It enforces a framework to minimize the risk of forced labour of adults as well as children.
ILO, C. 105, Abolition of Forced Labour	(✓) 15 Dec 1958	<ul style="list-style-type: none"> It's a stricter version of the Convention on Forced Labour. Its aim is to eradicate forced labour and human trafficking.

⁴³ Commodity markets, economic growth and Development 43 (UNCTAD-FAO Commodities and Development Report, 2017).

⁴⁴ While understanding the improvement the change in the poverty line in 2012 should be taken into account. The poverty line used up to 2005 was GHC 370.89; this changed to GH 1,314 in 2012.

⁴⁵ Supra note 43.

⁴⁶ Gideon Danso-Abbeam, Lloyd J.S. Baiyegunhi & Temitope O. Ojo, Gender differentials in technical efficiency of Ghanaian cocoa farms 6(5) HELIYON 2020.

⁴⁷ E.A. Kissi & C. Herzig, Labour relations and working conditions of workers on smallholder cocoa farms in Ghana 41 AGRIC HUM VALUES 109–120 (2024).

Convention	Ratification Status	Implications
ILO C. 138, Minimum Age	(✓) 06 June 2011	<ul style="list-style-type: none"> Child labour is a significant issue in the cocoa industry of Ghana. This convention ensures a minimum age of 15 Years, below which it will be illegal.
ILO C. 182, Worst Forms of Child Labour	(✓) 13 June 2000	<ul style="list-style-type: none"> It ensures that the working conditions are not hazardous for children.
UN Convention on the Child Rights	(✓) 07 Sep 1990	<ul style="list-style-type: none"> Children are subjected to worst forms of child labour. It provides a framework to combat that.
UN Convention to Combat Desertification	(✓) 17 June 1990	<ul style="list-style-type: none"> The convention aims to combat land degradation and drought, which are critical issues affecting cocoa production. Through initiatives like the 'National Action Programme Drought and Desertification,' the convention has sought to mitigate the impact of climate change on cocoa production addressing issues such as deforestation, sustainable land use, and agricultural productivity.
UN Convention on Biological Diversity	(✓) 29 Aug 1994	<ul style="list-style-type: none"> It has put pressure on the industry to address sustainability challenges such as the excessive use of fertilizers and harmful pesticides, tropical deforestation from industrial cocoa plantations, and the need to end child labour in the cocoa supply chain.

B. International cocoa agreement

The United Nations Cocoa Conference, 2010, was held at the Palais des Nations, Geneva, on 19 April 2010 and from 21 to 25 June 2010. The Parties to the existing Agreement and all States members of UNCTAD, as well as specialized agencies of the United Nations, were invited to participate in the Conference. The Conference completed its work on 25 June 2010 when, at its closing plenary, it adopted one resolution and established the text of the International Cocoa Agreement, 2010. Ghana is a member state.⁴⁸

<i>Article 23</i>	Liabilities of Members	A Member's liability to the Council and to other Members is limited to the extent of its obligations regarding contributions
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⁴⁸ International Cocoa Agreement (United Nations Conference on Trade and Development, 2010), https://unctad.org/system/files/official-document/tdcocoa10d5_en.pdf.

		specifically provided for in this Agreement. Third parties dealing with the Council shall be deemed to have notice of the provisions of this Agreement regarding the powers of the Council and the obligations of the Members, in particular, paragraph 2 of article 7 and the first sentence of this article.
<i>Article 30</i>	Information and market transparency	<p>1. The Organization shall act as a global information centre for the efficient collection, collation, exchange and dissemination of statistical information and studies on all matters relating to cocoa and cocoa products. To this effect, the Organization shall:</p> <p>(a) Maintain up-to-date statistical information on world production, grindings, consumption, exports, re-exports, imports, prices and stocks of cocoa and cocoa products;</p> <p>(b) Request, as appropriate, technical information on the cultivation, marketing, transportation, processing, utilization and consumption of cocoa.</p> <p>2. The Council may request Members to provide the information related to cocoa which it deems necessary for its functioning, including information on government policies, taxation, national standards, regulations and legislation relating to cocoa.</p> <p>3. In order to promote market transparency, Members shall, insofar as possible, provide the Executive Director with the relevant statistics within a reasonable time and in as detailed and accurate a manner as is practicable.</p> <p>4. If a Member fails to supply, or finds difficulty in supplying, within a reasonable time, statistical information required by the Council for the proper functioning of the Organization, the Council may request the Member concerned to explain the reasons for non-compliance. If it is found that assistance is needed in the matter, the Council may offer the necessary measures of support to overcome existing difficulties.</p> <p>5. The Council shall publish at an appropriate date, but at least twice every cocoa year, projections on cocoa production and cocoa grindings. The Council may use relevant information from other sources in order to follow the evolution of the market as well as assess or evaluate the current and possible future cocoa production and consumption levels. However, the Council may not publish any information likely to disclose the operation of individuals or commercial entities that produce, process or distribute cocoa.</p>
<i>Article 31</i>	Stocks	<p>1. In order to facilitate the assessment of world cocoa stocks with a view to ensuring greater market transparency, each Member shall provide, on a yearly basis, and not later than the end of May, the Executive Director with information on stocks of cocoa</p>

		<p>beans and cocoa products held in its country, in accordance with Article 30, paragraph 3.</p> <p>2. The Executive Director shall take the necessary steps to obtain the full cooperation of the private sector in this exercise, whilst fully respecting the issues of commercial confidentiality associated with this information.</p> <p>3. The Executive Director shall make an annual report to the Economics Committee on the information received on the levels of stocks of cocoa beans and cocoa products worldwide.</p>
<i>Article 37</i>	Consumption promotion	<p>1. Members undertake to encourage the consumption of chocolate and the use of cocoa products, improve the quality of products and develop markets for cocoa, including in exporting Member countries. Each Member shall be responsible for the means and methods it employs for that purpose.</p> <p>2. All Members shall endeavour to remove or reduce substantially domestic obstacles to the expansion of cocoa consumption. In this regard, Members shall regularly provide the Executive Director with information on pertinent domestic regulations and measures and with other information concerning cocoa consumption, including domestic taxes and customs tariffs.</p>
<i>Article 42</i>	Standard of living and working conditions	<p>Members shall give consideration to improving the standard of living and working conditions of populations engaged in the cocoa sector, consistent with their stage of development, bearing in mind internationally recognized principle and applicable ILO standards. Furthermore, Members agree that labour standards shall not be used for protectionist trade purposes.</p>
<i>Article 43</i>	Sustainable cocoa economy	<p>1. Members shall make all necessary efforts to accomplish a sustainable cocoa economy, taking into account the sustainable development principles and objectives contained, inter alia, in the Rio Declaration on Environment and Development and in Agenda 21 adopted in Rio de Janeiro in 1992, the United Nations Millennium Declaration adopted in New York in 2000, the Report of the World Summit on Sustainable Development held in Johannesburg in 2002, the 2002 Monterrey Consensus on Financing for Development, and the 2001 Ministerial Declaration on the Doha Development Agenda.</p>
<i>Article 51</i>	Complaints and action by the Council	<p>1. Any complaint that any Member has failed to fulfil its obligations under this Agreement shall, at the request of the Member making the complaint, be referred to the Council, which shall consider it and take a decision on the matter.</p> <p>2. Any finding by the Council that a Member is in breach of its obligations under this Agreement shall be made by a simple distributed majority vote and shall specify the nature of the breach.</p>

		<p>3. Whenever the Council, whether as a result of a complaint or otherwise, finds that a Member is in breach of its obligations under this Agreement, it may, without prejudice to such other measures as are specifically provided for in other articles of this Agreement, including article 60:</p> <p>I. (a) Suspend that Member's voting rights in the Council; and</p> <p>II. (b) If it considers it necessary, suspend additional rights of such Member, including that of being eligible for, or of holding, office in the Council or in any of its committees, until it has fulfilled its obligations.</p> <p>4. A Member whose voting rights are suspended under paragraph 3 of this article shall remain liable for its financial and other obligations under this Agreement.</p>
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Further, the *Federation of Cocoa Commerce* mandates the following:

C. Establishment of the cocoa farm

- **Cocoa culture:** Cocoa should be cultivated in the areas where it thrives best, i.e. areas with hot, moist climates, with average rainfall of between 1150mm and 2500mm, and a temperature range of 18°C to 32°C. Such areas lie along the equator in West Africa, Central and South America, and in Asia/Oceania.
- **Land:** Cocoa should be grown on land where there are no land tenure problems.
- New cocoa farms: Establishment of new cocoa farms on forest land should be avoided as far as practically possible.
- **Cocoa farms/plantations:** Cocoa farms/plantations should not be established on or adjacent to areas identified/recognized as high conservation value habitats. If rare, threatened or endangered species, or high conservation value habitats, are present on cocoa farms/plantations or nearby, appropriate measures for management planning and operations should be implemented. These should include:
 - Ensuring that any legal requirements relating to the protection of the species or habitat are met.
 - Avoiding damage to and deterioration of applicable habitats.
 - Controlling any illegal or inappropriate hunting, fishing or collecting activities; developing responsible measures to resolve human-wildlife conflicts.
 - Maintaining a “corridor” to allow for the movement of protected species between habitats.
- **Soil for cocoa growing:** The soil for cocoa growing should be rich in nutrients and should have the appropriate physical and chemical properties, level of acidity, and organic matter content that are favourable to the development of the cocoa tree.
- Shade trees: Depending on varietal requirements, adequate temporary and permanent shade trees should be provided in cocoa farms.
- **Cocoa agro-forestry:** Cocoa agro-forestry systems can provide an excellent opportunity for the partial reforestation of degraded agricultural land, or the protection of some existing forest canopy in situations where the alternative may be complete deforestation. Though cocoa agro forests do

not provide the same ecosystem services and biodiversity benefits as natural forests, they are preferable to many other kinds of agricultural landscapes.

- **Site history and field layouts:** Farmers shall keep records of the site history and field layouts.
- **Land Preparation:** Land tillage practices that improve the soil structure should be encouraged. Land preparation for new cocoa farms should be done at least one year before cocoa seedlings are planted. Permanent and some temporary shade trees should be established and well arranged to shelter young plants.
- **Planting material and rootstocks:** Choice of planting materials and rootstocks should be based on characteristics such as high productivity, quality of the bean, consumer acceptability, resistance to pests and diseases, ease of establishment and drought tolerance etc.
- **Multiplication of seeds:** Multiplication of seeds should be done in a seed garden using scientifically recommended practices. Farmers shall keep records of all the parent stocks.
- **Seedling nursery:** Each farm should have or be close to cocoa seeds and a seedling nursery that is properly maintained and shaded.
- **Pattern and density of cocoa farm:** Cocoa should be planted in the most suitable pattern and density according to the varietal requirements to ensure high productivity and easy management of the farms.

3. Domestic Regulations

A. Related to Registration⁴⁹

- i. A Company wishing to engage in the external marketing of cocoa must
 - a) be a Licensed Buying Company (LBC) and must have participated in the internal marketing of cocoa for a minimum period of two cocoa crop years.
 - b) have purchase a minimum of 10,000 tonnes of cocoa per year over the immediately preceding two consecutive crop years.
 - c) have personnel who possess the relevant technical know-how and experience in external marketing or can demonstrate it has access to the requisite human resources, i.e. as may be the case in regulation 1.5.
 - d) must demonstrate that it has access to adequate financial resources.
- ii. LBCs that qualify to export or have been licensed to export may come together to form a company for the purposes of exporting cocoa.
- iii. For the avoidance of doubt, the dispensation under regulation 1.2 shall not be available to LBCs that do not qualify to engage in direct exports.
- iv. LBCs that do not qualify to export under regulations may market and export their quota through any licensed exporter and CMC.
- v. The company/companies referred to in regulation 1.2 above may be licensed as exporters.
- vi. The company/companies referred to in regulation 1.5 above, together with CMC and any other LBCs licensed to export shall be the sole exporters of cocoa beans.
- vii. A Licensed Buying Company wishing to participate in the external marketing and export of cocoa must apply to for a licence.

⁴⁹ Ghana Cocoa Board Law, 1984, <https://faolex.fao.org/docs/pdf/gha132746.pdf>.

4. Government programmes/ policies/ initiative

For any sector to flourish the support of the Government of the country is necessary. The Government regulates the finances, aid to the farmers, sustainability of the practices, environment protection and many other aspects of the production. The major regulators of coco production of coco are COCOBOD and MOFA.⁵⁰ The COCOBOD regulates the entire operation that happen in the country of Ghana. Which includes production, internal marketing (Purchasing clerks, Licensed Buying Companies, Cocoa Marketing Company), and export.⁵¹ However, MOFA only regulates the operation of farmers i.e., production of coco beans.⁵²

Some of the major programmes relating to coco by the government of Ghana and other international organisations have been listed below:⁵³

A. ILO Cocoa Communities Project⁵⁴

Stake holders

- International Cocoa Initiative (ICI)
- International Labour Organization (ILO)

Areas of intervention –

- Public certification on labour conditions
- Information provision to partners on best practices on child labour.

Achievements⁵⁵

- In December 2012, the Social Partners in Ghana (GEA and TUCG) signed a Bipartite Declaration on Child Labour to re-dedicate and commit themselves to the fight against all forms of child labour and acknowledge that both employers and workers have a role to play in combating child labour.
- A draft report was validated by national partners on 15th May, 2012 and the final report shared with key education and child labour stakeholders including Ghana Education Service (GES) and the 4 Cocoa Community Project District Assemblies.

B. Sustainable Tree Crops Programme (STCP)⁵⁶

⁵⁰ Policy Document and Brief for engagement with government and private sector in cocoa: A case of Ghana (International Institute of Tropical Agriculture and Rainforest Alliance, 2020), <https://cgspace.cgiar.org/server/api/core/bitstreams/49a23788-d9b7-4a42-a3cd-e1387f517147/content>.

⁵¹ L.C. Glin, P. Oosterveer, A.P.J. Mol. Governing the organic Cocoa Network from Ghana: Towards Hybrid Governance Arrangements? 15 JOAC 43-49 (2015).

⁵² Ibid.

⁵³ V. Bitzer, P. Glasbergen & P. Leroy, Partnerships of a Feather Flock Together? An Analysis of the Emergence of Networks of Partnerships in the Global Cocoa Sector 12(3) GLOBAL NETWORKS 355–74 (2012)

⁵⁴ Good Practices and Lessons Learnt in Cocoa Communities in Ghana (ILO-IPEC Cocoa Communities Project, 2015), <https://www.ilo.org/ipeinfo/product/download.do?type=document&id=27315>.

⁵⁵ International Programme on the Elimination of Child Labour: Towards Child Labour Free Cocoa Growing Communities (ILO), <https://www.ilo.org/ipecc/projects/global/ccp/lang--en/index.htm>.

⁵⁶ S. David, Knowledge Improvement and Social Benefits among STCP Farmer Field School Participants in Cameroon 21 (STCP Working Paper Series, 2007),

Stake Holders

- IITA
- USAID
- World Cocoa Foundation,
- Ministry of Finance and Economic Planning and
- COCOBOD

Areas of intervention

- Farmer training: Farmer Field School, IPM.
- Sharing of practice and research-related information.
- Support replanting of hybrid cocoa varieties in former cocoa-growing areas.
- Addressing the environmental and social impacts of cocoa production.
- Facilitation of partnerships between researchers, local communities, donors and companies.

Achievements

- In Ghana, for every 1,000 farmers sensitised to child labour issues through the farmer field school curriculum, over 200 children are voluntarily removed from dangerous farm work.⁵⁷

C. Yayra Glover organic cocoa programme⁵⁸

Stake holders

- Yayra Glover Ltd
- Pakka Trade Ltd
- COCOBOD

Areas of intervention

- Promotion of organic and sustainable cocoa production in Ghana
- Trading of organic and sustainable cocoa beans
- Training in organic and sustainable cocoa farming

Achievements

- Yayra Glover Limited has received an award as the OUTSTANDING ORGANIC COCOA EXPORTER OF THE YEAR at the second edition of the 2021 Ghana Agriculture and Agro-processing Awards (GAAPAWARDS) held at the Movenpick Ambassador Hotel in Accra on April 9, 2021.⁵⁹

<https://biblio.iita.org/documents/U07RepDavidKnowledgeNothomNodev.pdf-35d930ace7274adf9707cb1d0f0c3965.pdf>.

⁵⁷ SJ. Veldare, T.P. Tomich, Sustainable Tree Crops Programme in Africa (ASB-Partnership for the Tropical Forest Margins and World Agroforestry Centre, 2006), <https://www.asb.cgiar.org/PDFwebdocs/ASB-Impact-Cases-1-STCP.pdf>.

⁵⁸ Yayra Glover, Internal Control System Manual (2008).

⁵⁹ Yayra Glover Limited Adjudged Outstanding Organic Cocoa Exporter of the Year (Yayra Glover, Dec. 28, 2023), <https://www.yayraglover.com/news/yayra-glover-limited-adjudged-outstanding-organic-cocoa-exporter-of-the-year/>.

D. Empowering Cocoa Households with Opportunities and Education Solutions (ECHOES)⁶⁰

Stake holders

- World Coco Foundation.
- Implemented by Winrock with sponsorship from USAID.

Areas of intervention

- Strengthening of education policy that mobilizes government ministries
- Focus on the next generation of cocoa farmers
- Development of school gardens and demonstration cocoa plots
- Applied learning training for out-of-school youth
- Enhancing community participation

Achievements

- Support to women's groups resulted in the establishment and formalization of eight women's groups in Ghana, composed of 799 members. Together these groups saved 1,839,500 FCFA (3,679 USD) to be used for educating their children, especially girls.⁶¹

E. In Ghana, 15 literacy classes were set up in the project communities. 249 adults and 253 OSY literacy students successfully completed the first level literacy course out of 498 adults and 183 OSY initially enrolled. After the introduction of sport activities, more OSY joined the program accounting for the increase in OSY completion. Over 89% of these students are now able to read, count, and calculate. More than half of these students can send also read and send SMS messages on their mobile phones.⁶²Cocoa Livelihoods Program⁶³

Stakeholder

- World Cocoa Foundation in collaboration with a consortium of five organizations mentioned below,
 - Agribusiness Services International (ASI),
 - ACIDI/VOCA affiliate,
 - GTZ,
 - GmbH,
- IITA/STCP,
- SOCODEVI
- TechnoServe

Areas of intervention

- Farmer training
- Improving production and quality at the farm level

⁶⁰ World Cocoa Foundation: Empowering Cocoa Households with Opportunities and Education Solutions, https://www.worldcocoafoundation.org/wp-content/uploads/files_mf/1476299107ECHOESFinalProgramReportDecember2015.pdf.

⁶¹ Ibid, at 6.

⁶² Ibid, at 7.

⁶³ Cocoa Livelihood Programme: Phase 1 Evaluation Executive Summary, https://www.worldcocoafoundation.org/wp-content/uploads/files_mf/1476297731CLPIEvaluationCLPIBaselineExecutiveSummaryENJuly2014.pdf.

- Equipping farmers with business skills
- Promoting diversification of income
- Improving access to inputs and support services

F. Cadbury Cocoa Partnership⁶⁴

Stakeholder

- Cadbury
- UNDP Ghana
- COCOBOD,
- Ministry of Finance and Planning
- Ministry of Employment and Social Welfare
- World Vision International
- Care International and Voluntary Service Overseas.

Areas of intervention

- Sustainable livelihoods (from cocoa and other means):
 - Increasing productivity, quality and the rehabilitation of farms
 - Strengthening farmer' organizations
 - Youth engagement in cocoa production
 - Increasing household incomes from alternative livelihoods
 - Increasing household food security
- Community-centred development (basic social infrastructure, education, health care and water)
- Institutional engagement

G. Mars Partnership for African Cocoa Communities of Tomorrow (iMPACT)⁶⁵

Stakeholder

- International Cocoa Initiative (Participatory Development Associates),
- AFRICARE
- GIZ
- IFESH
- Rainforest Alliance and STCP

Areas of intervention

- Promotion of an integrated approach that includes agriculture, environment, education and health, aimed at improving incomes and the welfare of **cocoa communities** through:
 - capacity building of cocoa farming communities'
 - reduction of the worst form of child labour

⁶⁴ Cocoa Life sustainability programme expands to cover Cadbury chocolate through new partnership with Fairtrade (Fairtrade Foundation, 2015), <https://www.fairtrade.ie/wp-content/uploads/2015/01/Cocoa-Life-announcement-Joint-Mondelez-and-Fairtrade-press-release.pdf>.

⁶⁵ Livelihood Launches an unprecedented initiative in Ghana to help lift Farmers out of poverty (Livelihoods Funds, 14 Oct. 2022), <https://livelihoods.eu/can-smallholder-cocoa-farmers-be-prosperous-livelihoods-new-project-in-ghana-2/>

- preservation of the environment awareness raising on health issues (HIV, malaria)
- promotion of better agricultural practices
-

H. Millennium Villages Project⁶⁶

Stakeholder

- Japanese grant through the UNDP

Areas of intervention

- Targeting a whole package of improvements in health care, education, infrastructure and agriculture productivity to improve the livelihoods of cocoa farmers

I. Cocoa Abrabopa Association⁶⁷

Stakeholder

- Cocoa Abrabopa Association,
- IFDC,
- Technoserve,
- CRIG

Areas of intervention

- Promotion of a business approach: basic business training to farmers
- Training on protection of natural resources, management of health/sanitation

J. UTZ Certified – certification of sustainable cocoa in Ghana⁶⁸

Stakeholder

- West Africa Fair Fruit Company
- Solidaridad

Areas of intervention

- Development of UTZ Certified Code of Conduct
- Implementation of a series of pilot projects to test UTZ Certification in Ghana

K. Rainforest Alliance Ghana⁶⁹

Stakeholder

- Agro-Eco Louis Bolk
- Rainforest Alliance

⁶⁶ The Next Five Years: 2011-2015 (The Millennium Villages Project), https://studio.edx.org/asset-v1:SDGAcademyX+ASD001+1T2020+type@asset+block@Millenium_Villages_Project_Report_2011-b.pdf.

⁶⁷ Our Vision (Cocoa Abrabopa), <https://cocoabrabopa.org/about-us/our-vision/>.

⁶⁸ M. Bennett, et. al., Cocoa Farms in Ghana: An Evaluation of the Impact of UTZ Certification on the Sustainability of Smallholders Supported by the Solidaridad Cocoa Programme (2010-2012) (COSA and ISSER, 2013), <https://thecosa.org/wp-content/uploads/2015/05/Ghana-Cocoa-Evaluation-2010-13-UTZ-Certified-and-Solidaridad-Univ-of-Ghana-ISSER-2013.pdf>.

⁶⁹ Rainforest Alliance, <https://www.rainforest-alliance.org/country/ghana/>.

Areas of intervention

- Building knowledge and understanding on the Rainforest Alliance standard for sustainable agriculture
- Developing local indicators for sustainable cocoa and other crops

Conclusion

Ghana's cocoa sector has grown significantly as a result of international collaborations and government initiatives targeted at enhancing farmer sustainability and livelihoods. Sustainable practices, replanting, and farmer education are the main focuses of programmes like the Yayra Glover organic cocoa programme, the STCP, and the ILO Cocoa Communities Project. Community development and livelihood diversification are prioritised through initiatives like the Cadbury Cocoa Partnership and the iMPACT. These programmes support sustainable agriculture and fight child labour in accordance with international norms. The MOFA and COCOBOD are two important organisations that play a major role in ensuring monitoring and accountability through domestic rules. Ghana hopes to address poverty, child labour, and other issues while advancing the sustainability, equality, and economic viability of the cocoa sector through these cooperative activities.

VI. FEDERAL REPUBLIC OF NIGERIA

1. Introduction

It is essential to begin with an emphasis on the role played by Cocoa (*Theobroma Cacao*) in Nigeria's economy, particularly foreign exchange. Even though the nation earns a significant amount of foreign exchange from crude oil petroleum, Cocoa still remains the highest foreign exchange earner amongst all agricultural commodities. As of 2022, Nigeria stands as the world's fourth largest cocoa producer, covering 6.5% share of global production.⁷⁰ Out of the total export amounting to 804 million USD, 90% is core Cocoa exports, whereas the remaining are Cocoa butter and Cocoa paste.

Speaking of the last decade, Nigeria on an average produced about 249 thousand metric tonnes of Cocoa with the record lowest being in 2014-15 at 195 thousand metric tonnes and the highest being in 2020-21 at 290 thousand metric tonnes.⁷¹



To be precise, Cocoa processing is a major hub within Nigeria, which, as per the *IMARC Impactful Insights* is expected to have a CAGR of 6.76% during the incumbent five year period of 2023 – 2028.⁷² This can also be attributed to measures such as the NPEC focus on expanding on expanding the trade activities for cocoa beans by establishing specialized units, such as the Cocoa Association of Nigeria.⁷³ However, the last decade, also exposed the disparity in benefits of rising

⁷⁰ Nigerian Promotion Export Council, <https://nepc.gov.ng/importer/nigeria-product/cocoa/>.

⁷¹ Statista, <https://www.statista.com/statistics/497865/production-of-cocoa-beans-in-nigeria/>.

⁷² IMARC Impactful Insights, Nigeria Cocoa Processing Market Report by Bean Type, Product Type, Application 2023-2028, <https://www.imarcgroup.com/nigeria-cocoa-processing-market>.

⁷³ Ibid

Cocoa products demand felt by farmers and MNCs that acquire Cocoa beans.⁷⁴ The main producing states in Nigeria are Ondo (highest), Ekiti, Oyo, Osun, Ogun, Delta, Edo, Cross Rivers and Akwa Ibom, primarily the southwestern states.

Foreign trade of Cocoa in Nigeria, is primarily done in the currencies US Dollar, British Pounds Euro, and Yen. The NPEC advises two methods of payment for smoother trade, which are Open Account and Documentary Collections. However, in a very recent FGD, it was concluded that “going with the recent trend, oil palm has a better advantage in terms of less attention and expenses compared to cocoa production.” Opinion differed in farmers in the southwestern regions of Nigeria where Cocoa has a promising future.

2. National Compliances

The most recent legislative source of Cocoa and Cocoa Production regulations in Nigeria is the *Cocoa and Cocoa Producing Regulations 2021* published in the Official gazette of Nigeria on the 26th July 2021, as *Government Notice number 152* in Volume 108.⁷⁵ As essential, the power to bring in these regulations was derived from the following legal provisions:

- Section 5 and 30 of the National Agency for Food and Drug Administration and Control Act 2004
- Section 12 of the Food, Drug and Related Products (Registration etc.), 2004
- Inherent powers of the Governing Council of the National Agency for Food and Drug Administration and Control with the approval of the Minister of Health

1.	Scope Of Application	The Regulations apply to cocoa and cocoa products that are manufactured, imported, exported, advertised, sold, distributed, or used in Nigeria.
2.	Prohibitions	Cocoa or Cocoa product shall NOT be manufactured, imported, exported, advertised, sold, distributed, or used in Nigeria, UNLESS it has been registered in accordance with the provisions of these regulations.
3.	Categorisations, definitions, compositions, and properties of Cocoa Products	Specified in the 1 st Schedule to these Regulations ⁷⁶

⁷⁴ F. D. Babalola, O. E. Ayinde, et al., Risks and coping strategies of production and marketing of cocoa in Ondo State, Nigeria 91 AGROFORESTRY SYSTEMS 211 – 220.

⁷⁵ Cocoa and Cocoa Production Regulations 2021, Federal Republic of Nigeria Official Gazette, 26 July 2021, https://www.nafdac.gov.ng/wp-content/uploads/Files/Resources/Regulations/REGULATIONS_2021/COCOA-AND-COCOA-PRODUCTS-REGULATIONS-2021.pdf

⁷⁶ Ibid

4.	Permitted Additives	Specified in the 2 nd Schedule to these regulations ⁷⁷
5.	Maximum limits of Containments to Cocoa Products (also contained in 3 rd Schedule to these regulations)	<p>Cocoa Products shall NOT contain contaminant in</p> <ol style="list-style-type: none"> a) Amount and in such a form that is harmful to the health of the consumer b) Excess of the quantity specified in the 3rd schedule to these regulations <p>Permitted Regulations</p> <ul style="list-style-type: none"> - Arsenic (As): 0.5mg/kg - Copper (Cu): 20mg/kg - Lead (Pb): 1mg/kg
6.	Information on Labelling	<ol style="list-style-type: none"> a) Cocoa products shall be labelled in accordance with the Agency's Pre-packaged Labelling Regulations b) Cocoa product that is processed with hydroxides or carbonates of magnesium shall, conspicuously carry the name of the cocoa product on the principal display panel of the label with any of the phrases; "Processed with alkali", "Processed with (naming the alkali)" or "Alkali treated" or any such similar statements c) Where sweeteners have been added to the product, the phrase "artificially sweetened" or "with added sweeteners" or "with sugars and added sweeteners" shall appear in close proximity to the name of the food or any such similar statements d) Any characterising flavour (other than chocolate flavour), aromatic substance or ingredient shall form part of the name of the product
7.	Ash limits for cocoa	The ash limit provided for cocoa products in these Regulations may be increased for cocoa products processed with alkali as provided in regulation 6 (2) of these Regulations by the amount of ash from the processing agent used
8.	Conditions for claim that food is Cocoa based	Where a statement or claim implying that a food is cocoa based is made on any label or in any advertisement, the food shall contain not less than 20% m/m of cocoa
9.	Offences and Penalties	<ol style="list-style-type: none"> i. A person who contravenes any of the provisions of these Regulations commits an offence and is liable on conviction, in the case of- <ol style="list-style-type: none"> a) an individual, to imprisonment for a term not exceeding one year or to a fine not exceeding N800,000.00 or to both; and b) a body corporate, to a fine not exceeding N5,000,000.00 ii. Where an offence under these Regulations is committed by a body corporate, firm or other association of individuals every-

⁷⁷ Ibid

		<p>a) director, manager, secretary, or other similar officer of the body corporate</p> <p>b) partner or officer of the firm;</p> <p>c) trustee of the body concerned;</p> <p>d) person concerned in the management of the affairs of the association; or</p> <p>e) person who purports to act in a capacity referred to in paragraphs (a) to (d) of this sub regulations</p> <p>is liable to be proceeded against and be punished for the offence in the same manner as if the person committed the offence, unless the person proves that the act or omission constituting the offence took place without his knowledge, consent, or connivance.</p>
10.	Forfeiture after Conviction	<p>A person convicted of an offence under these Regulations shall forfeit to the Federal Government</p> <p>a) asset or property constituting proceeds derived from or obtained, directly or indirectly, as a result of the offence; and</p> <p>b) property or instrumentalities used in any manner to commit or to facilitate the commission of the offence</p>
11.	Enforcement of the Regulations	The Agency shall be responsible for the enforcement of these regulations
12.	Interpretation	<p>In these Regulations-</p> <p>"Agency" means the National Agency for Food and Drug Administration and Control;</p> <p>"Cocoa product" means a product derived from cocoa beans and includes cocoa nibs, cocoa liquor, cocoa mass, chocolate, bittersweet chocolate, semi-sweet chocolate, dark chocolate, sweet chocolate, milk chocolate and white chocolate, unsweetened chocolate, bitter chocolate, chocolate liquor, cocoa powder, and low-fat cocoa powder; and</p> <p>"Proceeds" means any property derived or obtained, directly or indirectly, through the commission of the Offence</p>
13.	Citation	These regulations shall be cited as Cocoa and Cocoa Products Regulations, 2021.

3. International Compliances

There is a certain list of documents that the exporting agency must obtain such as proforma invoice, bill of lading, certificate of origin, phytosanitary certificate, and other shipping and

customs-related documents. It is pertinent to note that some of these compliances were discontinued after World War II⁷⁸

- i. Certification from Nigeria’s Cocoa Marketing Company before you can export cocoa beans from Nigeria (NPEC)⁷⁹
- ii. Need of a NGCC, if the value of the same exceeds USD 5,000
- iii. An export license through Nigeria’s Securities and Exchange Commission within 10 days of exporting the goods.
- iv. Need of a license from Nigeria’s Contraband Control Authority, to keep a check on the issue of Contraband Control.
- v. Details of the ultimate consignee such as the name and address, on the Bill of lading.

4. Voluntary certification

There are primarily *four types of voluntary certification* in cocoa production in Nigeria.

<p>FAIR TRADE CERTIFICATION</p>	<p>Fair Trade certification is provided by fair trade USA. It calls for auditing of cocoa producers based on four pillars of standards:</p> <ol style="list-style-type: none"> i. Income sustainability ii. Empowerment iii. Well-being iv. Environmental sustainability <p>The 2018 Fair trade annual report states that Fair trade certification is the sole certification that ensures and guarantees higher income to the workers and farmers with its focus on two primary mechanisms, investment in community development, and implementation of standards of Fair trade⁸⁰.</p> <p>Fair trade standards include payment of monies earned from cocoa along with a Fairtrade premium consisting of Fair-Trade minimum price and community development premium. The focus of the Fair-Trade standard is towards eradication of all forms of child labour in cocoa manufacturing through guidance on minimum working age along with investment in community building through providing clean water, healthcare, and education.⁸¹</p>
<p>UTZ CERTIFICATION</p>	<p>UTZ Certification is another certification that focuses on cultivating socially and environmentally responsible cocoa production that benefits both the market and the producers. In order to get a UTZ certification, the farmer must comply with</p>

⁷⁸ Olisa Godson Muojam, Cocoa Export Permit and Quota System In Nigeria During World War II, 1939-45 15 AFRICAN ONLINE JOURNALS (2014).

⁷⁹ How to Export Cocoa Beans from Nigeria: A step-by-step guide (Money Management Series, 18 Sept. 2022), <https://mmsplusng.com/how-to-export-cocoa-beans-from-nigeria-a-step-by-step-guide/>.

⁸⁰ How Fairtrade works (Fairtrade International), <https://www.fairtrade.net/about/how-fairtrade-works..>

⁸¹ Choosing A Fairer Future through Trade (Annual Report 2018-19) https://files.fairtrade.net/publications/2018-19_FI_AnnualReport.pdf.

	<p>the latest version of the <i>Certification Protocol 4.3, Code of Conduct (Code)</i>, Code checklists, Crop specific module and applicable Guidance documents⁸².</p> <p>UTZ Code is governed by the following fundamental blocks:</p> <ol style="list-style-type: none"> i. Management ii. Farming Practices iii. Working Conditions iv. Environment
RAINFOREST ALLIANCE CERTIFICATION	<p>Rainforest Alliance is a certification agency that requires the farmers to meet the Sustainable Agriculture Network’s criteria, which is including but not limited to agronomic, social, environmental, and labour management. The primary objective of Rainforest alliance certification is to equitable benefit to cocoa farmers from the United Nation’s Universal Declaration of Human Rights and Children’s Rights Conventions, and adherence to International Labour Organization conventions and recommendations⁸³.</p> <p>The Sustainable Agriculture Standard of this certification is divided into the following two parts to promote sustainable agriculture:</p> <ol style="list-style-type: none"> i. Farm Requirements ii. Supply Chain Requirements <p>In 2018 Rainforest Alliance and UTZ have merged to increase the certification reach and cover sustainable agriculture and supply chains⁸⁴.</p>
CERTIFIED ORGANIC	<p>In order to preserve human health, the health of soils and ecosystems, and the reduction of poverty, Certified Organic is founded on four principles: health, ecology, fairness, and caring. In order to receive certification, cocoa must be grown without the use of artificial fertilisers, and soil conservation and plant protection techniques must be used⁸⁵.</p> <p>The impact of voluntary certification has been studied extensively with studies suggesting that compared to uncertified marketers, certified cocoa marketers have a larger margin. Profits from certified cocoa marketing are greater than those from non-certified cocoa marketing. Uncertified marketers have below-average productivity in either scenario but would benefit more from certification. Certified</p>

⁸² Utz Certification Code of Conduct Certification- Service Information (Jan. 2022), <https://preferredbynature.org/sites/default/files/2020-02/NEPCon-UTZ-farm-certification-factsheet-EN-Jan2020.pdf>.

⁸³ Rainforest Alliance Sustainable Agriculture Standard (Rainfoerst Alliance, 2021), https://www.rainforest-alliance.org/wp-content/uploads/2020/06/2020-Sustainable-Agriculture-Standard_Introduction.pdf.

⁸⁴ Longang Saubaber Gamo et al., Adoption of Cocoa Certification Scheme and Farmer’s Technical Efficiency in Cameroon: A Double Bootstrap Procedure JOURNAL OF PRODUCTIVITY ANALYSIS (2023).

⁸⁵ Joseph Oseni & Adewale Adams, Cost Benefit Analysis of Certified Cocoa Production in Ondo State, Nigeria (AgEcon, 2013).

marketers, on the other hand, have above-average market performance whether or not they are certified ⁸⁶ .

5. Inadequacies of certification

The certifying bodies brag of drastically cutting down on activities like underage labour. However, research on the Rainforest Alliance, Fairtrade, and UTZ certification programmes for chocolate manufacturers, such as Hershey, Mars, and Nestlé, has shown inconsistent findings. It was discovered that although UTZ authorised more cocoa than any other auditing organisation, UTZ certified farms were more likely than other non-certified farms to have child labourers, including minors working in hazardous conditions.⁸⁷ According to the investigations, producers had an easy time breaking the certification terms since they were rarely inspected and, when they were, they were given adequate notice to avoid penalties for breaking the certification terms. Moreover, independent audits failed to discover reduced child labour rates at accredited producers.

6. Administrative review of export of Cocoa

A. Production of cocoa

The import, export, advertisement, manufacturing etc of cocoa in Nigeria is governed by the Cocoa and Cocoa Products Regulations, 2021 promulgated under section 5 and 30 of the National Agency for food and Drug administration and control act.⁸⁸ Section 2 of the rules prohibit manufacturing, exporting, importing, advertising, selling, and distributing cocoa without registering the products with the government first. The categorization of cocoa products has been given under the first schedule whereas the second and third schedules cover specify permitted additives and the maximum limits of containments allowed in cocoa products respectively⁸⁹. Section 6 of the rules requires the Cocoa products to be labelled in accordance with the National Agency for Food and Drug Administration and Control's standards.

B. Export of cocoa

Exporting Cocoa products from Nigeria is a complicated process. In order to export cocoa products, the first step is to obtain permission from the Nigerian Customs Service in the form of an Exporter's certificate issued by NEPC (Nigerian Export Promotion Council)⁹⁰. This is followed by a Certificate of Origin upon approval, which needs to be included to the shipment paperwork. Certificate of Origin, an international trade document certifies whether the exported product is

⁸⁶ Taiwo Adesiyun et al., Impact of certification on market performance of cocoa industry in OSUN State, Nigeria, 8 SOCIAL SCIENCE AND HUMANITIES OPEN (2023).

⁸⁷ Josh Allfredge & Sarah Liuzzi, Synthesis Review of OCFT Work In Cocoa And Fishing/Seafood (United States Department of Labour 2022).

⁸⁸ §5, Cocoa and Cocoa Products Regulations, 2021, Regulations No. S.I. No. 60., July 7, 2021, (Federal Republic of Nigeria).

⁸⁹ Ibid, § 2.

⁹⁰ Export Documents and Procedure (Nigerian Export Promotion Council), <https://nepc.gov.ng/get-started/export-documents-procedures/>.

fully produced, manufactured, or processed in the exporting country⁹¹. Additional documents required as a part of general trade practices includes a Commercial Invoice, a Packing List, and a Bill of Lading. The weight, grade, and type of cocoa beans as well as the nation of destination must be included on the Bill of Lading. Lastly, in order to export, a Phytosanitary certificate issued by the NAQS (Nigeria Agricultural Quarantine Service) is also required⁹².

7. Risks associated with Cocoa Production

A. Children, Labour and Slavery

Not only recently, but for a few years, child welfare organisations have been attempting to expose as well as address the issue of large-scale involvement of children in the Cocoa production industry.⁹³ The issues are not merely limited to Child Labour but also include Slavery in some parts of Western Africa.⁹⁴ As of 2022, along with Gold and Granite, Cocoa is also a commodity, the production cycle of which involves *child labour or forced labour*.⁹⁵ The Department of Labour, United States Government, carried out an assessment, and formulated a report titled "Sweat and Oil". The report enlisted five categories of progress, namely Significant Advancement, Moderate Advancement, Minimal Advancement, No advancement and No Assessment. In the 2022 assessment carried out by the US Department of Labour titled "2022 Findings on the Worst Forms of Child Labour", Nigeria was categorised as Moderate Advancement, in efforts to eliminate worst forms of child labour.⁹⁶ One of the reasons for this is that family labour was the highest form of labour among the cocoa farmers. In as much as this has its advantage of little to no cost, it has its negative impacts in the form of Child labour.⁹⁷ Out of various agricultural commodities, Cocoa now remains the dominant one in Nigeria, and considering the age group of 5 – 14, a total of 15%, amounting to 6,798,456 children are engaged in working, i.e., child labour. 5 additional state governors in Nigeria also signed the Child rights Act that prohibits the employment of children in illicit activities. To monitor the same, the government hired over 180 labour inspectors and the number of inspections in a year went up from 10,526 to 17,026 in a single year.

Even though among agricultural commodities, Cocoa processing is the dominant industry, there has not been a study on the employment of child labour practices specific to the same, however, a US Department of Labour presents the following statistics for the same.⁹⁸

⁹¹ Ibid.

⁹² Export Cocoa (Nigerian Export Promotion Council), <https://nigeriatradingportal.fmiti.gov.ng/objective/117?l=en>.

⁹³ O. A. Williams, et. al., Perception of Nigerian Cocoa Farmers on Child Labour: Implications for Hazardous Child Labour 10(3) ASIAN JOURNAL OF AGRICULTURAL EXTENSION, ECONOMICS & SOCIOLOGY 1–11 (2016).

⁹⁴ Food Empowerment Project, <https://foodispower.org/human-labour-slavery/slavery-chocolate/>.

⁹⁵ Bureau of International Labour Affairs, <https://www.dol.gov/agencies/ilab/reports/child-labour/list-of-goods#:~:text=The%20most%20common%20agricultural%20goods,and%20diamonds%20are%20most%20common.> (last accessed, Dec. 25, 2023).

⁹⁶ Findings on the Worst Forms of Child Labour (US Department of Labour), <https://www.dol.gov/agencies/ilab/reports/child-labour/list-of-goods#:~:text=The%20most%20common%20agricultural%20goods,and%20diamonds%20are%20most%20common.>

⁹⁷ Supra note 5

⁹⁸ Supra note 9

Children	Age Group	Percentage
Working (%)	5 to 14	15%
Attending School (%)	5 to 14	78%
Combining Work and School (%)	7 to 14	10.4%
Primary Completion Rate (%)		Data Unavailable

The Primary source for the data is from an ILO Survey.⁹⁹

B. Risks associated with Environmental and Climatic Conditions

Naturally, climatic conditions have a substantial affect on the Cocoa production. Nigeria, takes a lead over other nations in this aspect as its climate supports production and supply of cocoa beans from October to June. This is a relatively long cocoa production period where 1.4 million hectares of farmland is cultivated.¹⁰⁰ Farmers are aware of climate change and adapt to its effects on cocoa production in Ondo State, Nigeria. The major general effects perceived by the farmers are irregular rainfall pattern, high temperature, variation in sunshine hours and excessive rainfall.¹⁰¹ Not just climatic conditions but also indiscriminate and unregulated usage of pesticide has lately led to the concentration of toxic materials in the environment, consequently affecting the cocoa farms.¹⁰² However, more than reasons such as varying rainfall patterns, sunshine hours, sick cocoa trees, resulting from the attack on Cocoa pods amounts to about 50% loss in the output.¹⁰³ The reason for the persistence of this issue, as obtained from the farmers are poor reliability and low potency of pesticides and fungicides, they have access to. This is a significant issue as usage of ineffective pesticides has led to resistant pests and insects, that often arrive with human movement.¹⁰⁴ This evinces the need for a top-down intervention from state and national government at ensuring a basic standard of chemicals to avoid adverse impacts on the environment. A study attempting to analyse the relationship between weather variables such as temperature and humidity over half a century (1970-2020), observed that as temperature and humidity increase, the Cocoa output tends to increase.¹⁰⁵ On the other hand it was observed that rainfall did not have a very significant impact on the Cocoa produce.¹⁰⁶ This is unfavourable to farmers and the Nigerian economy in

⁹⁹ Room document: 21* Integrating Child Labour Statistics into National Statistical Systems (International Labour Organisation 2023), https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/meetingdocument/wcms_894700.pdf.

¹⁰⁰ Supra note 1

¹⁰¹ A. Falola & S.B. Fakayode, Awareness and effects of Climate Change on cocoa production in Ondo State, Nigeria 10 INTERNATIONAL JOURNAL OF APPLIED AGRICULTURE AND APICULTURE RESEARCH 91-96 (2014).

¹⁰² Aminu F.O & Edun T.A., Environmental Effect of Pesticide Use by Cocoa Farmers in Nigeria 11(4) JOURNAL OF RESEARCH IN FORESTRY, WILDLIFE & ENVIRONMENT 153-162 (2019),

¹⁰³ Sustainability of Cocoa in Nigeria: Preventing the worst case scenarios (Agriculture Policy Research in Africa), <https://www.future-agricultures.org/blog/sustainability-of-cocoa-in-nigeria-preventing-the-worst-case-scenarios/#:~:text=Sick%20cocoa%20trees&text=The%20attack%20on%20the%20cocoa,which%20they%20have%20access%20to.>

¹⁰⁴ Christian Gillas & Philippe Bastide, Challenges to Cocoa Production in the Face of Climate Change and the Spread of Pests and Diseases 10(9) AGRONOMY (2020).

¹⁰⁵ O.O Bukola, et. al., Effects of Climate Variability on Cocoa Production in Ondo State Nigeria 10(4) AMERICAN JOURNAL OF CLIMATE CHANGE 396-406 (2021).

¹⁰⁶ Ibid

general. This, is true as a report by USAID, concluded that inspite of having the largest area, Nigeria as a state had the lowest yield per hectare among major Cocoa producing states.¹⁰⁷

Climate Variable	Share of Impact
Excessive Rainfall	23.3%
Less Rainfall	12.5%
Irregular Rainfall	59.2%
Delayed onset of Rainfall	5%
High Temperature	37.5%
Drought	5%
Variation in Sunshine Hours	28.3%

Impact of change in climatic conditions	Percentage
Pest Attack	35.8%
Disease Attack	44.2%
Late ripening of Cocoa	20.8%
Reduced weight of Cocoa Bean	53.3%
Contaminated Cocoa Bean	45%

C. Socio Economic Risks

Increasing industrial interference and intervention in the areas that are rich in natural *cacao* has led to forceful dispersion of indigenous tribes. There has been repeated documentation by the Associated Press about farmers harvesting Cocoa beans where the particular act is banned due to the “reserved forest” status of the area.¹⁰⁸ Cocoa from these conservation zones is purchased by some of the world’s largest Cocoa traders, such as the Singapore based Olam group.¹⁰⁹ The traders then supply the same to chocolate manufacturers such as Mars and Ferrero. However, due to the complex supply chain of cocoa, it is difficult to trace chocolates like M&M to Cocoa from these reserved forests. One of the reasons, as given by farmers to shift into conservation zones was that plantations in other areas were ageing and not producing much.¹¹⁰ Another risk to the quantum of Cocoa production is the seasonal nature of the Cocoa crop. The conflict is that Chocolate manufacturers need Cocoa farmers to stay in a place and produce beans, however, farmers have been mobile, moving to seek supplemental income from non-agricultural jobs, consider the seasonal nature and climatic disruptions.¹¹¹ Yet another issue is the ageing of Cocoa plantations, that lead to lower productivity, in addition to being more prone to pesticide and insecticide attacks. The major reason for this was majority of the farmers not being able to replant their old farms

¹⁰⁷ USAID Nigeria, https://pdf.usaid.gov/pdf_docs/PA00N2C2.pdf.

¹⁰⁸ Taiwo Adebayo, Cocoa grown illegally in a Nigerian rainforest head to companies that supply major chocolate makers (Associated Press, 21 Dec. 2023), <https://apnews.com/article/chocolate-deforestation-cocoa-farming-nigeria-8813c4656635a4ae8b49c6fd7ced6d28>.

¹⁰⁹ Taiwo Adebayo, Takeaways on AP’s investigation into Cocoa coming from a protected Nigerian Rainforest (Associated Press,, 21 Dec. 2023), <https://apnews.com/article/chocolate-deforestation-cocoa-farming-nigeria-08b396be56cc65d08c950f61308539d3>.

¹¹⁰ Supra note 8

¹¹¹ Sean F. Kennedy, The Power to Stay: Climate, Cocoa, and the Politics of Displacement 112 ANNALS OF THE AMERICAN ASSOCIATION OF GEOGRAPHERS 674-683 (2022).

with improved varieties of cocoa. Lastly, another socio-economic issue faced by cocoa production is the acquiring of land. People do not easily lend lands, for a perennial crop like Cocoa, nor do family land owners or communal land owners, as they risk the no-return. This is coupled with the aspect of land fragmentation as the family size keeps increasing and families now jointly own a cocoa plantation.¹¹² All these risks combined, also call for poverty alleviation, as the situation also is often exacerbated by external factors such as political instability and insurgency.¹¹³

8. Conclusion

The country of Nigeria is still primarily dependent of Export of Cocoa to sustain its economy. Despite the recent steps taken by the Nigeria and International community, export, manufacturing, and production of Cocoa products remains a difficult process that requires plethora of paperwork and certification to be done. Additionally, while in the recent years there has been an uptick in sensitization of the producers and farmers to their labour rights and protection of environment the ground reality remains in need of immediate crucial actions.

¹¹² *Supra* note 11.

¹¹³ *Ibid.*

VII. REPUBLIC OF INDONESIA

1. Introduction

Indonesia is considered the third largest producer of cocoa in the world with an official annual crop amount of approximately 800,000 tonnes according to some official statistics. It should be noted however that industry estimations of the actual annual national production of cocoa is closer to 400,000 tonnes. Whereas the UN FAO exhibits a national production rate of just over 750,000 tonnes for 2013/14, the ICCO reports a production rate of 375,000 tonnes in the same period. Unlike Côte d'Ivoire and Ghana, the two largest producers of cocoa in the world, Indonesia's cocoa industry is less regulated.¹¹⁴ Cocoa is one of the most important agricultural exports for Indonesia. Cocoa industry stakeholders in Indonesia have put measures in place to double the national yield by 2020.¹¹⁵ One of Indonesia's most significant agricultural exports is cocoa beans. The rapid development of smallholder farmer participation has been the driving force behind the huge growth of the Indonesian cocoa business over the last 25 years. Smallholders in Indonesia make up the majority of the country's production, surpassing both huge private estates and governmental plantations in size. There are presently 1.5 million hectares of cocoa plantations in the nation.¹¹⁶

Indonesia's main locations of cocoa production are:

1. Sulawesi
2. North Sumatra
3. West Java
4. Papua
5. East Kalimantan



¹¹⁴ Dormon E N A, et. al., Causes of low productivity of cocoa in Ghana: Farmers' perspectives and insights from research and the socio-political establishment 52 (3-4) NJAS - WAGENINGEN J. OF LIFE SCI. 237-259 (2004).

¹¹⁵ Production of Cocoa Beans (International Cocoa Organizations), https://www.icco.org/wp-content/uploads/Production_QBCS-XLVI-No.-3.pdf

¹¹⁶ I M Fahmid et al, Competitiveness, production, and productivity of cocoa in Indonesia IOP Conference Series: Earth and Environmental Science Volume 157, 1ST INTERNATIONAL CONFERENCE ON FOOD SECURITY AND SUSTAINABLE AGRICULTURE IN THE TROPICS (IC-FSSAT) (24–25 October 2017).

The island of Sulawesi is the primary cocoa-growing region in Indonesia, providing over 75% of the country's total cocoa output. In order to increase production through intensification, rehabilitation, and rejuvenation activities, the government launched a five-year cocoa revitalization program in 2009, covering a total area of 450 thousand hectares, because Indonesia's cocoa productivity per hectare has been falling behind that of other cocoa-producing nations. Ageing trees (placed in the 1980s), a lack of proper planting supplies, and poor farm upkeep are some of the factors impeding the cocoa industry's success. To meet the government's aim of one million tonnes of yearly production by 2013–2014, more investment in this sector is required.

After palm oil, rubber, and coconuts, cocoa is Indonesia's fourth-largest agricultural export revenue source in terms of foreign exchange earnings. But instead of processed cocoa, raw beans make up the majority of Indonesia's exports, which means the country loses out on money from added value. The USA, Singapore, and Malaysia are the three main destinations for Indonesian cocoa beans.¹¹⁷

2. International compliances

Standard	Meets International Standards	Legislation
Minimum Age for Work for hefty work (15 Years)	Yes	Law Number 13 Year 2003 on Manpower:
Minimum Age for Hazardous Work (18 Years)	Yes	Law Number 13 Year 2003 on Manpower:
Identification of Hazardous Occupations or Activities Prohibited for Children	Yes	Law Number 13 Year 2003 on Manpower
Prohibition of Forced Labour	Yes	1. Law Number 13 Year 2003 on Manpower 2. Law Number 23 Year 2002 on Child Protection and Law Number 35 of Year 2014 Amending Law on Child Protection (No.23/2002) 3. Law Number 21 of Year 2007 on The Eradication of the Criminal Act of Trafficking in Persons
Compulsory Education Age (15 Years)	Yes	Act Of The Republic Of Indonesia Number 20, Year 2003 On National Education System
Free Public Education	Yes	Act of the republic of Indonesia Number 20, year 2003 On National education system

¹¹⁷ Fahmid I M Cocoa Farmers Performance at Highland Area in South Sulawesi, Indonesia 3 ASIAN J. OF AGR. AND RUR. DEV. 360-370 (2013).

National legal framework

A. A summary of the national legislations

In order to control many facets of trade and production, food safety, forestry management, and the avoidance of child labor, Indonesia has put in place a thorough legal framework. Trade-related activities are governed by Trade Law No. 7/2014, which emphasizes the growth of diverse trade channels while guaranteeing warehouse and goods registration compliance. To safeguard consumers and maintain quality standards, manufacturers and importers are required to register goods pertaining to environment, health, safety, and security.

Strict guidelines for food production, storage, and distribution are also established by legislation like Law No. 18 of 2012 on food and related regulations in order to ensure food safety and public health. As a sign of the government's commitment to guaranteeing the caliber and safety of food goods on the market, violations of these criteria may lead to administrative sanctions, jail time, and heavy fines.

Laws like Law No. 41 of 1999 and Presidential Decree No. 16/2015 give the Ministry of Environment and Forestry the authority to efficiently manage and control forest resources. In order to reduce deforestation and encourage sustainable forest management techniques, policies like the ban on new harvesting permits in primary forests and peatlands have been implemented. In order to prevent the worst kinds of child labor, Indonesia has put in place a number of laws and initiatives. These include the Roadmap Toward a Child Labor-Free Indonesia, the National Action Plan on Preventing Trafficking in Persons, and the National Action Plan (NAP) for the Elimination of the Worst Forms of Child Labor. With a focus on mainstreaming child labor eradication into national policy and creating child-labor-free industrial zones, these efforts aim to improve data collecting, raise awareness, and formulate rules prohibiting child labor.

In summary, Indonesia's legal system reflects the country's dedication to advancing trade and manufacturing while placing a high priority on child welfare, environmental preservation, and consumer safety. To achieve sustainable development and build a secure and welcoming society for all Indonesians, it is imperative that these laws be effectively enforced in addition to specific programs and efforts.

B. Trade and Manufacturing

<i>Trade Law No. 7/2014</i>	
Article 12	(1) The Government, Local Government, and / or business communities individually or jointly develop a means of trade in the form of: a. Public market; b. shopping centers; c. supermarkets; d. Warehouse; e. wholesale;

	<p>f. Commodity auction market;</p> <p>g. Commodity futures markets; or h. means more trade.</p> <p>(2) The Government, Local Government, and / or business communities in developing means of trade as referred to in paragraph (1) shall refer to the provisions of the legislation.</p>
Article 15	<p>(1) Warehouse as referred to in Article 12 paragraph (1) letter d is one means of Commerce to encourage the smooth distribution of goods traded in the country and abroad.</p> <p>(2) Warehouse referred to in paragraph (1) shall be registered by each owner Warehouse Warehouse in accordance with the classification according to broad and storage capacity.</p> <p>(3) Any owner who does not perform registration Warehouse Warehouse referred to in paragraph (2) subject to administrative sanctions in the form of closure Warehouse for a certain period and / or a fine of Rp2.000.000.000,00 (two billion rupiah).</p>
Article 32	<p>(1) Manufacturers or importers who trade in goods related to security, safety, health, and the environment are required:</p> <p>a. register Goods traded to the Minister; and</p> <p>b. lists the number of registration marks on the goods and / or packaging.</p> <p>(2) The obligation to register the goods referred to in paragraph (1) shall be conducted by the manufacturer or importer before the goods circulating in the market.</p> <p>(3) Goods Registration Obligations referred to in paragraph (1) letter a shall exclude items that have been set for registration under the provisions of the legislation.</p> <p>(4) Criteria for security, safety, health, and the environment as referred to in paragraph (1) can be determined based on the ISO or other recognized standards that have not been enforced as mandatory.</p> <p>(5) Any person referred to in paragraph (1) shall be determined by Presidential Decree.</p> <p>(6) In the case of goods referred to in paragraph (5) has been subjected to compulsory SNI, referred Goods must comply with compulsory SNI.</p>
Article 33	<p>(1) Manufacturers or importers who do not meet the registration requirements goods referred to in Article 32 paragraph (1) shall terminate on Trade in Goods and interesting activities of the Goods:</p> <p>a. distributors;</p> <p>b. agent;</p> <p>c. wholesale;</p> <p>d. retailers; and / or</p> <p>e. consumers.</p> <p>(2) An order cessation of Commerce activities and withdrawal from distribution of the goods referred to in paragraph (1) shall be conducted by the Minister.</p> <p>(3) Manufacturers or importers who do not comply with the provisions referred to in paragraph (1) subject to administrative sanctions in the form of revocation of business licenses.</p>

Article 37	<p>(1) Every business communities must comply with the determination of Goods and / or Services are defined as the Goods and / or Services are restricted Commercialized as referred to in Article 35 paragraph (2).</p> <p>(2) Every business performers who violate the provisions of the determination of goods and / or services referred to in subsection (1) subject to administrative sanctions in the form of revocation of licenses in the field of trade.</p>
Article 35	<p>(1) The Government set a prohibition or restriction on Trade in Goods and / or Services to the national interest by reason of:</p> <ol style="list-style-type: none"> a. protecting economic sovereignty; b. protect national security; c. protect public morals and culture; d. protect the health and safety of humans, animals, fish, plants, and the environment; e. protect natural resources use excessive for the production and consumption; f. protect the balance of payments and / or trade balance; g. implementing legislation; and / or h. particular consideration in accordance with the duties of the Government. <p>(2) Goods and / or Services which are prohibited or restricted Commercialized as referred to in paragraph (1) shall be determined by Presidential Decree.</p>
Article 49	<p>Export and Import Licensing</p> <p>(1) For the activities of the Export and Import, Exporter and Importer requires the Minister to have the permissions that can be approval, registration, confirmation, and / or recognition.</p> <p>(2) requires the Minister of Exporters and Importers to have a permit referred to in paragraph (1) to conduct temporary export and temporary import.</p> <p>(3) The Minister may delegate or delegate the administration of licenses referred to in paragraph (1) to local governments or specific technical institutions.</p> <p>(4) In order to improve national competitiveness Minister may propose additional waivers or imposition of import duties on imported goods temporarily.</p> <p>(5) Further provisions on licensing referred to in paragraph (1) and paragraph (2) is regulated by the Minister</p>
Article 53	<p>(1) Exporters are subject to administrative sanctions as referred to in Article 52 paragraph (4) of the export goods controlled by the state in accordance with the provisions of the legislation.</p> <p>(2) Importers are subject to administrative sanctions as referred to in Article 52 paragraph (5) of the import goods shall be re-exported, destroyed by the importer, or otherwise determined by the Minister.</p>
C. Law of the Republic of Indonesia Number 18 of 2012 on food	
Article 71	<ol style="list-style-type: none"> 1. (1) Any Person involved in the Food chain is obligated to control Food risk, whether it is originated from materials, equipment, production facilities or from individuals so that Food Safety is guaranteed. 2. (2) Any Person implementing activity or process of Food production, storage, transport and/or distribution is obligated: <ol style="list-style-type: none"> 1. to meet the Sanitation Requirements; and

	<p>2. to ensure the Food Safety and/or human safety.</p> <p>3. (3) Provisions regarding the Sanitation Requirements and Food Safety and/or human safety as referred to in section (2) are regulated in a Government Regulation.</p>
Article 72	<p>(1) Any Person that violates the provisions as referred to Article 71 section (1) and section (2) is subject to administrative sanctions.</p> <p>(2) The administrative sanctions as referred to section (1) may be in the forms of:</p> <ol style="list-style-type: none"> 1. fine; 2. temporary suspension from activity, production and/or distribution; 3. recall of Food from market by producer; 4. compensation; and/or 5. revocation of the license. <p>(3) Further provisions regarding type of, amount of fine, procedure for, and mechanism of administrative sanctions as referred to in section (1) and section (2) are regulated in a Government Regulation.</p>
Article 75	<p>1. (1) Any Person carrying out Food Production to be distributed is prohibited from using:</p> <ol style="list-style-type: none"> 1. Food additives that excess maximum limit; and/or 2. prohibited materials as Food additives. <p>2. (2) Provisions regarding maximum limit and prohibited materials as referred to in section (1) are regulated by or under a Government Regulation.</p>
Article 76	<p>1) Any Person violating the provisions as referred to Article 75 section (1) is subject to administrative sanctions.</p> <p>(2) The administrative sanctions as referred to section (1) are in the forms of:</p> <ol style="list-style-type: none"> 1. fine; 2. temporary suspension from activity, production and/or distribution; 3. recall of Food from distribution by producer; 4. compensation; and/or 5. revocation of license. <p>(3) Further provisions regarding type, amount of fine, procedure for and mechanism of administrative sanctions as referred to section (1) and section (2) are regulated in a Government Regulation.</p>
Article 94	<p>1. 1) Any person violating the provisions as referred to Article 86 section (2) regarding compliance with food quality standard, Article 89 regarding Food Labeling, Article 90 section (1) regarding contaminated food, and Article 93 regarding food import is subject to administrative sanctions.</p> <p>2. (2) The administrative sanctions as referred to section (1) are in the form of:</p> <ol style="list-style-type: none"> 1. fine; 2. temporary suspension from activity, production and/or distribution; 3. recall of Food from distribution by producer; 4. compensation; and/or 5. revocation of license.

	(3) Further provisions regarding type, amount of fine, procedure for and mechanism of administrative sanctions as referred to in section (1) and section (2) are regulated in Government Regulation.
Article 133	Food Business Operators that intentionally hoard or store exceeding maximum quantity as referred to in Article 53 with intent of obtaining profit that cause Staple Food price to be expensive and soared, are subject to imprisonment for a maximum of 7 (seven) years or fine of up to Rp100,000,000,000.00 (one hundred billion rupiah).
Article 134	Any person performing certain Process Food Production for trade, that intentionally does not implement Food processing procedure and that inhibit the decline or lost Nutritional value of the Food raw materials as referred to in Article 64 section (1) is subject to imprisonment for a maximum of 1 (one) year or fine of up to Rp2,000,000,000.00 (two billion rupiah).
Article 135	Any person that organizes production process or activity, storage, transport and/or distribution of Food that does not comply with Food Sanitation Requirements as referred to in Article 71 section (2) is subject to imprisonment for a maximum of 2 (two) years or fine of up to Rp4,000,000,000.00 (four billion rupiah).
Article 136	Any person performing Food Production for trade that intentionally uses: <ol style="list-style-type: none"> 1. Food additives exceeding established maximum limit; or 2. prohibited material as Food additives as referred to in Article 75 section (1) is subject to imprisonment for a maximum of 5 (five) years or fine of up to Rp10,000,000,000.00 (ten billion rupiah).
Article 137	<ol style="list-style-type: none"> 1. (1) Any person producing Food from genetically engineered Food that has not obtain Food Safety approval before being distributed, as referred to in Article 77 section (1) is subject to imprisonment for a maximum of 5 (five) years or fine of up to Rp10,000,000,000.00 (ten billion rupiah). 2. (2) Any person conducting Food Production process or activity by using raw materials, Food additives and/or other material Food from genetically engineered Food that has not obtain Food Safety approval before being distributed, as referred to in Article 77 section (2) is subject to imprisonment for a maximum of 5 (five) years or fine of up to Rp10,000,000,000.00 (ten billion rupiah).
Article 138	Any person performing Food Production for distribution that intentionally uses any materials as Food Packaging that can release contamination that can endanger human health as referred to Article 83 section (1) is subject to imprisonment for a maximum of 2 (two) years or fine of up to Rp4,000,000,000.00 (four billion rupiah).
Article 139	Any person that intentionally opens the final packaging of Food to be repackaged and traded as referred to in Article 84 section (1) is subject to imprisonment for a maximum of 5 (five) years or fine of up to Rp10,000,000,000.00 (ten billion rupiah).
Article 139	Any person that intentionally opens the final packaging of Food to be repackaged and traded as referred to in Article 84 section (1) is subject to imprisonment for a maximum of 5 (five) years or fine of up to Rp10,000,000,000.00 (ten billion rupiah).
Article 140	Any person that produces and trades Food that intentionally does not comply with Food safety standard as referred to in Article 86 section (2) is subject to

	imprisonment for a maximum of 2 (two) years or fine of up to Rp4,000,000,000.00 (four billion rupiah).
Article 141	Any person that intentionally trades Food that does not comply with Food Safety and Quality listed on the Food Packaging label as referred to in Article 89 is subject to imprisonment for a maximum of 2 (two) years or fine of up to Rp4,000,000,000.00 (four billion rupiah).
Article 142	Food Business operator that intentionally produces, imports or distributes Food product that does not have marketing authorization as referred to in Article 91 section (1) is subject to imprisonment for a maximum of 2 (two) years or fine of up to Rp4,000,000,000,00.00 (four billion rupiah).
Article 143	Any person that intentionally erases, removes, covers, replaces the label, re-labels and/or exchanges expiry date, month and year of distributed Food as referred to in Article 99 is subject to imprisonment for a maximum of 2 (two) years or fine of up to Rp4,000,000,000.00 (four billion rupiah).
Article 144	Any person that intentionally provides false information or statement or misleading on the label as referred to in Article 100 section (2) is subject to imprisonment for a maximum of 3 (three) years or fine of up to Rp6,000,000,000.00 (six billion rupiah).
Article 145	Any person that intentionally provides false or misleading information or statement of Food for trade through advertisement as referred to in Article 104 section (2) is subject to imprisonment for a maximum of 3 (three) years or fine of up to Rp6,000,000,000.00 (six billion rupiah).

3. Forestry Laws

Law No 41 of 1999 on Forestry	Regulates the management of forests in Indonesia and includes some conservation-oriented policies. It divides forests into three categories: Conservation Forests, Protection Forests and Production Forests. It also empowers the Ministry of Forestry to determine and manage Indonesia's National Forest Estate (Kawasan Hutan).
Presidential Decree No. 16/2015 on the Ministry of Environment and Forestry:	Reaffirms the Ministry of Environment and Forestry (MoEF) as the lead authority for almost all things related to forests. The text (Article 4, Paragraph (2)) says that the responsibilities of the MoEF are to: Govern and manage all affairs related to forests, forest areas, and forest products; Determine or change the category of certain lands as forest areas or otherwise; and Administer and determine legal relations between people and the forests, and legal undertakings related to the forests.
Law No. 18 of 2013 on the Prevention and Eradication of Forest Degradation:	Strengthens law enforcement by providing additional legal certainty and defining penalties for those engaged in forest destruction. It clearly defines which activities are banned, on the part of individuals and organized groups who log in forests, as well as organizations involved in the illegal timber trade and officials engaged in the falsification of permits. A special investigative unit to investigate such forest-related crime is to be formed within 2 years of the law's enactment.

Law No. 6 of 2014 on Villages	Expands the authority of villages to manage their own assets and natural resources, revenue and administration. It specifically reallocates a specific portion of the State budget to village administrations, providing all of Indonesia's villages with annual discretionary funding for making local improvements that support poverty alleviation, health, education and infrastructure development.
Presidential Instruction No.5 of 2019	New License Moratorium and Improvements to Management of Primary/Natural Forests and Peatlands: Extends the moratorium from 2011. Suspends the issuance of new harvesting licenses in primary forest and peatland areas. Forms part of the Government's implementation plan for Indonesia's policy to reduce emissions from deforestation and degradation (REDD+). It excludes licenses that were obtained before May 2011 and licenses used for geothermal/oil energy mining. It also does not protect secondary forests.
Government Regulation No. 23/2021 on Forest Maintenance	Provides an elaboration of the new regulatory framework as it pertains to classification of state-controlled forest lands and the harvesting, processing, and marketing of forest products. The national government is given far-reaching powers to control timber extraction in Production Forests, and it gives the Minister of Forestry the power to grant all commercial timber utilization permits. The Ministry is the lead authority for approving any processing mill permits, regulating trade, transport, and distribution of forest products. Export of forest products and timber is managed by the Ministry of Industry and Trade.
MoEF Regulation No.8 of 2021 on The Governance and the Making of Forest Management Plan, as well as Forest Use on Protected Forest and Production Forest	Regulates the procedures to record an inventory of tree standing stock. Ensures that natural forest concession holders prepare long term business plans (RKU) and an annual working plan (RKT). The inventory, RKU, and RKT are mandatory and must be submitted before harvesting can be initiated.

4. Practical Implications

A. Environmental Efficacy

About a million people in Indonesia depend primarily on cocoa for their income; more than half of these households are smallholder farmers in Sulawesi, which accounts for between 60 and 71% of the country's total production. The extension of cultivated lands has contributed significantly to the development in cocoa production, as opposed to advancements in management techniques

or intensification initiatives.¹¹⁸ Unfortunately, studies show the lack of access to forested areas and alternative land options has resulted in the degradation of Indonesian forest ecosystems, especially in Sulawesi where cocoa plantations have encroached upon forested lands.¹¹⁹

Environmental deterioration in Central Sulawesi has been mostly caused by the conversion of forests into agroforest cocoa and coffee plantations, as studies have shown.¹²⁰ An alarming assessment by 2010 projected that Indonesia has lost 80% of its forest cover, causing irreversible losses in biodiversity and having a major effect on ecological systems.¹²¹ In addition, between 2000 and 2012, the world had one of the worst annual losses of primary forests—roughly 0.84 million hectares—in terms of primary forests.¹²²

A major threat to the preservation of biodiversity in Central Sulawesi, which is known as a global biodiversity hotspot and home to many endemic and endangered species, is the spread of cocoa farming into wooded regions.¹²³ Beyond the obvious environmental problems, emphasizes that this growth worsens climate change by undermining natural systems' ability to function.¹²⁴ A balanced strategy that prioritizes the preservation of Indonesia's biodiversity and essential ecosystems while ensuring sustainable cocoa production is needed to address these issues.

According to reports, up to 2010, more around 80% of Indonesia's forest cover had been lost ultimately resulting in irrevocable loss of biological diversity.¹²⁵ The forest cover lost between the periods of 2000 to 2012 annually is estimated to be 0.84 million ha which happens to be one of the highest in the world.¹²⁶ This rapid expansion into Sulawesi which is a hotspot for world biodiversity threatens the existence of endangered species contributing to climate change.¹²⁷ This prompts a search for sustainable ways to improve cocoa yields in the country. The adverse impacts of cocoa production have existed since long but has been brought into light only recently. There is increased awareness amongst producers to publicly commit to end deforestation following the 2017 UN Climate Change Conference.

B. Child labour

¹¹⁸ J. Neilson, Global Market, farmers and the state: sustaining profits in the Indonesian cocoa sector, *Bull. Indoes. ECON. STUD* 43, 227-250 (2007).

¹¹⁹ L.C. Kelley, et. al., Richer histories for more relevant policies: 42 years of tree cover loss and gain in Southeast Sulawesi, Indonesia. *GLOB. CHANG. BIOL.* 23, 830–839 (2017).

¹²⁰ S. Erasmí, et. al., Mapping deforestation and land cover conversion at the rainforest margin in Central Sulawesi, Indonesia 3 *EARSEL EPROCEEDINGS* 388–397 (2004).

¹²¹ Global Forest Resources Assessment 2010 (FOOD AND AGRICULTURE ORGANIZATIONS) <https://www.fao.org/forest-resources-assessment/past-assessments/fra-2010/en/>.

¹²² B. A. Margono, et. al., Primary forest cover loss in Indonesia over 2000–2012 4 *NAT. CLIM. CHANG.* 730–735 (2014).

¹²³ Opportunity Costs of Major Land Uses in Central Sulawesi. UN Reducing Emissions from Deforestation and Forest Degradation (REDD, 2012).

¹²⁴ R. Asare, Cocoa agroforests in West Africa: a look at activities on preferred trees in the farming systems. In: *Forestry and Landscape UNIVERSITY OF COPENHAGEN, COPENHAGEN (WORKING PAPER NO. 6, 2005)*.

¹²⁵ *Supra* Note 122.

¹²⁶ L. Maytak, Report on Farm Level Sustainability of Cocoa in Côte d'Ivoire: A Synthesis of Five Studies (International Finance Corporation, New York, 2014).

¹²⁷ K. O. Frimpong, Cocoa Farming and Biodiversity in Ghana, ANNUAL PROJECT REPORT FOR THE EARTHWATCH INSTITUTE, ACCRA (2007).

The Government of Indonesia was one of the first governments in the world to adopt a systems-building approach to child protection. Accordingly, it recognises that child labour is enabled through socio-economic root causes and responds to a systems-building approach. Through its various ministries and departments, the government is implementing a comprehensive set of social assistance measures to target the most vulnerable children and families, thereby tackling the underlying enablers and roots causes of child labour.

In 2009, Indonesia’s Central Bureau of Statistics stated that an estimated 6.9 per cent of the country’s 58.8 million children, between 5 to 17 years, were working (equivalent to 4.05 million).¹²⁸ Of this number, 1.76 million children or 43.3 per cent were child labourers, of whom 20.7 per cent were working in the worst forms of child labour.¹²⁹ It is estimated that 61.6 per cent of working children are engaged in the agricultural sector. The ILO estimates that there are over 1.5 million children aged between 10 to 17 years working in the agricultural sector.¹³⁰

However, by ratifying the ASEAN Convention Against Trafficking in Persons and rescuing 18,401 children from employment on the streets, Indonesia achieved significant progress against child labour in 2017. Risky jobs in the coffee industry continue to be an issue. The Ministry of Manpower's limited resources make it difficult to police child labour rules effectively.

The following are the national laws in place to prevent child labour in Indonesia:

Minimum Age for Work (15 years)	Yes	Article 69 of the Manpower Act; Law on the Ratification of ILO C. 138
Minimum Age for Hazardous Work (18 years)	Yes	Article 74 of the Manpower Act; Article 2 of Ministerial Decree No. 235
Identification of Hazardous Occupations or Activities Prohibited for Children	Yes	Annex F of Ministerial Decree No. 235: Jobs that Jeopardize the Health, Safety, or Morals of Children
Prohibition of Forced Labour	Yes	Article 74 of the Manpower Act; Articles 1–6 and 17 of the Law on the Eradication of the Criminal Act of Trafficking in Persons; Article 83 of the Law on Child Protection
Prohibition of Child Trafficking	Yes	Article 83 of the Law on Child Protection; Articles 1–6 and 17 of the Law on the Eradication of the Criminal Act of Trafficking in Persons

¹²⁸ Roadmap Towards a Child Labour-Free Indonesia in 2022 (Ministry of Manpower, Republic of Indonesia, 2014).

¹²⁹ Supra note 129.

¹³⁰ Child labour in plantation (ILO), https://www.ilo.org/jakarta/areasofwork/WCMS_126206/lang-en/index.htm#:~:text=Plantations%20are%20generally%20located%20near,child%20labourers%20in%20the%20plantations..

Prohibition of Commercial Sexual Exploitation of Children	Yes	Article 74 of the Manpower Act; Articles 81–82 of the Law on Child Protection; Article 297 of the Penal Code; Section 3 of the Law on the Ratification of the Rights of the Child Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography; Articles 4–12 and 37 of Law on Anti- Pornography
Prohibition of Using Children in Illicit Activities	Yes	Article 74 of the Manpower Act; Articles 67, 78, and 89 of the Law on Child Protection
State Compulsory (18 years)	Yes	Article 28 of Law No. 34/2004 on the Indonesian National Armed Forces
State Voluntary (18 years)	Yes	Article 28 of Law No. 34/2004 on the Indonesian National Armed Forces
Non-state (18 years)	Yes	Article 3(d) of Law No. 9/2012 on Ratifying the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
Compulsory Education Age (15 years)	Yes	Article 48 of the Law on Child Protection; Articles 6 and 34 of the Act on the National Education System
Free Public Education	Yes	Article 34 of the Act on the National Education System

KEY POLICIES RELATED TO CHILD LABOUR	
Policy	Description
National Action Plan (NAP) for the Elimination of the Worst Forms of Child Labour (2002– 2022)	Provides a policy framework for the elimination of child labour. Specific activities include improving data collection on the worst forms of child labour, increasing awareness-raising and advocacy efforts, and formulating regulations and policies to prohibit the worst forms of child labour. In 2017, the MOM and other government agencies worked with provincial and district governments to provide assistance to local governments in implementing regulations and legislation that align with the Roadmap Toward a Child Labour-Free Indonesia.
National Action Plan on Preventing Trafficking in Persons (2015–2019)	Guides the work of the National Task Force to Combat Trafficking in Persons. Aims to improve health and social rehabilitation services and repatriation and social reintegration services for human trafficking victims, update anti-human trafficking regulations, and strengthen the investigation of human trafficking cases and the prosecution of perpetrators. Enhances coordination among task force members and between national and international stakeholders.

Roadmap Toward a Child Labour-Free Indonesia in 2022 (2014–2022)	Supports implementation of the National Action Plan for the Elimination of the Worst Forms of Child Labour. Aims to mainstream the elimination of the worst forms of child labour into relevant national policies; strengthen coordination between stakeholders at the national, provincial, and district levels; and enhance the capacity of stakeholders to eradicate child labour. Key feature is the establishment of Child-Labour-Free Industrial Zones, which has removed 98,564 child labourers from work between 2008 and 2017. In 2017, removed 18,401 children engaged in child labour.
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Program	Description
Child Trafficking Services†	MOSA and other government agency program that provides social rehabilitation and shelter services for child victims of trafficking.
West Java and Bandung Municipality Street Children Program†	West Java provincial government and municipality of Bandung programs to assist street children.
Cash Transfer Programs†	Government programs that aim to provide conditional cash transfers to help with education and health expenses to vulnerable groups, including street children, abandoned children and infants, children facing criminal charges, children with disabilities, the poorest families, and child labourers who dropped out of school . Smart Indonesia Program; Unconditional Cash Transfer Program (<i>Bantuan Langsung Semetara Masyarakat</i>); Child Social Welfare Program (<i>Program Kesejahteraan Sosial Anak</i>); Family Welfare Card (<i>Kartu Keluarga Sejahtera</i>); Family Hope Program (<i>Program Keluarga Harapan</i>); and Social Protection Cards (<i>Kartu Perlindungan</i>).
Block Grants for Schools (<i>Bantuan Operasional Sekolah</i>)†	Government block grant program that compensates schools for the loss of income from waiving school fees for poor and vulnerable children in primary, junior secondary, and senior high schools.
Minimum Service Standards of Basic Education Program	Aims to improve access to quality public education by limiting the distance of primary and junior secondary schools from children’s households, by specifying minimum teacher-student ratios, and identifying minimum teacher education qualifications.
Community Learning Centers†	Government program that aims to provide education for the children of palm oil workers. In 2017, established 5 additional centers along the Indonesian and Malaysian border in Sabah and Sarawak, for a total of 255 centers.

5. Conclusion

As a result of discrepancies between official figures and industry estimations, Indonesia, the third-largest producer of cocoa worldwide, finds it difficult to determine its actual cocoa production. For the last 25 years, the nation's cocoa industry which is primarily run by smallholder farmers has grown significantly, establishing cocoa as a vital agricultural export. Indonesia faces regulatory inadequacies in comparison to other major cocoa producing nations like Ghana and Côte d'Ivoire, despite its prominence. However, impediments to productivity, such as deforestation, insufficient planting supplies, and poor farm maintenance, require more funding to reach ambitious production targets.

With its substantial contribution to foreign exchange earnings, cocoa is Indonesia's fourth-largest agricultural export revenue source, after rubber, coconuts, and palm oil. Its potential for additional value and higher revenue is, however, limited by its reliance on exporting raw cocoa beans rather than processed goods. Thailand, Singapore, and Malaysia are important export markets. Indonesia needs to solve issues with productivity, increase investment, and support value addition in the cocoa business in order to maintain and improve its position in the global cocoa market. An economically advantageous and more resilient cocoa sector may be achieved in the future by balancing regulatory frameworks, providing assistance to smallholder farmers, and developing processing capacity.

VIII. REPUBLIC OF ECUADOR

1. Introduction

Ecuador is sitting on a goldmine of some of the most coveted chocolate in the world, emerging as a key player in the global cocoa industry. Even though Ecuador produces less than 10% of the world's cocoa,¹³¹ it is home to some of the highest quality beans in the world, producing 70% of the highest quality output.¹³² Around 86% of the cocoa produced is exported¹³³ in 2021, Ecuador exported \$838 million in cocoa beans, making it the third largest exporter of cocoa beans globally. The United States, Indonesia, Malaysia and the Netherlands are the traditional importers of Ecuadorian cocoa.¹³⁴

Recent archaeological studies indicate that Ecuador may have been the original home of the cocoa bean, with the discovery of the earliest record of its use dating back to 3000 BCE.¹³⁵ Cocoa carries great **cultural importance** in Latin America, and can be traced back to the ancient indigenous civilisations of Ecuador. While other South American nations were exploited by the Conquistadors for their gold and silver, Ecuador was exploited for its cocoa.¹³⁶

Ecuador's unique climate and fertile soil have created the optimal conditions to cultivate the world's most prized varieties of cocoa beans. In Ecuador, annual production has risen to between 400,000 and 430,000 tons in 2022-23, detailing substantial growth from 287,000 tons five years ago.¹³⁷ Approximately 360,000 hectares of land are devoted to the cultivation of cocoa by an estimated figure of 100,000 farmers.¹³⁸

¹³¹ Steffany Bermudez, et. al., Global market report: Cocoa prices and Sustainability (IISD, Nov. 2022). <https://www.iisd.org/system/files/2022-11/2022-global-market-report-cocoa.pdf>.

¹³² Cocoa: A guide to trade practices (International Trade Centre, 18 Dec. 2001). <https://intracen.org/>

¹³³ D. M. U. Santana, Factors which favor the exports of cocoa grains from Ecuador 46(6) INTERCIENCIA 272-279 (2021).

¹³⁴ Cocoa beans in Ecuador (The Observatory of Economic Complexity) <https://oec.world/en/profile/bilateral-product/cocoa-beans/reporter/ecu>.

¹³⁵ E. Macsari, (2023, May 9). The History of Chocolate Begins in Ecuador: The Original Home of Cocoa (Diplomatic Press Agency, 9 May 2023).

¹³⁶ OECD et al., "Ecuador", in Latin American Economic Outlook 2023: Investing in Sustainable Development (2023).

¹³⁷ Marcelo Teixeira, Farmers plant more cocoa outside Africa as prices rally (Reuters, 2 Oct. 2023) <https://www.reuters.com/markets/commodities/farmers-plant-more-cocoa-outside-africa-prices-rally-2023-10-02/>.

¹³⁸ F. Ríos, Country Strategies for the Specialty Cocoa Market: Successful Policies and Private Sector Initiatives in Peru, Ecuador, Colombia and the Dominican Republic 140 (Swisscontact Foundation, 2017).

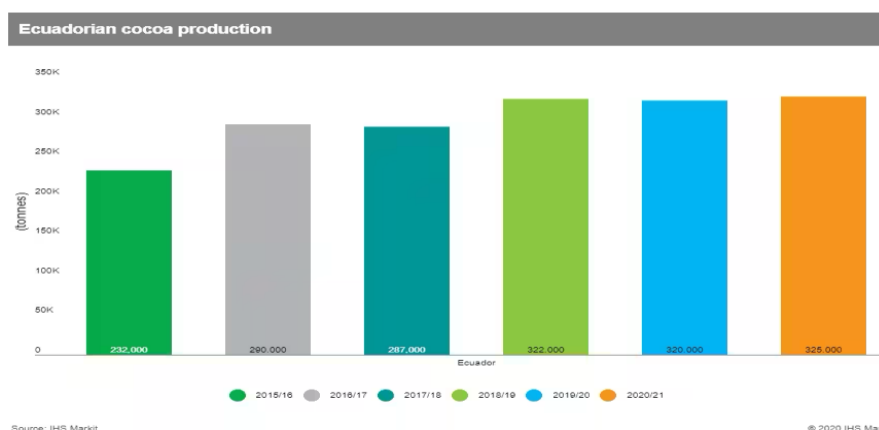


Figure: Ecuador Cocoa Production

Source: S&P Global¹³⁹

The country's cocoa production is concentrated in the coastal areas of Guayas and Manabi, as well as the Andes and Amazonian regions.¹⁴⁰ The geographical diversities and regional variations enable Ecuadorian farmers to produce various types of cocoa, each unique in its flavour and aroma, but consistent in the **highest standards of quality**.¹⁴¹ The two main varieties that dominate Ecuadorian cocoa production are Arriba Nacional and CCN-51. Arriba Nacional, a type of heirloom cacao pod, holds the designation of Ecuador's "symbol product", as declared by its government. CCN-51 on the other hand, is a clone type, used in bulk for mass production of chocolate products.¹⁴²

Cocoa production contributes to 7.8% of the country's agricultural GDP, or 0.5% of the total GDP. Out of this value, 70% is made by small producers, and the remaining divided between medium and large estates.¹⁴³ Cocoa plays a **crucial role in Ecuador's economy**, contributing to:

1. Employment: According to INEC data, cocoa employs 5% of the workforce, and 15% of the rural population. Cocoa production provides for the livelihood of nearly 100,000 farmers, most of whom are poor and cultivate on small land holdings.
2. Foreign Exchange Earnings: Cocoa is among Ecuador's top 5 exports, and its annual export volume of cocoa from Ecuador is estimated to have a value of approximately \$1.5 billion.¹⁴⁴

¹³⁹ Boga Sandra, *Interview Article: Equaor aiming to double cocoa production in next seven years*, S&P GLOBAL COMMODITY INSIGHTS, (October 7th 2020), <https://www.spglobal.com/commodityinsights/en/ci/research-analysis/interview-ecuador-aiming-to-double-cocoa-production-in-next-se.html>.

¹⁴⁰ A. Avadí, Environmental assessment of the Ecuadorian cocoa value chain with statistics-based LCA 28 INT J LIFE CYCLE ASSESS 1495–1515 (2023).

¹⁴¹ Supra note 130.

¹⁴² J. C. Jimenez, et. al. Differentiation of ecuadorian national and CCN-51 cocoa beans and their mixtures by computer vision 98(7) JOURNAL OF THE SCIENCE OF FOOD AND AGRICULTURE 2824–2829 (2018).

¹⁴³ Need Analysis to promote the sustainability of cocoa producer small communities in Ecuador (Arco). <https://www.arcolab.org/en/portfolio/need-analysis-cacao-ecuador>.

¹⁴⁴ Major exports of Ecuador (International Trade Council, 18 Sept. 2022), <https://thetradecouncil.com/major-exports-of-ecuador/>.

The cocoa sector of the Ecuadorian holds tremendous potential for growth, and government officials have come to recognise this fact, highlighting their **strategic orientation**. In May 2019, the former President Lenin Moreno launched the “Competitive Improvement Plan for Cocoa and Derivatives”.¹⁴⁵ The current regime has spearheaded a deforestation-free certification scheme with the assistance of the UNDP.¹⁴⁶ Ecuador’s policy of diversifying its cocoa production to include the finest quality of exclusive beans, as well as cultivate mass-produced varieties has boosted the output levels, while simultaneously maintaining the high standard of Ecuadorian cocoa. With its rich history of cocoa cultivation, favourable environmental conditions, and the government support, Ecuador’s cocoa production sector presents itself as a very lucrative investment opportunity.¹⁴⁷ However, it carries several risks that manifest themselves in the forms of potential violations of labour, environmental, child labour and tribal regulations. This could severely impact the agribusiness prospects in the cocoa sector, The European Union’s actions of regulating the import of agricultural products that do not comply with the ethical standards placed by the European Commission will disrupt the export of cocoa from Ecuador to the EU. These standards extend to labour and indigenous people’s rights, as well as product traceability and proof of non-deforestation.¹⁴⁸

2. Domestic and International Standards

A. International Conventions Affecting Cocoa Industry

Convention	Ratification Status	Implications
UN Convention on the Child Rights	(✓) 30 Mar 1988	<ul style="list-style-type: none"> Provides a framework to combat child labour
UN Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment	(✓) 07 Sep 2000	<ul style="list-style-type: none"> Lays down human rights standards with respect to ethical labour practices
UN International Covenant on Economic, Social and Cultural Rights	(✓) 06 Mar 1969	<ul style="list-style-type: none"> Just conditions of work, fair wages, equal pay for equal work, right to form trade unions and right to strike
ILO C029- Forced Labour Convention, 1930	(✓) 06 Jul 1954	<ul style="list-style-type: none"> The objective is to eliminate the use of forced labour from every sector of activity.

¹⁴⁵ Ecuadorian government plan for the competitive improvement of cacao and chocolate (República del Cacao), <https://republicadelcacao.com/blogs/news/ecuadorian-government-plan-for-the-competitive-improvement-of-cacao-and-chocolate/>.

¹⁴⁶ Ecuador’s new deforestation-free certification scheme turns coffee and cocoa trade into an ally for forests and the climate (UNDP, 18 Nov. 2022), <https://www.undp.org/es/ecuador/noticias/ecuadors-new-deforestation-free-certification-scheme-turns-coffee-and-cocoa-trade-ally-forests-and-climate>.

¹⁴⁷ Latin America Cocoa: Continued Growth Ahead in Ecuador, focus on processing in Brazil (Fitch Solutions, 12 Feb. 2021), <https://www.fitchsolutions.com/bmi/commodities/latin-america-cocoa-continued-growth-ahead-ecuador-focus-processing-brazil-12-02-2021>.

¹⁴⁸ Isabel Marques da Silva, Why the global south is against the EU’s anti-deforestation law (Euronews, 12 Sept. 2023), <https://www.euronews.com/my-europe/2023/09/20/why-the-global-south-is-against-the-eus-anti-deforestation-law>.

ILO C105- Abolition of Forced Labour Convention, 1957	(✓) 05 Feb 1962	<ul style="list-style-type: none"> Lays down more comprehensive standards of elimination of forced labour, as compared to C029.
ILO C110- Plantations Convention, 1958	(✓) 03 Oct 1969	<ul style="list-style-type: none"> Protects the rights of plantation workers with respect to fair compensation, collective bargaining, the right to organise, and several benefits including maternity protection
ILO C169- Indigenous and Tribal Peoples Convention, 1989	(✓) 15 May 1998	<ul style="list-style-type: none"> Protection of the indigenous rights and claims to land, especially in the context of agribusinesses such as cocoa.
ILO C011- Right of Association (Agriculture) Convention, 1921	(✓) 10 Mar 1969	<ul style="list-style-type: none"> Guarantees the same rights of association and combination to agricultural workers, as to industrial workers;

B. Federation of Cocoa Commerce

The FCC is an international trade association operating to serve the trade of cocoa. The ANECACAO and Felvenza S.A are members of this Federation. ANECACAO is a non-profit association that represents the interests of cocoa exporters in Ecuador, and the Felvenza is a company engaged in conducting inspections of cocoa products for export in Ecuador.

The FCC rules cover a wide range of activities, including-

1. Production- the establishment of the cocoa farm and production process, ensuring sustainable practices
2. Sampling
3. Weighing
4. Quality Checks
5. Price Fixation
6. Shipment, Delivery and Export

3. Domestic Regulations

A. A summary of the national legislations

The cocoa industry in Ecuador functions under a legal structure that is generally controlled by general rules rather than laws specifically pertaining to the trading of cocoa. Worker and indigenous rights are among the essential rights and safeguards guaranteed by the 2008 Ecuadorian Constitution. The ILO has criticized the minimum requirement of 30 workers to create a union as potentially impeding freedom of association, especially in the agricultural sector because farms often employ fewer workers. Nevertheless, there are obstacles in place. The Organic Law on Rural Land and Ancestral Territories, which prioritizes social and environmental concerns, governs the purchasing and utilization of rural land. Regulations designed to support food sovereignty and increase productivity apply to foreign investment in rural areas. The Organic Food Law also

establishes guidelines for distribution, labeling, and packaging to guarantee the safety and quality of food products for consumers, as well as requiring authorization for imported goods.

The competitiveness and sustainability of the cocoa industry are intended to be improved by government programs like the Programme for Competitive Improvement Plan for Cocoa and Derivatives. In order to promote local growth and create jobs, these programs entail cooperation between governmental bodies, businesses, and foreign partners. The National Forum of the Cocoa Chain and the Consultative Council of the Agroindustrial Chain of Cocoa and Derivatives encourage cooperation and communication among interested parties in order to highlight Ecuador's distinct place in international markets for cocoa.

Moreover, market integration and capacity building for cacao growers are the main objectives of the USDA-funded Mocca Ecuador Cacao Programme. Enhancing cocoa quality and yields and creating more profitable and sustainable supply chains are the goals of the program, which provides farmers with training, technical support, and access to high-quality genetic material.

Ecuador is committed to tackling social and environmental issues and advancing the sustainable expansion of the cocoa sector, as demonstrated by these projects. Ecuador hopes to maintain its position as the world's top producer of fine and aromatic cocoa by utilizing cooperation between the public and private sectors as well as international partners. This will guarantee fair and sustainable development for communities that grow cocoa and fair benefits for smallholder farmers.

Ecuador does not have specifically enacted legislation for the cocoa trade, but the sector is governed by a range of other regulations:

<p>Ecuadorian Constitution (2008)¹⁴⁹</p>	<ol style="list-style-type: none"> 1. <u>Article 11(3)</u>- The rights and guarantees set forth in the Constitution and in international human rights instruments shall be directly and immediately enforced by and before any civil, administrative or judicial servant, either by virtue of their office or at the request of the party. 2. <u>Article 46</u>- Safeguarding child and adolescents, Minimum Age for hefty work is 15 years of age 3. <u>Article 57</u>- Indigenous communes, communities, peoples and nations are recognized and guaranteed, in conformity with the Constitution and human rights agreements, conventions, declarations and other international instruments 4. <u>Article 83(5)</u>- Duty to respect human rights and to fight for their enforcement 5. <u>Article 325</u>- the Right to Work 6. <u>Articles 326.4 and 328</u>- the Right to Equal and Fair Pay 7. <u>Articles 320 and 331</u>- the Right to Protection Against Discrimination 8. <u>Article 326.7</u>- the Right and Freedom to Organise
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¹⁴⁹ Government of Ecuador (2008), Constitución <https://www.finanzas.gob.ec/wp-content/uploads/downloads/2015/03/Código-del-Trabajo.pdf>.

	<u>Article 326- the Right to Strike</u>
Ecuadorian Labour Code ¹⁵⁰	<p>1. Article 212- Guarantees workers of the private sector the “<i>right to establish, without prior authorization, trade unions that they deem appropriate, with the sole condition of being subject to the law and its statutes</i>”.</p> <p>2. Article 216- Allows for Company Unions, Inter-Company Unions, Independent Workers Unions and Unions of Temporary Workers, and Article 226 specifically discusses the Association rights of agricultural workers.</p> <p>However, the Labour Code also establishes that a minimum of 30 workers is required to form a Union. The ILO considers this number to be excessive, believing that it could be an obstacle to the formation of Trade Unions. In the ILO, there have been 62 cases filed against Ecuador for its violations of the Freedom of Association Convention- 54 have been closed, 6 are classified as follow-ups, and 2 are active.¹⁵¹ The ILO has recommended the Ecuadorian Ministry of Labour to take necessary measures to ensure that national legislation complies with the principles of freedom of association¹⁵². This recommendation would be especially relevant to the agricultural sector, where most workers are unable to unionise due to the minimum member requirement, since most farms employ less than 30 people. Pressure from the ILO, as well as several non-governmental groups in Ecuador may result in this recommendation being incorporated in domestic legislation, impacting the cocoa industry as well.</p>
Organic Law On Rural Land And Ancestral Territories (2016) ¹⁵³	<p>This law governs the acquisition and use to rural land, with respect to property ownership fulfilling social and environmental functions.</p> <ol style="list-style-type: none"> 1. <u>Article 19</u>- Regulates the purchase, sale and lease of productive rural lands. 2. <u>Article 20</u>- Governs foreign investment in rural land, with the view to generate productive capacity and employments, as well as contributing to food sovereignty.
Organic Food Law (1988) ¹⁵⁴	<p>This regulation requires the authorization for imported food products for free sale. It specifies container, packaging, labelling requirements, as well as manufacturing processes. The regulation also regulates the transportation, distribution, and trade of food.</p>

¹⁵⁰ <https://www.finanzas.gob.ec/wp-content/uploads/downloads/2015/03/Código-del-Trabajo.pdf>.

¹⁵¹ ILO. (n.d.). Ecuador- Cases . International Labour Standards country profile: Ecuador. https://www.ilo.org/dyn/normlex/en/?p=1000%3A11110%3A0%3A%3ANO%3A11110%3AP11110_COUNT_RY_ID%3A102616

¹⁵² ILO Case Number 3148. https://www.ilo.org/dyn/normlex/es/?p=NORMLEXPUB:50002:0::NO::P50002_COMPLAINT_TEXT_ID,P50002_LANG_CODE:3327395,en.

¹⁵³ Ley Orgánica De Tierras Rurales Y Territorios Ancestrales <https://Faolex.Fao.Org/Docs/Pdf/Ecu166211.Pdf>.

¹⁵⁴ Ley de Control Sanitario de Alimentos, Cosméticos y Medicamentos https://aplicaciones.msp.gob.ec/salud/archivosdigitales/documentosDirecciones/dnn/archivos/REGLAMENTO_DE_ALIMENTOS.pdf

4. Government Programmes/ Policies/ Initiative

A. Programme for Competitive Improvement Plan for Cocoa and Derivatives (within the framework of the National Agreement 2030)¹⁵⁵

Stakeholders:

- National Secretariat of Planning and Development
- The European Union in Ecuador
- Ministry of Production, Foreign Trade, Investment and Fisheries
- Ministry of Agriculture
- Government and private actors of the cocoa chain and chocolate.

Areas of intervention:

- Aims to generate 12,000 additional sources of employment until the year 2030
- Seeks to ensure that development poles can continue to be generated, so that people do not have to migrate from the countryside to the city and can improve their living conditions in their own localities

Achievements:

- Has grown in a very fast way in the last ten years, having a sale of 50 thousand MT to 315 thousand MT
- Its plan revolves around its use of cocoa clone CCN-51; a high-yielding variety which has allowed the Ecuador to triple its cocoa volumes over the last decade.

B. The Consultative Council of the Agroindustrial Chain of Cocoa and Derivates¹⁵⁶

Stakeholders:

- Ecuadorian National Council for Reactivation of Production and Competitiveness - CNRPC
- Supported by funding of the European Union and GTZ

Areas of intervention:

- Aims to recover/defend the special position of Ecuador cocoa on the world market.

Achievements:

- Led to the decree of July 2005 that defines that specialty coffee ('Arriba') has to be marketed separately from the new CCN51 variety.

C. 2004 National Forum of the Cocoa Chain¹⁵⁷

¹⁵⁵ JESSICA NOBOA (2022) 'Public Policies for Strengthening the Cocoa Value Chain in Ecuador – from Design to Implementation', in *Emerging Research in Intelligent Systems*, pp. 55–77. Available at: https://www.researchgate.net/publication/358484154_Public_Policies_for_Strengthening_the_Cocoa_Value_Chain_in_Ecuador_-_from_Design_to_Implementation.

¹⁵⁶ Ibid.

¹⁵⁷ TON, GIEL, GEOFFREY HAGELAAR, ANNA LAVEN, AND SIETZE VELLEMA. 2008. Chain governance, sector policies and economic sustainability in cocoa. Markets, Chains and Sustainable Development Strategy and Policy Paper, no.12. Stichting DLO: Wageningen. Available at: <http://www.boci.wur.nl/UK/Publications/>.

Stakeholders:

- The Steering Committee composed of chain actors (active in production);
- And a Support Group, composed of supporting stakeholders (NGOs and donors).
- Their activities continue with BID donor support.

Areas of intervention:

- Renovate and improve existing plantations to increase yields;
- Align product quality to market demands;
- Further positioning of the Ecuador's fine and aromatic cocoa ("cacao fino y de aroma de Ecuador") in the national and international markets
- The nation-wide organisation and entrepreneurial skills of the small scale cocoa producers is strengthened and they are more efficiently linked in the chain
- To double cocoa production within 5 years.

D. MOCCA Ecuador Cacao Programme¹⁵⁸**Stakeholders:**

- ANECACAO
- APECAP
- APEOSAE
- Chocoben, Econutrition
- FASES – BID
- Fortaleza del Valle
- Olam
- UNOCACE
- UROCAL
- Funded by the USDA

Areas of intervention:

- It trains 8,639 cacao farmers, providing integration into higher-value markets, technical assistance, research, access to quality genetic material, and promoting innovative financing models.
- Connects with farmers directly.
- Partners with companies that not only wish to invest in improving cacao quality and yields, but also in the systems that make those improvements possible for the future, such as higher prices, good genetic material for planting, and more direct, feasible and profitable supply chains for smallholder farmers.

¹⁵⁸ MOCCA Ecuador Cacao Programme, <https://mocca.org/en/countries/cacao/ecuador-cacao-program/>.

IX. REPUBLIC OF INDIA

1. Introduction

India is a small cocoa producer, but production has been growing in recent years. It is primarily grown as an intercrop in Andhra Pradesh, Tamil Nadu, Karnataka, and Kerala in an area of 1,03,376 ha with a total production of 27,072 MT. Andhra Pradesh ranks first in area with 39,714 ha and production of 10,903 MT. The highest productivity is also in Andhra Pradesh which is 950 kg/ha. The average productivity of cocoa in India is 669 Kg/ha.¹⁵⁹ According to Yahoo Finance, India stands at number 15 in the top 20 cocoa-producing states in the world yielding more than 20,000 metric tons annually. As reported by the IMARC group, the projected growth from 2023-28 is 8.8%.¹⁶⁰

2. Historical background

The beginning of cocoa production in India dates back to the end of the eighteenth century when an unsuccessful attempt was made by the Britons to use India as one of their agricultural bases for cocoa. While it took very well to West African soils, the Indian soil could never adapt to the fragile criollo varieties imported from there. Cocoa production only really took up in India in the 1960s when Cadbury, with the help of the World Bank and Kerala Agricultural University launched cocoa agriculture initiatives.¹⁶¹

3. Exports

In India, cocoa as a commodity is primarily geared towards exports. Currently, there are 10 multinational companies engaged in the industry and export a range of products including beans, chocolates, cocoa butter, cocoa powder and other cocoa-based products to other nations. Through exports of the aforementioned products, India earns foreign exchange amounting to more than Rs. 1000 crore annually.¹⁶² In 2021, India exported \$719k in Cocoa beans, making it the 56th largest exporter of Cocoa beans in the world. In the same year, Cocoa beans were the 1095th most exported product in India. The main destinations of exports from India are Belgium, the United States, Japan, the Netherlands and Russia. The fastest-growing export markets for Cocoa beans in India between 2020 and 2021 were Belgium (\$94.6k), Japan (\$62.3k), and Russia (\$61.4k).¹⁶³

¹⁵⁹ Cocoa Area, Production and Productivity (Directorate of Cashewnut and Cocoa Development, Ministry of Agriculture and Farmers Welfare, Government of India), <https://www.dccd.gov.in/Content.aspx?mid=1072&tid=1>.

¹⁶⁰ Top 20 Cocoa Producing Countries In The World (Yahoo Finance) <https://finance.yahoo.com/news/top-20-cocoa-producing-countries-234109314.html>.

¹⁶¹ India's Chocolate History and Future: Cocoa's Colonial Beginnings (Cocoa Runners), <https://cocoarunners.com/chocopedia/indias-chocolate-history-and-future/>.

¹⁶² Production Scenario of Cocoa (Directorate of Cashewnut and Cocoa Development, Ministry of Agriculture and Farmers Welfare, Government of India), <https://www.dccd.gov.in/Content.aspx?mid=20&tid=1>: <https://www.dccd.gov.in/Content.aspx?mid=20&tid=1>.

¹⁶³ The Observatory of Economic Complexity, [Cocoa beans, whole or broken, raw or roasted in India](#).

4. Imports

In 2021, India imported \$52.7M in Cocoa Beans, becoming the 22nd largest importer of Cocoa Beans in the world. In the same year, Cocoa Beans were the 564th most imported product in India. India imports Cocoa Beans primarily from: Uganda, the Republic of the Congo, Ecuador, the Dominican Republic, and Tanzania. The fastest-growing import markets in Cocoa Beans for India between 2020 and 2021 were the Dominican Republic (\$4M), Uganda (\$2.68M), and Ghana (\$1.99M).¹⁶⁴

5. Consumption

Until 1965, all the cocoa consumed in India was imported. Cadbury then set up an experimental farm in Kerala which later evolved into large-scale plantations across Tamil Nadu, Kerala, Andhra Pradesh and Karnataka. According to Mondelez, currently, the per capita consumption of chocolate per year is at around 170gm in India while in the UK it is about 10 kilograms.¹⁶⁵ In India, the most consumed type of chocolate for Cadbury is still the milk variant. On the other hand, Chordia says that 75-85% of craft chocolate consumers prefer dark chocolate.¹⁶⁶ Moreover, with rising disposable income levels, the consumer demand for premium chocolate has also been steadily increasing. This has provided multinational companies the chance to enter the Indian market and expand their presence. Both bite-sized and Better for You (BFY) chocolates are also witnessing significant growth in India owing to the increasing health consciousness among Indians.¹⁶⁷

6. Legal Norms Related to Specific Risks

Owing to the dearth of large-scale cocoa production in India, there are no stand-alone laws in India regulating cocoa production or any related aspects of it. However, several general legal norms apply.

A. Child labour

- a. **1979- The Gurupadswamy Committee was established to study and tackle the child labour issue:** 1979 was declared as the International Year of the Child and

¹⁶⁴ India: Cocoa Beans | Bilateral Trade Profile (The Observatory of Economic Complexity) <https://oec.world/en/profile/bilateral-product/cocoa-beans/reporter/ind>.

¹⁶⁵ G Seetharaman, Despite growing demand for chocolate, India imports most of its Cocoa (The Economic Times, 21 May 2017), <https://economictimes.indiatimes.com/industry/cons-products/food/although-indias-consumption-of-chocolate-is-steadily-growing-but-we-still-depend-on-imports-for-cocoa/articleshow/58766956.cms>.

¹⁶⁶ Ananyaa Desikan, World Chocolate Day: How Does India Like Its Chocolate? (The Hindu, 7 July 2023) <https://www.thehindu.com/life-and-style/food/world-chocolate-day-how-does-india-like-its-chocolate/article67053343.ece>.

¹⁶⁷ Pallavi Goel, Changing Consumer Preferences, Rising Income Levels and Health Consciousness Driving Premium Chocolates Consumption in India (The Economic Times, 7 Jul. 2022), <https://retail.economictimes.indiatimes.com/news/food-entertainment/personal-care-pet-supplies-liquor/changing-consumer-preferences-rising-income-levels-and-health-consciousness-driving-premium-chocolates-consumption-in-india/92711967>.

owing to the same, the Ministry of Labour, Government of India through its Resolution No. S-2702516/78-FAC dated the 6/7th February, 1979 set up a sixteen-member Committee comprising some members of Parliament, representatives from institutions dealing with problems of children, and representatives of concerned Departments of the Central Government to look into in detail the causes leading to and the problems arising out of the employment of children. Based on the recommendations of the Gurupadswamy Committee, the Child Labour (Prohibition and Regulation) Act of 1986 was enacted.

- b. 1986- The Child Labour (Prohibition and Regulation) Act was enacted:** It designates a child as a person who has not completed their 14th year of age. It aims to regulate the hours and the working conditions of child workers and to prohibit child workers from being employed in hazardous industries.

- c. 2016- Child Labour (Prohibition and Regulation) Amendment Act:** An Act to prohibit the engagement of children in all occupations and to prohibit the engagement of adolescents in hazardous occupations and processes and the matters connected therewith or incidental thereto. According to this amendment in the Act, the Government of India will provide stricter punishments for employers who violate the Act. It will also make the employer employing any child or adolescent in contravention of the Act cognizable. The Act also allows the government to bar the employment of adolescents that are working in any hazardous conditions.

- d. 2017- Child Labour (Prohibition and Regulation) Amendment Rules:** The Government of India decided to make further amendments to the Act after extensive consultation with the stakeholders. Provisions included a broad and specific framework for the prevention, prohibition, rescue and rehabilitation of children as well as adolescent workers; for clarity on issues related to family enterprises; safeguards for creative workers or artists that have been permitted to work under the act concerning working hours and conditions; set of specific duties and responsibilities for law enforcement agencies to ensure effective implementation and compliance of the Act.

Violations: As per the data of 2011 Census, India had 10.13 million child labourers, between the age of 5-14. However, this problem is not uniform across India, with some states reporting a higher prevalence of child labour than others, examples being Uttar Pradesh, Bihar, Rajasthan, Maharashtra, and Madhya Pradesh - which together constitute nearly 55% of the total population of working children in India. Over 80 per cent of children below 14 years of age engaged in child labour are based in rural areas. According to the Census 2011, most child labours in India are employed for agriculture and allied activities. The global trend shows that 71 per cent of child labour is concentrated in this sector.¹⁶⁸

¹⁶⁸ Child Labour in India (International Labour Organization) https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---ipec/documents/publication/wcms_797515.pdf.

Although specific data about cocoa production is not readily available, we can study violations in the states of the country where cocoa production is most prevalent:

- **Andhra Pradesh-** According to a report by the Ministry of Labour and Employment dated 27th February 2003, the state with the highest child labour population in the country as of the 1991 census was Andhra Pradesh- with 16.61 million working children. However, since then, a remarkable decline has been seen with the latest data indicating a little over 4 million working children in the state.¹⁶⁹
- **Tamil Nadu-** In Tamil Nadu, there were around 1.51 lakh child workers as per the 2011 census. The state saw a significant decline since 2001 when the number was a staggering 4.19 lakhs. The state government is now in the process of launching a scheme similar to the National Child Labour Programme (NCLP), owing to the shocking 180% increase in child labour in 2021 because of the COVID-19 pandemic.¹⁷⁰
- **Kerala-** Despite remarkable accomplishments in other areas, Kerala has not been successful in keeping all its children away from the labour force. The work participation rate of children in 1971 was 1.9 per cent as against the all-India average of 7.1 per cent. In 1981, at least four per cent of the total workforce in the State were children. They formed about 92,854 children. They are the children working in the bidi industry, stone quarries, coir industry, fishing, cashew processing industry and in the unorganized sector. According to a recent estimate, the stone quarries of Kerala employ about 20,000 children.¹⁷¹
- **Karnataka-** According to data tabled by the central government, more than 900 children have been rescued from forced labour over a three-year period (2018-20) in Karnataka. As per data shared by Home Minister Araga Jnanendra, the year 2019 saw the highest number of child labour cases in the past five years and the Covid years did not see an increase as had been feared.¹⁷²

The 2011 data revealed that 53.69 lakh children aged 5-14 years were working as agricultural labourers and cultivators in India. The overall number of child labourers (marginal and main workers put together) was estimated to be around 1.3 crore. Analysing the Census data, the ILO in a report on child labour in India said that nearly 4 per cent of India's child population (5-14 years) is working as child labour (either main worker or marginal worker) "The incidence of child labour has decreased in India by 2.6 million (26 lakh) between 2001 and 2011," ILO said in its report. But a shift that has been observed is that while child labour is decreasing in rural areas, it

¹⁶⁹ Child Labour in Andhra Pradesh (Press Information Bureau), <https://archive.pib.gov.in/release02/yr2003/rfeb2003/27022003/r2702200312.html>.

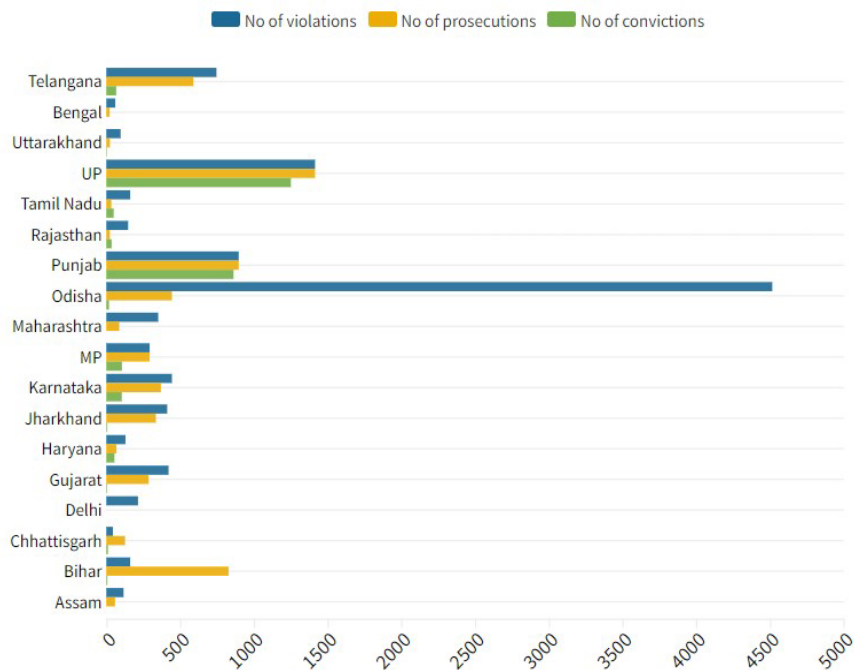
¹⁷⁰ Tamil Nadu Plans Scheme to Reduce Child Labour (The Indian Express, 9 Oct. 2022), <https://www.newindianexpress.com/states/tamil-nadu/2022/oct/09/tamil-naduplans-scheme-to-reduce-child-labour-2506260.html>.

¹⁷¹ R. Sooryamoorthy, Child Labour in Kerala: The Work and Working Ambience in the Capital City 15(2) JOURNAL OF THIRD WORLD STUDIES 31-52 (1998).

¹⁷² Child Labour Cases Didn't Spike During Covid in Karnataka (The Times of India, 2 April 2023), <https://timesofindia.indiatimes.com/city/mysuru/child-labour-cases-didnt-spike-during-covid-in-karnataka-data/articleshow/98164564.cms>.

is becoming more prevalent in urban centres, "indicating the growing demand for child workers in menial jobs".¹⁷³

Child Labour: No. of violations, prosecutions & convictions (2015-18)



Source: Lok Sabha

B. Environment

- a. **The Cocoa Life:** Cocoa Life is Mondelez International's global cocoa sustainability program launched in 2012 to secure a supply of more sustainable cocoa, Cadbury was also the company that first introduced cocoa plant in India on an experimental basis in the 1960s. For the 'Cocoa Life' Initiative, it has partnered with Kerala Agricultural University and Tamil Nadu Agricultural University for research. They distribute seedlings at subsidised rates and incentivise sustainable production of cocoa.¹⁷⁴
- b. **The Environment (Protection) Act, 1986:** The act was enacted with the main objective of providing the protection and improvement of the environment and for matters connected herewith. Its primary objectives encompassed establishing a regulatory authority to oversee industries and issue crucial directives, harmonising the efforts of diverse agencies under existing laws. The act aimed to fortify environmental preservation through dedicated legislation and stringent penalties for transgressors jeopardising the environment. Moreover, it underscored the protection of citizens' fundamental right to life, intertwining constitutional rights with the imperative to safeguard and nurture the environment.

¹⁷³ Child Labour in India: Violators Go Scot-Free as Only 25% Cases Reach Conviction (India Today, 12 June 2019), <https://www.indiatoday.in/india/story/child-labour-in-india-violators-go-scot-free-as-only-25-cases-reach-conviction-1547264-2019-06-12>.

¹⁷⁴ Cocoa Life (Mondelez International) <https://www.cocoalife.org/>.

- c. **The Forest Conservation Act, 1980:** Its core objectives are threefold: safeguarding the integrity of forests by protecting their diverse flora, fauna, and ecological components; curbing the loss of biodiversity within these vital habitats; and staunchly preventing the conversion of forest lands for agricultural, grazing, or commercial purposes.

Violations: Although there aren't any substantial reports on violations of environmental regulation rooted in cocoa production in India, we can study general violations of environmental regulation in prevalent states to aid our understanding.

- **Andhra Pradesh:** According to Global Forest Watch, In 2010, Andhra Pradesh had 979 ha of natural forest, extending over 6.2% of its land area. In 2022, it lost 1.22 ha of natural forest, equivalent to 808 kt of CO₂ emissions. From 2002 to 2022, Andhra Pradesh lost 5.66 ha of humid primary forest, making up 16% of its total tree cover loss in the same period. The total area of humid primary forest in Andhra Pradesh decreased by 3.6% in this period. From 2001 to 2022, Andhra Pradesh lost 36.5 kha of tree cover, equivalent to a 3.3% decrease in tree cover since 2000, and 17.5 Mt of CO₂ emissions.¹⁷⁵ East Godavari and West Godavari are both regions where, they're ranked 1 and 3 respectively among the top regions in Andhra Pradesh responsible for cover loss.
- **Tamil Nadu:** A study led by the Indian Institute of Technology, Bombay has found that vegetation in the Western Ghats influences 25%-40% of rainfall during June to September kharif cropping season in Tamil Nadu. Western Ghats, considered one of the global biodiversity hotspots that run through Kerala, Tamil Nadu, Karnataka, Goa, Maharashtra and Gujarat, lost 33,579 sqkm (35.53%) forest cover from 1920 to 2013, according to Indian Space Research Organisation's National Remote Sensing Centre, Hyderabad. The reasons for deforestation include increase in plantations, agriculture land and construction of dams for irrigation.¹⁷⁶
- **Kerala:** According to a study conducted by the IISC, which compares remote sensing data from 1973 till December 2016, Kerala has lost about 9,06,440 hectares of forest land in the period. Several hectares of land is lost to illegal encroachment and the likes of it. One of the leading causes of the same is clearing of forest land for new plantations and agricultural land, to cultivate tea, rubber, coffee, cocoa, coconut etc.¹⁷⁷
- **Karnataka:** Deforestation and environmental violations, including illegal logging, encroachment on forest land, and unsustainable agricultural practices, have been ongoing concerns in Karnataka. According to Global Forest Watch, an arm of the World Resources Institute, Karnataka has lost more than 3,000 hectares of primary forests in each year between 2016 and 2018, which is way above the annual forest loss in every year since 2001, barring one. The forest loss in 2018 was 3,537 ha whereas the figures in 2017 and 2016

¹⁷⁵ Global Forest Watch-(World Resources Institute (WRI)) <https://www.globalforestwatch.org/dashboards/country/IND/2/?category=forest-change>.

¹⁷⁶ Bhowmik, Dipankar, Deforestation in Western Ghats Decreases Rainfall in Tamil Nadu, Other States, Says Study (Hindustan Times, 8 November 2023), <https://www.hindustantimes.com/india-news/deforestation-in-western-ghats-decreases-rainfall-in-tamil-nadu-other-states-says-study/story-joj9VvwNVagGO54aMKmvhM.html>.

¹⁷⁷ T.V. Ramachandra, et. al., Land Surface Temperature Responses to the Land Cover Dynamics in Western Ghats, 1 GEOINFOR GEOSTAT: AN OVERVIEW 112 (2013).

were 3,060 and 3,310 ha respectively. Since 2001, Karnataka's tree cover loss never breached the 3,000-ha mark barring a single year in 2007 when 4,145 ha of forests vanished.¹⁷⁸

7. Regulatory Framework

A. A summary of the national framework

An essential component of the thorough development of the cashew and cocoa industries in India is the DCCD. According to their website, DCCD has accomplished a number of noteworthy milestones over the years. These include enlarging the area used for cocoa farming, creating cocoa villages, putting up display plots, holding in-depth training sessions, and replanting old plantations with cocoa types that yield more. The area under cocoa cultivation has increased significantly from 12,402 hectares in 1997–1998 to 1,03,376 hectares as a result of further efforts to provide high-quality planting materials and small nurseries. These programs demonstrate India's dedication to raising cocoa output and highlighting the crop's economic significance in the agricultural industry.

Furthermore, guidelines and protocols for grading and marking cocoa beans in India were established under the Cocoa Beans Grading and Marking Rules, 1996. These guidelines provide out standards for classifying cocoa beans according to their external qualities, moisture content, and foreign matter presence. The regulations guarantee uniformity and consistency in cocoa bean grading across various regions by designating various classes and encouraging transparency through grade marking. In the cocoa sector, this standardized approach helps exporters, processors, and farmers all by promoting fair trade standards and consumer protection. Following rules like the IEC and registering with the APEDA are essential when it comes to export and import concerns for Indian cocoa. The Indian DGFT issues the IEC, which is required for any entity involved in import or export operations. It acts as a distinct identifying number that is necessary for getting through customs. In a similar vein, APEDA is essential to the export of Indian agricultural and processed food goods. For importers, exporters, merchant exporters, and manufacturer exporters, both the IEC and APEDA registration are required.

To summarize, the Indian cocoa industry's growth and sustainability are attributed to the DCCD's efforts in cocoa development, as well as the implementation of grading and marking guidelines and compliance with export/import laws. Along with improving cocoa output, these programs support consumer protection, fair trade standards, and India's place in the world's cocoa market. India hopes to improve its standing as a major participant in the global cocoa market, promote the livelihoods of cocoa farmers, and foster economic growth in cocoa-growing regions by emphasizing quality, consistency, and compliance.

¹⁷⁸ Global Forest Watch - India Forest Change 2001-2022, World Resources Institute (WRI), <https://www.globalforestwatch.org/dashboards/country/IND/16/?map=eyJYW5Cb3VuZCI6dHJ1ZX0%3D>.

1. The Directorate of Cashew and Cocoa Development (DCCD)

The DCCD is a national agency primarily engaged in the overall development of Cashew and Cocoa in India. Some of their milestones as mentioned on their website¹⁷⁹ are:

- New area of 49,000 ha was brought under Cocoa cultivation.
- Cocoa villagers established.
- 265 cocoa demonstration plots established.
- Intensive TOT measures conducted.
- 1200 Ha senile plantations replanted with High-yielding varieties.
- Quality planting materials of cocoa produced under CPCRI and KAU.
- Small nurseries of cocoa established.
- Area under Cocoa increased to 1,03,376 Ha from 12,402 ha in 1997-98.

2. Cocoa beans Grading and Marking Rules¹⁸⁰

- The Cocoa Beans Grading and Marking Rules, 1996 establish grading and marking standards and procedures.
- The rules define different grades (like Grade I, Grade II, etc.) for cocoa beans based on specific criteria like-
 - (i) Physical characteristics: Size, shape, colour and absence of defects like insect damage and mould.
 - (ii) Moisture content: The maximum permissible moisture level to ensure proper processing and storage
 - (iii) Foreign Matter: Limits on the presence of non-cocoa bean material
- Fairtrade and Consumer Protection: The rules promote transparency by displaying a grade mark.
- Uniformity and Consistency: The rules establish a standardised system for grading cocoa beans across different regions in India to ensure that farmers, processors and exporters use the same evaluation criteria.

3. Export/Import Considerations for Indian Cocoa (IED and APEDA Registration)¹⁸¹

IEC is a ten-digit alpha-numeric code issued by the DGFT of India. It serves as a mandatory identification number for any entity involved in the import or export of goods in India.

¹⁷⁹ Milestones (Government of India, Directorate of Cashew-nut and Cocoa,) <https://www.dccd.gov.in/Content.aspx?mid=6&tid=1>.

¹⁸⁰ Cocoa Beans Grading and Marking Rules, 1996, https://upload.indiacode.nic.in/showfile?actid=AC_CEN_23_31_00011_193701_1535099362507&type=rule&file_name=cocoa

¹⁸¹ Export Registration Procedure, <https://agriexchange.apeda.gov.in/Ready%20Reckoner/IEC.aspx#:~:text=Step%201%20%3A%20Sign%20Dup%20through,E%2D%20mail%20and%20Mobile%20number>.

4. The Agricultural & Processed Food Products Export Development Authority

APEDA is a government agency under the Ministry of Commerce and Industry, India. It plays a crucial role in promoting the export of agricultural and processed food products from India.

- These general rules are relevant for any importers, exporters, merchant exporters and manufacturer exporters.
 - (i) Importers: Businesses bringing goods into India need an IEC to clear customs.
 - (ii) Exporters: Businesses sending goods out of India need an IEC.
 - (iii) Merchant Exporters: Companies that buy products from domestic sources and export them only need an IEC.
 - (iv) Manufacturer Exporters: Companies that manufacture products themselves and then export them need both an IEC and APEDA registration (if exporting agricultural or processed food products).

8. Conclusion

Owing to the fact that India is not a major large-scale producer of cocoa, there is not much available information on several nuances of whatever small-scale production does take place in India. However, in order to see the effects of cocoa industry on deforestation, soil erosion, child labour, green house gas emissions, more information will be required. Given that cocoa is not a major produce from India, cocoa plantations do not generally find sufficient coverage in reports on child labour standards and environment. In this regard, the reports and publically available information remain inconclusive.

In India, the overall demand for cocoa far exceeds the supply, because of which majority of the local consumption is sourced from imports. This calls for encouraging and incentivising sustainable production of cocoa while also minimising threats to the labour and environment of India.