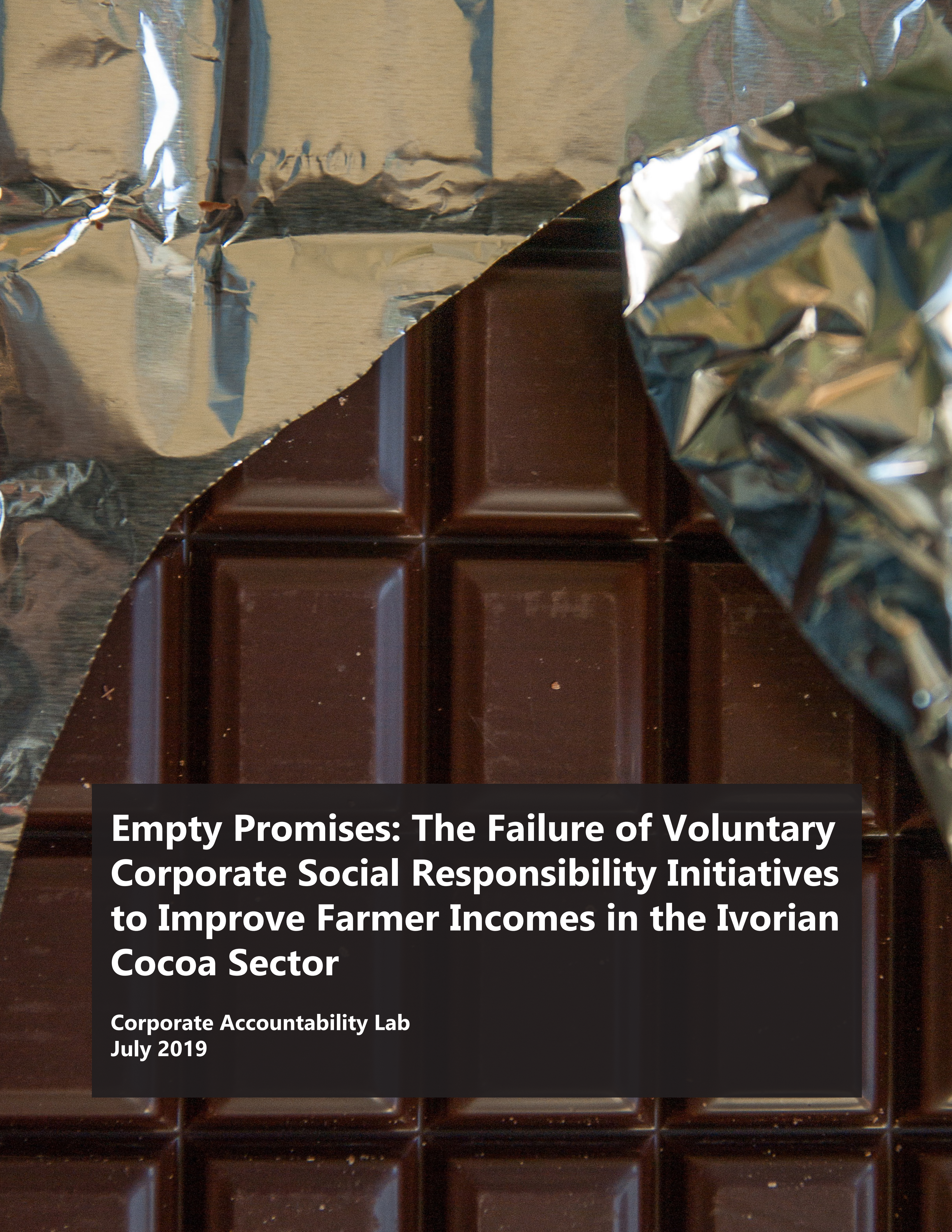

Empty Promises: The Failure of Voluntary Corporate Social Responsibility Initiatives to Improve Farmer Incomes in the Ivorian Cocoa Sector

Corporate Accountability Lab

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Table of Contents

I. Introduction

Between October 2018 and March 2019, Corporate Accountability Lab (CAL) staff interviewed farmers, tribal leaders in cocoa-growing villages, cocoa cooperatives and local and international NGOs to assess the impact of Corporate Social Responsibility (CSR) efforts in the industry, and to identify the root causes of the serious and ongoing problems in the cocoa sector: child labor, trafficking and deforestation. This report details our findings.

Almost one-third of the world's cocoa is produced in Cote d'Ivoire, a West African country bordering Ghana, Mali, and Burkina Faso. Cote d'Ivoire is the world's largest exporter of cocoa, and supplies to every major chocolate brand. These brands include some of the world's largest companies, with annual profits in the billions. Yet the farmers growing the cocoa essential to the products traded and sold by these companies live in desperate poverty due to the extremely low price they are paid for their labor. Despite Cote d'Ivoire being the biggest global producer of cocoa, Ivorian cocoa farmers are the lowest paid. The average daily income for a cocoa farmer in Cote d'Ivoire is less than what a consumer pays for a single chocolate bar. This creates labor-related risks to children, hired labor (especially migrant labor), and women. Demanding increased production with inadequate, and at times decreasing, incomes limits the ability of farmers to pay for labor, which may push them to either not pay workers or not operate their farms in compliance with social and environmental standards. The push for more production has also driven deforestation, including in protected forests. Farming in legally-restricted areas such as protected forests creates additional risks to both farmers and workers, and has resulted in other human rights impacts such as violent evictions.

Cocoa and chocolate companies have taken advantage of the system of smallholder farming, which in Cote d'Ivoire offers few protections for individual family farms and very limited support for farmer-centric organizing in cooperatives. The major companies have only made commitments to address negative impacts when pressured from external actors, due to increased discourse in the international community around business and human rights and sustainable development. These commitments generally take the form of voluntary CSR policies and initiatives, although in fact many reflect existing obligations. And despite decades of these commitments and millions of dollars in sustainability investments from industry, the social and environmental impacts remain severe, and in many cases, are increasing.

Many companies have begun to publicly acknowledge the reality that problems persist, yet have failed to change their behavior in ways that create real impact. Child labor and child trafficking have increased, deforestation in protected forests continues, cocoa trees in existing farms are dying from old age and disease, farmers and farmworkers are earning less now than they were five years ago, and farmers to continue to have little bargaining power as the number of farmer cooperatives remains extremely low. At the same time, the websites and CSR documents of major cocoa and chocolate companies display images of happy farmers, "empowered" by the company initiatives. External evaluations of these claims is limited, as the companies themselves fund and/or conduct most of the research and reporting. Cocoa and chocolate companies have been able to coast on empty promises for decades, buying time with misleading stories of success.

> ***Despite Cote d'Ivoire being the biggest global producer of cocoa, Ivorian cocoa farmers are the lowest paid. The average daily income for a cocoa farmer in Cote d'Ivoire is less than what a consumer pays for a single chocolate bar.***

This report examines the impact of CSR efforts in this sector, focusing on farmer livelihoods and the role of the low price in driving other social and environmental problems. We conclude that the major obstacles to meaningful progress in this sector include:

1. **Unliveable Income.** The government-set "farm gate" price for cocoa is roughly one-third the amount needed for farmers or workers to earn a living wage;
2. **Reliance on "CSR" over responsible business conduct.** Companies rarely mention their business and human rights obligations, and instead have relied on ineffective certification schemes while failing to comply with their voluntary commitments, despite nearly 20 years of CSR activity in the sector;
3. **Superficial analysis of root causes.** The excessive focus on the symptoms of poverty (child labor, forced labor, trafficking, etc.) over the root cause of poverty (dramatically skewed value distribution in

the supply chain) have distracted from identifying the role of multinational companies in generating abuses;

4. **Lack of involvement of farmers, farmer groups, and civil society in the ongoing conversations and initiatives around the issues in the sector.** Farmers lack access to information and participation, local groups working with farmers and communities have limited support, and international groups either have insufficient access to local partners or take an engagement approach that allows companies to whitewash their actions.

We find a central action that that will help address all of these obstacles in a real way, and we make one primary recommendation: companies should increase the price they pay for cocoa, industry-wide. This price increase can, and should, be part of a broader "sustainability" effort, but cannot be excluded any longer. The government has a critical role to play, too, but companies must not wait for governments in both producing and buying countries to act in order to fulfill their own responsibilities. Companies have benefitted for years from an unsustainably low price, and it is time for them to take responsibility for their role in creating the conditions that have led to extreme poverty, deforestation, child labor and trafficking across the sector. Without meaningfully addressing this root cause, their CSR activities are little more than window dressing.

Cocoa pod ready to harvest.

II. Methodology

Corporate Accountability Lab (CAL) visited Cote d'Ivoire in October 2018 and February-March 2019. We met with cocoa farmers, cooperatives, government actors and local and international civil society groups. We conducted consultations in five cocoa-growing villages, including consulting with tribal chiefs and elders from several ethnic groups, and conducting focus groups with women engaged in the industry. The tribal leaders consulted represented a population of approximately 18,300 residents, including children and adults, the vast majority of whom were involved in cocoa production as their primary source of income. We met with farmers who are Fairtrade and UTZ/Rainforest Alliance certified, farmers who are part of cocoa cooperatives, and farmers who produce "untraced cocoa," a category that constitutes approximately 80% of cocoa production in Cote d'Ivoire.[1] The villages included farmers from the Agni, Baoule, Malinke, Burkinabe and Bete ethnic groups, and were located on the East and West ends of the cocoa-growing region.

CAL collaborated with three local NGOs to set up village visits and support our research. We have chosen to omit the names of these NGOs, as well as the names and exact locations of the villages, given the delicate political environment in Cote d'Ivoire. Additionally, CAL conducted extensive desk research, consulted with numerous experts in individual and group settings, and worked with law school clinics to expand our research and gain feedback.

Various limitations in our methodology likely impacted this report. For example, the five villages that participated in our consultations may have been unrepresentative in some respects. In addition, we were restricted to formal channels for much of our research, which required us to notify local government officials of our presence and itinerary in advance and be supervised during visits to villages. An additional limitation is that members of our research team are non-Ivorian, resulting in cultural and language differences that may have reduced the level of openness and direct communication with village leaders and others. Due to the sensitive nature of the cocoa industry, and particularly regarding child labor, international researchers are often told a softer version of the truth.[2] Despite these limitations, the information we obtained in our consultations was consistent with similar research in numerous other reports, cited throughout this document.

Additionally, many activities and efforts discussed in this report are ongoing, so although we made all reasonable efforts to include the most up-to-date public information, there may be new updates that occur after the time of reporting.

III. Industry Background[3]

Truck used to transport cocoa. Many of the trucks are not labeled, raising transparency concerns. This truck was entering a classified forest, likely to collect cocoa harvest from the illegal farms within.

Cote d'Ivoire is the world's top cocoa producer, producing approximately 32% of the world's cocoa.[4] The cocoa industry accounts for roughly half of Cote d'Ivoire's export economy.[5] The industry generates annual exports worth approximately US$5B, with cocoa beans ($3.79B), and cocoa paste ($1.04B) in the country's top three biggest export items.[6] Globally, between five and six million farmers depend on cocoa farming.[7] Two million of those farmers are located in Ghana and Côte d'Ivoire.[8]

The three largest cocoa exporters control 60% of the industry: Barry Callebaut (Swiss), Cargill (US), and Olam (founded in Nigeria, current headquarters in Singapore).[9] Cargill was the single largest purchaser of cocoa in Cote d'Ivoire in 2016.[10] As of February 2019, the top chocolate brands by market share were (in descending order) Mars (USA), Ferrero (Luxembourg/Italy), Mondelez International (USA), Meiji Co. Ltd. (Japan), Hershey (USA), and Nestle (Switzerland).[11]

Profit distribution along the cocoa supply chain is indicative of the significant bargaining power held by the brands and exporters, and the very little power held by farmers. The vast majority of cocoa farms are small and family-run. While farming unions do exist, farmers are largely unorganized. Other collectively owned or managed enterprises such as cooperatives, which would give farmers greater bargaining power, represent a very small number of farms. Conversations about cocoa supply chains often assume the presence of a cocoa cooperative ("coop"), but in the main cocoa-growing regions of Cote d'Ivoire, only 20-30% of farmers are part of a coop.[12] This low number may be based in part on a lack of trust. In focus groups led by the KIT Tropical Institute, farmer interviewees shared a distrust for cooperatives, citing mismanagement of funds and embezzlement, as well as difficulties establishing one without outside support.[13] Farmers in one village CAL visited for this report chose not to join a cooperative. While they were supportive of the idea of a cooperative, they reported distrust due to negative past experiences with a cooperative's mismanagement of funds.

The misleading use of the term "coop" likely exacerbates this distrust. The name presumes a form of democratic farmer organization, but in fact may represent non-democratic, unrepresentative buying companies. The term describes a wide array of structures, including many organizations created and led by cocoa buyers. Sako Warren, the executive secretary of the World Cocoa Farmers Organization (WCFO), reports that many so-called "coops" are in fact "buying agents established by one of the chocolate companies," allowing those companies to claim that they buy from a cooperative. Richard Scobey, president of the World Cocoa Foundation, an industry association, also reports that there is a problem with "paper cooperatives." According to Warren, "When you have for instance in Cote d'Ivoire 20 co-operatives, you aren't going to find more than two that are farmer-driven."[14]

In spite of the flaws of the coop system, the majority of farmers who operate outside of this system are even more vulnerable to receiving very low prices for their beans, which they often sell directly to the *pisteurs* (itinerant buyers) or on an ad hoc basis to coops. Selling to *pisteurs* may provide benefits including immediate payment, and *pisteurs* sometimes offer credit if farmers are need capital urgently. Farmers who are members of coops may also sometimes sell to them if they need immediate payments or if their coop has reached its buying volume. However, the *pisteurs* can also take advantage of these situations by buying at a price below even the farmgate price. The farmers that we spoke to shared mixed accounts of dealing with *pisteurs*, with some respecting the government-set price and others not.

IV. Labor-Related Risks: Child Labor, Hired Labor and Disparate Gender Impacts

Numerous studies and CAL's field work document the many human rights risks endemic to the sector, driven in no small part by the low price farmers receive for their cocoa. By far the most documented abuse in the cocoa industry is the use of child labor, both through local family and social networks and through national and international child trafficking. Forced labor of both children and adults is also present, but has been less documented.. In addition, the few benefits of working in the cocoa industry still accrue disproportionately to men, despite the significant role of women farmers and farmworkers in the supply chain. CSR initiatives, discussed in greater detail below, have been developed to address these different impacts, but to date they remain ineffective.

Not all work done by children on cocoa farms is considered child labor. The International Labour Organization (ILO) distinguishes between work that does not impact a child or adolescent's health or personal development, or interfere with school, and "child labor," which involves work that either prevents a child from obtaining an education, or is hazardous or dangerous. The worst forms of child labor include slavery and trafficking, and exposure to serious hazards.

Child Labor. The issue of child labor in the cocoa sector in West Africa gained international attention in 2000, and the U.S. government almost enacted legislation to address it. The cocoa industry pushed back, and successfully negotiated the 2001 Harkin-Engel Protocol—a voluntary initiative that served to stave off the threat of legislation to create a "slave-free" chocolate label --- instead. Since signing, the industry's leading companies have announced a series of CSR initiatives pledging to eliminate the worst forms of child labor in West Africa and elsewhere. The Harkin-Engel Protocol was announced with a commitment by firms to eradicate child labor by 2005, yet little progress was made by this deadline or subsequently extended deadlines. Indeed, despite 17 years of voluntary CSR and certification initiatives, child labor in the West African cocoa sector not only persists but according to many has been getting worse. A study released by Tulane University in 2015 found increases in West Africa in the number of children working in cocoa production (440,000 increase, to 2.26 million), in "child labor"[15] in cocoa production (360,000 increase, to 2.12 million), and in hazardous work in cocoa production (310,000 increase, to 2.03 million) between the 2008-09 and 2013-14 seasons. [16] In Côte d'Ivoire, the number of children in hazardous work in cocoa production increased by an astounding 46% (from 790,000 to 1.15 million) between 2008-09 and 2013-14. In

Ghana the number of children in hazardous work in cocoa production decreased by 6% (from 930,000 to 880,000) between 2008-09 and 2013-14.[17]

Significantly, this increase in children involved in cocoa production is less a result of children replacing adult workers, but rather corresponds to a dramatic increase in cocoa production overall. Production increased more than 40% in Côte d'Ivoire and more than 30% in Ghana between 2008-09 and 2013-14.[18] The overproduction, and subsequent significant price drop, in 2016-17 exacerbated this issue. Research indicates that without enough resources to pay for adult hired labor, the risk of child and forced labor increases,[19] and that "child and forced labour occurs where there is a need to increase demand while reducing cost."[20]

Hired Labor. The majority of the world's cocoa is grown on small, individual family farms rather than plantations.[21] The labor-intensive nature of growing cocoa often requires smallholder farmers to hire additional help. The wage structure in the industry reflects its smallholder character, and fails to ensure the payment of the minimum wage to hired workers. The Ivorian labor code distinguishes between agricultural and non-agricultural workers on maximum hours—non-agricultural workers must be paid overtime after 40 hours per week, while agricultural workers are only entitled to overtime when they work over 2,400 hours in a year.[22] While this would only be 46.1 hours per week if the workers worked throughout the year, cocoa labor is seasonal, meaning that workers could work more than 90 hours every week during harvest without qualifying for overtime.

In practice, hired workers on Ivorian farms are often paid a percentage of farm profits at the end of the season, rather than receiving a daily or monthly wage. In most of the communities visited while conducting research for this report, at least some hired workers were paid this way: earning one-third of the farms' profits as a sharecropper, or one-half where the farm owner took no role in administering the farm. Where workers are paid a percentage of yield, there is no way to ensure compliance with the minimum wage, and it is widely reported that the minimum wage is ignored. In 2013, the Ivorian government raised the minimum wage by 60%, from a monthly minimum of 36,600 CFA Francs ($75), to 60,000 CFA Francs ($120). This was the first increase since 1994. However, according to one local media report, the "increase is not expected to have a great impact on workers' wages as so few are paid the minimum, which is far from enough to live on in Ivory Coast."[23] Estimated daily incomes for cocoa farmers in Cote d'Ivoire range significantly, with some reporting an average between $.50 and $1.17, only a fraction of a "living income" of $2.51 calculated by Fairtrade International.[24]

Workers who do not operate in a sharecropping agreement

The labor-intensive nature of many of the cocoa-growing activities can be seen in how they wear down machetes, as displayed above. When it was new, the machete on the left was identical to the one on the right.

may end the harvest season with nothing at all. While there is little information available on adult forced labor in the cocoa sector, recent research has begun to focus on forced labor more generally. This research has identified low farmer income, coupled with high cost of inputs and lack of access to credit, as risk factors, as they diminish the farmers' ability to pay workers, and "may lead them to utilize more vulnerable populations as labor, such as newly-arrived migrant workers and children."[25] Many of the medium-sized farms in Cote d'Ivoire employ forced laborers, trafficked from Mali and Burkina Faso, who are not paid anything for their labor.[26] One report indicated that this risk of forced labor may be even higher in areas where cocoa farms have taken over protected forests, due to the "illicit" nature of those farms.[27]

While instances of forced labor did not come up in our interviews, we did hear about farmers' difficulties paying workers. In some villages, people said that workers more often seek daily contracts now because with an annual contract, the workers are concerned about getting paid at the end of the harvest season. Others indicated that measures would be taken by village chiefs if a farmer was unable to pay a worker at the end of the year. Some farmers reported to CAL staff that farms could not be managed properly because the farmer could not afford to hire workers. One system to mitigate these challenges was the use of internal labor groups. Almost all of the villages that we visited had such groups, where villagers would work on each others' farms. Some were voluntary (unpaid), while others received a discounted wage. While the additional support likely helped, we were not able to ascertain whether they were effective in helping farmers to maintain their farms, or how the use of these groups impacted the need for hired workers.

Women. According to the African Development Bank, women in Cote d'Ivoire own about 25% of the cocoa plantations and comprise about 68% of the labor force. CAL conducted several focus groups with women cocoa farmers,[28] and confirmed from those interviews that women farmers in Cote d'Ivoire participate in all stages of cocoa production to varying degrees, while the transport of cocoa beans to market and the negotiation of sales is traditionally handled by men. This gendered distinction ultimately limits female farmers' ability receive the same benefits from cocoa growing as their male counterparts.[29] Indeed, advocates report that women in cocoa earn only 21% of the income generated.[30] Similarly, one academic found that women Ivorian cocoa producers were earning up to 70% less than their male counterparts.[31]

This gendered income disparity is probably most pronounced in sharecropping arrangements, but we also found gender-based income disparities in day labor arrangements. In one community visited for this report, women workers described a day labor arrangement, in which they were paid 1250 CFA ($2.16) per day, as compared to 2000 CFA ($3.46) for male workers.

Women also participate in income-generating activities outside of cocoa. Increasing crop and income diversity has been a focal point for improving livelihoods on cocoa farms in existing sustainability efforts, and increasing income-generating activities for women specifically is part of many of these efforts.[32] In the villages that we visited, we met with women's groups and committees, and heard of different income-generating activities, including women's labor groups and the cultivation of cassava and the preparation and sale of attieke (a local food made from grated, fermented cassava). We heard varying accounts of how money from other sources, such as cassava production or day labor work, was managed. Women we interviewed reported that men controlled almost all monetary resources held in the household that came from cocoa growing. Given that cocoa was the primary source of income in almost every family interviewed, even where women controlled income that they earned, the bulk of the financial control remained with men.

In all of the villages that CAL visited, women cultivated other crops such as yams (above) primarily for home consumption, though they may sell it to supplement the household income if the yield was large.

Figure 1: Cocoa Prices Mar. 21, 2016-Mar. 21, 2019. Prices are USD per tonne.
Source: Markets Insider, "Cocoa in US – Historical Prices" https://markets.businessinsider.com/commodities/historical-prices/cocoa-price/usd

V. Cocoa Pricing and Living Income

The documented human rights and labor risks discussed above, along with environmental risks from deforestation and poor agricultural practices, are all symptoms of poverty in the Ivorian cocoa sector. And they all share a significant driving force: the unsustainably low price of cocoa. This section looks at how the price is determined, then examines the relationship between the price farmers receive for raw cocoa beans, on the one hand, and the ability of farmers to earn sufficient income to support themselves, their workers, and their families, on the other.

There are two key price points in the global cocoa trade: the World Market Price and the Farm Gate Price. The World Market Price is an average of the price for cocoa futures on the London and New York stock exchanges, and is published daily. While this number sets the global price for cocoa, there is some variation based on country of origin and quality. The Farm Gate Price is the price an individual farmer receives for cocoa, and in most countries is set as a percentage of the World Market Price.[33]

Outside of West Africa, fluctuations in the World Market Price have an almost immediate impact on cocoa farmers, where their sale price fluctuates almost in real time. In contrast, in Cote d'Ivoire and Ghana, national marketing boards pre-sell part of the harvest during the prior year, and then fix a price for the remainder of the year, immune from daily fluctuations. In Cote d'Ivoire, the Farm Gate price is fixed at about 60% of the value of the government pre-sales, though it has lowered the farm gate price to below 60% when prices changed dramatically after pre-sales.[34] So while the fixed price could protect farmers if it reflected the actual costs of farming, in practice, it undercuts farmers' ability to earn a living income because it is set so low.

The price of cocoa, like other international commodities, is impacted by the level of production. With shortages, prices often rise. Conversely, with surplus, prices drop. Several factors impact the overall level of cocoa supply and thus commodity price levels. First, as with all agricultural commodities, climate and weather have significant impacts on production in a given growing season. Cocoa can only be grown within 10 degrees of the equator, where the climate is tropical and the dry season is short.[35] Some experts have warned that climate change will have an impact on yield and quality.[36]

Second, the lack of government management of legally-protected wilderness areas has resulted in an increase in production, as farmers have deforested huge swaths of forest area, most dramatically in Ghana and Cote d'Ivoire.[37] According to multiple reports, approximately 40% of Ivorian cocoa comes from areas that are supposedly protected from this type of agricultural activity.[38] One report indicates that this number may in fact be significantly higher.[39] The environmental organization Mighty Earth calls illegal defor-

Protected Forests and Human Rights

A 2016 report by Human Rights Watch exposed several instances of violent forced evictions, destruction of property, physical violence, and corruption involving families living in these protected forests, despite international human rights law protections from such evictions, which apply regardless of their legal status regarding the land.[40]

Many interviewees claimed that the evictions were arbitrary, and that families would try to keep their farms safe by paying members of SODEFOR, the Ivorian forest service. Some farmers interviewed for a 2017 report by Mighty Earth noted that they were able to move back to the land they were evicted from by paying SODEFOR a higher bribe.[41]

As part of the implementation of Cote d'Ivoire's new forest policy, a new round of evictions are planned for July 2019 in Scio, and civil society groups are calling for the government to follow international good practice.[42]

estation for cocoa production "an open secret," and traced cocoa produced in illegally deforested areas to the world's largest cocoa traders: Cargill, Olam, and Barry Callebaut.[43] The Cocoa & Forests Initiative (CFI) was launched in 2017 to protect remaining forest areas, and to reforest areas when possible. But it appears that cocoa farming in protected areas continues: a 2018 report notes that new areas have been deforested and new cocoa trees appear to have been planted in protected forests *after* the launch of CFI.[44]

CAL visited a classified forest in 2019, and confirmed the Mighty Earth findings: instead of natural forest land, we saw miles of cocoa farms and villages where cocoa was being dried, packaged, sold and transported. Despite the large number of people within the forest area, our car was quickly pulled over by a forest ranger, who informed us that we should have obtained permission to enter the forest from local government officials, and asked repeatedly if we were with an NGO.

Third, many initiatives launched by cocoa and chocolate brands to improve "sustainability" in the industry have had a perverse effect. As discussed in more detail below, industry initiatives in this space have often prioritized supply and yield over social impact when discussing "sustainability," while the average consumer associates the word with social indicators and not simply supply. This push for increased production of cocoa was a contributing factor in the price collapse of 2017, resulting in farmers earning even less for the cocoa they produced.

It is the farmers who bear all of the risks of price volatility, despite being the players in the chain with the least reserves to do so.[45] Companies have simultaneously contributed to driving the price down and benefitted from it. As the authors of the 2018 Cocoa Barometer point out, "[w]hile the company sustainability departments are investing hundreds of millions into projects over the years, their purchasing departments have saved roughly US$1,000 per tonne of cocoa due to the price decline. This adds up to approximately US$4.7 billion in reduced purchasing costs in the 2017-18 crop compared to the previous year."[46]

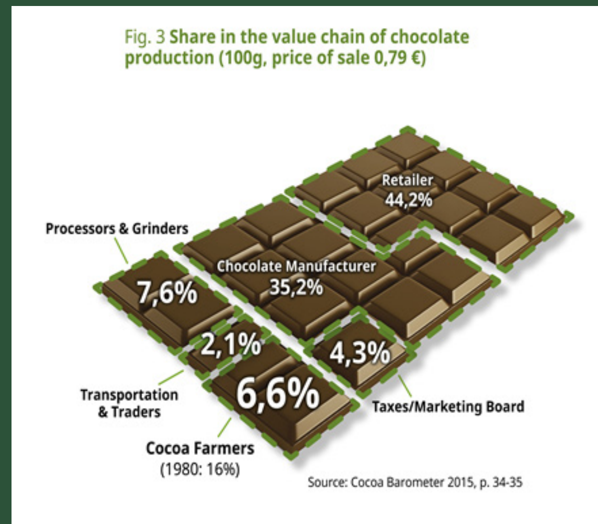
Price and Value Distribution

Today, of the total cost of an average chocolate bar, some advocates estimate that farmers receive approximately 6.6%.[47] This is a historically low share of the product's value; in 1980, for example, workers received approximately 16% of the retail price. A 2018 Oxfam report found that while the share of profits being earned by retailers (primarily grocery stores) increased between 1995 and 2011, this same period was associated with a decrease in income for farmers across agricultural supply chains.[48] A report by True Cost and IDH calculated the amount that the cocoa farmer would need to receive if companies complied with social and environmental norms, and those costs were incorporated into the consumer price. In 2016, when research was conducted, the price of cocoa beans was €1.35 ($1.58 USD) per kilo. The researchers determined that the external costs amounted to €5.75 ($6.72 USD) per kilo, for a total "true price" of €7.10 per kilo, or four times the Farm Gate price of cocoa. The vast majority of this price gap was attributed to underpayment of workers and under-earning of family workers, followed by deforestation and reliance on child labor.[49]

"We live in difficulties. We do all the works, the hard works, but we cannot see the results. We work hard but we do not have the means. Why someone who has 10 hectares of cocoa cannot take care of his children?" – village chief

Calculating the farmer's share of the price of a bar of chocolate

Several ubiquitous chocolate items—1.5-2-ounce Hershey's, Snickers, Kit Kat or Twix bars—retail at Target for $0.89. Applying the estimated value chain breakdown above to these products, the total paid to the farmer per bar, including costs of production and hired labor (6.6% of $0.89), would be just under $0.06. Of course, since farmers must pay for a variety of inputs, only part of the estimated 6.6% of the retail price paid to farmers would go to labor costs.



Data is scarce on what farmers pay for inputs in each country, but nearly all cocoa farmers purchase fertilizers, pesticides, farm equipment and planting materials, and must also rent or buy farmland. According to the LeBaron study, a Ghanaian cocoa farmer spends 46% of his or her income on operation and general production costs, 3% on pesticides, 3% on water, 1% on replacement trees and cocoa bags, 1% on replacement equipment, leaving 40% for labor costs. Using this cost breakdown, it can be estimated that 2.6% of the retail price goes to pay for labor, including income for the farmer and income for hired workers combined, or about $0.02 per Snickers, Kit Kat, or Twix candy bar. Farmers interviewed for this report in every village visited raised the price of fertilizers and pesticides as a top concern.

The small share of value claimed by workers is related to a persistent trend in the cocoa sector: Rather than fluctuating in relation to the price of its key ingredient as one might expect, retail prices for chocolate products tend to remain steady over time—even when the price of cocoa beans is at a low ebb, as is presently the case. The multinational cocoa firms that dominate the sector are thus able to take advantage of low cocoa bean prices without sharing their gains with workers who produce the commodity.[50]

Living Income

One positive development in the sector has been increased attention by both NGO and corporate actors to the issue of living income. Numerous reports in 2017 and 2018 looked at cocoa farmer incomes, what a living income might look like, and how to achieve it.[51] The Ivorian Center for Socio Economic Research (CIRES) published a Living Income Report for rural Cote d'Ivoire that presents a living income benchmark as part of the Living Income Community of Practice.[52] A further study, funded in part by Cargill and Mars, analyzed the income gaps in cocoa producing households using this benchmark,[53] and Fairtrade developed a Living Income Reference Price based on the benchmark.[54] While the numbers vary depending on the methodology used, they uniformly find that the gap is significant. According to the report by KIT Royal Tropical Institute, the average cocoa-producing household is roughly only a third of the Benchmark living income.[55]

As discussed above, the low cocoa price and associated low farmer income is a root cause for other problems in the sector. A recent report on child and forced labor in the cocoa sector linked living income to these labor risks, highlighting that "[i]nterventions targeted at reducing poverty by paying higher wages and improving living conditions work to address the root causes of labour abuses in the cocoa sector."[56] Without raising the farm gate price, improvements in decreasing child labor in the sector will always be short-lived, as poverty keeps children out of school and working on farms.

CAL's farmer consultations supported these conclusions. In every village visited, farmers emphasized that the price they were getting for cocoa was inadequate, and shared how it is negatively impacting their lives. While the specific stories of the impacts were different, we heard recurring themes: the low price and resulting low income had impacts on food security, education, and health; support in the form of supplies or trainings was sometimes provided (most often through coops) to increase productivity, but if it was offered at all, was inadequate; there is a lack of access to information on how the prices are set and a lack of information on any opportunities to participate or share their opinions on the matter. We spoke with a women's group who had aspirations to develop community activities but have to focus all of their activities on financially supporting their own families in order to make ends meet. We heard families in every village share their desire to send their children to school, but with the financial means to send only some of them, and/or incur debt covering the costs. We heard stories about accessing credit, but having to use it for immediate needs such as school costs, rather than investments in farms. We met with farmers who understand what better agricultural practices are, but do not have the financial means to implement them, or who are unable to maintain their farms because they cannot afford to buy new seeds, fertilizer and pesticides, or to hire labor to help.

> ***"I am disappointed because I do not know what I can do to send my children to school, to take care of my health and my family." – farm owner***

Companies are beginning to acknowledge that farmer income, and to some extent price, is a key factor in determining other measures of sustainability. Historically, companies cited issues such as yield and productivity as causes for farmers' inability to secure a living wage, but today, issues around farmer livelihoods have even been added as Key Performance Indicators in company reporting.[57] Cargill notes that "[l]ower prices directly impact farmer income, which can have profoundly negative repercussions on livelihoods, nutrition, health and education. This in turn increases the risk of deforestation as farmers seek other income revenues, or child labor as they try to cut costs."[58] Similarly, Barry Callebaut states that "[w]e can only lift cocoa farmers out of poverty if we pursue nothing less than systemic change in cocoa farming."[59] According to Olam, "there is one issue at the heart of the problem: extreme poverty…[i]t is an undeniable fact that helping smallholder cocoa farmers to increase their income will undoubtedly reduce the number of children relied upon to work on family farms."[60] Olam also acknowledge that "[t]he decision to send your child to work on a cocoa farm often comes from a place of necessity in the face of little or no income."[61] After the Fourth 2018 World Cocoa Conference, the ICCO released the "Berlin Declaration."[62] Participants included major chocolate companies, such as Olam, Cargill, Mars, Mondelez, and Barry Callebaut. The Declaration directly links deforestation, child labor, human rights violations, and gender inequality to poverty, and states explicitly that sustainability is impossible without the ability to earn a living income.[63]

Even with this recognition of the importance of farmer livelihoods, there remains a significant gap. Despite acknowledging the connection between poverty and other issues like child labor and deforestation, and despite the general consensus on the connection between prices paid to farmers and poverty, major chocolate brands still refuse to acknowledge that paying farmers a living income is crucial, and more importantly, refuse to actually pay a better price. Company sustainability programs continue to deflect from the core issue of raising farmer income and cocoa prices, and focus disproportionately on productivity.

A Way Forward?

The government price-setting body has persisted in setting the farm gate price at an unsustainably low level, as a function of the world market price. However, if Cote d'Ivoire and Ghana, as the largest cocoa producers in the world, were to significantly increase the farm gate price, this would likely drive up the world market price. Natural constraints on cocoa production are significant, meaning it would be unlikely that another country could replace Ivorian cocoa production in the next decade. We asked each village what price would be sufficient to cover their basic needs, including housing, clothing, healthcare, and schooling for their children. We received answers ranging from 1500-2500 CFA per kilo, or between two and 3.5 times the current price.

The price of cocoa was 750 CFA per kilo as of February, 2019. The farmers that CAL spoke with said a price between 1500-2500 was necessary in order to make a living growing cocoa.

In June 2019, the governments of Ghana and Cote d'Ivoire suspended the forward sales of cocoa for the 2020/2021 growing season until buyers agreed to a floor price of $2,600/ton. In July, officials met with industry leaders to discuss details, which resulted in a $400/ton "Living Income Differential" in place of the floor price. While Mars publicly indicated support for government intervention to increase price, the statement fell short of explicitly committing to this new proposal. Other unnamed company officials stated that the parties had not come to an agreement on this.[64]

Absent a change in government behavior, companies could pay a higher price independently. A recent report by Aidenvironment and Sustainable Food Lab offers numerous concrete options to tackle this, including floating premiums.[65] A Cocoa Barometer consultation paper similarly raised the topic.[66] Michel Arrion, the new Executive Director of the ICCO, has stated that there is a valid argument for tripling the price of cocoa for farmers, and including living income components into certification schemes,[67] and the previous Executive Director Jean-Marc Anga, suggested raising the price of cocoa by 3% and passing that on to the farmers.[68]

As discussed above, the component of the retail price of a chocolate bar that goes to farmers is so small that chocolate companies could double or even triple the income earned by a farmer by increasing the consumer price of a chocolate bar by just a few cents. Alternately, the companies could absorb the cost directly—something that would have only a marginal impact on their bottom lines. However, companies have already demonstrated a reluctance to support the government scheme because it "placed all the risk on them,"[69] despite the fact that the increase is not significant. ICCO's Executive Director "was more expecting something around $3,000."[70]

VI. Legal Environment

One compelling argument for companies to raise the price of cocoa is that they face legal risks by setting prices so low that they contribute to forced and child labor. Stronger regulatory measures around corporate human rights due diligence, supply chain transparency, trafficking, and forced labor continue to gain traction across the globe. Importing goods produced with forced or trafficked labor into the US is a violation of US customs law.[71] Customs and Border Protection could, at any time, begin to seize shipments of chocolate products made with Ivorian cocoa at the border, given the prevalence of child trafficking in this industry. Civil lawsuits continue to be filed in the US against major chocolate companies.[72] Both the UK and Australia have Modern Slavery Acts,[73] the Netherlands has recently passed a new law on child labor due diligence,[74] and France has adopted a mandatory duty of vigilance law for companies.[75] In the European Union, a growing number of countries are calling for EU-level regulation of cocoa to combat child labor and deforestation.[76] Germany is considering human rights due diligence laws similar to that in France,[77] and legislation around supply chain transparency legislation is being considered in the US[78] and Canada.[79] As the need for free labor in this industry will almost certainly persist until the extreme poverty of farmers can be alleviated, increasing the price paid has the potential to pave the way for better regulatory compliance and not just better public relations.

Cocoa beans drying outside of a storage location within Scio, a protected area. Despite company commitments on traceability, it is estimated that approximately 40% of Ivoirian cocoa comes from protected forests.

In addition to the legal obligations in both producing and purchasing countries, companies have responsibilities under international instruments and frameworks such as the United Nations Guiding Principles on Business and Human Rights (UNGPs),[80] the UN Global Compact,[81] and the OECD Guidelines.[82] These documents share core themes around the responsibility of companies not to cause or contribute to human rights violations through their operations,[83] and providing remedy when harms do occur.[84] These responsibilities are not limited to avoiding directly causing violations, but include corporate complicity and being linked to an operation through their business relationships.[85] Most of the major cocoa and chocolate companies are participants in the UN Global Compact, and thus have committed to the 10 Principles,[86] and the vast majority are from OECD member countries,[87] and are thus bound to those commitments. Some companies, including Cargill and Barry Callebaut, also have relationships with international financial institutions such as the International Finance Corporation (IFC) that have social and environmental safeguard policies.[88] Both the OECD and the IFC have accountability mechanisms which can be triggered if violations of their guidelines and procedures are reported.[89]

While these are not legally binding and may not subject companies to legal risks directly, violations of these commitments put companies at significant financial and reputational risk, and potential future legal risk. They are also important for understanding that the initiatives that many of these companies implement stem from their responsibilities, not their generosity.

Companies often conflate voluntary "CSR" activities with responsible business conduct. For example, companies are not explicitly obligated to build schools or provide trainings on good agricultural practices. But they are expected to "[a]void causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;" and to "[s]eek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts."[90] Providing trainings on best agricultural practices may be publicized as a CSR endeavor, but should also be interpreted as a necessary measure to mitigate or address the impacts of farmer poverty from low cocoa prices, which is linked to the company's activities and/or business relationships. Company actions can impact a broad spectrum of rights related to standard of living, work conditions, and freedom from forced labor. So when a company causes or contributes to those rights being violated, they have an obligation to take actions to address them. Building a school is a good thing, and may contribute positively to a community. But it does not negate the responsibility to address the harm they are causing. CSR activities that fall outside of a company's obligations are welcome, but they do not act as a counter measure to a company's responsibilities.

VII. Corporate Social Responsibility

Compared to many other sectors, cocoa brands have invested significant resources in voluntary corporate social responsibility (CSR) efforts, dating back almost two decades. Our research, and the research of many other advocates in the field, shows that these efforts have had almost no impact on farmer livelihoods or many other sustainability measures. Indeed, at the 2018 World Cocoa Conference, delegates formally recognized that "voluntary compliance has not led to sufficient impact."[91]

In this section we highlight a few of those CSR efforts to underline both where the disjunctures are that are blocking real change, and how important it is for advocates to carefully assess the impact of voluntary CSR and not give excessive credit for promises made. We look at three key interrelated areas: "sustainability;" certification; and scale.

A. Background: a Long History of Commitments on Cocoa

Each major company has its own CSR program, including Nestlé's Cocoa Plan,[92] Hershey's Cocoa for Good,[93] Mondelez's Cocoa Life,[94] as well as Cargill's Cocoa Promise,[95] Olam Livelihood Charter,[96] and Barry Callebaut's Forever Chocolate.[97] These programs all share certain commonalities: a commitment to address child labor, a focus on improving farming practices to increase productivity, and a commitment to increase the percentage of cocoa that is certified, either through their own certification schemes or a third party. Common features of these programs include a premium that is paid to the coops (similar to the Fairtrade premium), school construction, women's programs, and trainings. Some companies rest their supply chain sustainability strategy on increasing the percentage of certified cocoa used in their products. Mars, Ferrero and Hersheys have made commitments to sourcing 100% certified cocoa by 2020,[98] and other companies like Mondelez have their own certification schemes.[99]

While each sustainability program includes the issue of farmer livelihoods, it is telling that this critical issue consistently places second, after the primary emphasis on supply, yield, and productivity.

Chocolate brands generally do not publicize their total monetary investments in sustainability initiatives, possibly because activities billed as sustainability-related are often difficult to distinguish from normal business activities like investing in research and development and increasing supply. Since 2008, Cadbury reports it has invested $72 million "in sustainable cocoa sourcing in Ghana, India, Indonesia and

The fermentation process for cocoa beans takes approximately 6 days.

the Caribbean" through the Cadbury Cocoa Partnership.[100] This likely represents the amount paid for certified cocoa, rather than just the premium paid or the cost of "sustainability" programs. In 2017, Mars announced it would invest $1 billion between 2017 and 2020 in sustainability initiatives, and Hershey's announced a $500,000 investment for the same period.[101] Mars' billion dollar investment "will come in the form of business expenses, not corporate social responsibility or philanthropic programs," even though it has been billed as a "pivot toward sustainability."[102]

In addition to these individual company programs, there are numerous programs seeking to pool the resources of these companies and encourage alignment of strategies. The World Cocoa Federation, an industry association focused on sustainable cocoa, launched CocoaAction in 2014 as "a voluntary industry-wide strategy that aligns the world's leading cocoa and chocolate companies, origin Governments, and key stakeholders on regional priority issues in cocoa sustainability."[103] Given its company-centric structure, advocates argue that non-industry actors have had little input, resulting in "a considerable bias of solutions towards industry-favored approaches."[104] In 2017, the World Cocoa Federation, along with the governments of Ghana and Cote d'Ivoire and over 30 companies, launched the Cocoa & Forests Initiative "to end deforestation and restore forest areas."[105]

Various other collaborations between competing chocolate companies exist. One initiative, the Global Cocoa Agenda,[106] considered the most comprehensive cocoa sustainability program, seeks to bring together companies, governments, civil society and farmers to create a united agenda across labor, human rights, environmental and other sustainability issues. Six years after formation, advocates report that this initiative has still not created a monitoring system or had any appreciable effect on the ground.[107] The new Executive Director of the ICCO has recognized the shortcomings in the results from the Agenda and subsequent Declarations, and reports that changes are underway.[108]

The impressive CSR materials of these companies indicate rhetorical sophistication on relevant issues in many cases. But these programs' failure to lift farmers out of poverty and cycles of indebtedness, due to their refusal to take the simple step of increasing the price they pay farmers for cocoa, raise important questions about the efficacy of such initiatives. CAL's inability to find any real impact of such programs during our in-country research and farmer consultations is further indication that these programs promise much more than they deliver.

B. Key Shortcomings

a. "Sustainability": How it is (and is not) defined

The ineffectiveness of these programs could be due to their focusing on sustainability of supply rather than sustainable sourcing practices, while conflating the two in public-facing documents. The term "sustainability" is often heard by the public as code for respecting labor and environmental norms, while in the industry, it can be code for maintaining steady supply. We reviewed the public statements of many of these companies and found this to be the case.

Even from the early days of the Harkin Engel Protocol, companies' efforts focused on "the establishment and training of farmer groups, the improvement of cultivation practices, and the dissemination of technology for pest and disease management."[109] Similarly, current certification programs generally focus not only on farmer welfare, but on increasing agricultural productivity. The authors of the Cocoa Barometer noted that, "[t]hough an important step, increasing yield is not the panacea that will solve the cocoa sector's problems, contrary to popular belief among companies."[110] Of course, there is a relationship between better methods of production and higher yields and a farmer escaping poverty, but one does not inevitably lead to the other. Indeed, oversupply can lead to price crashes for farmers. In 2017, after companies focused their sustainability efforts on increasing production and these efforts succeeded, production skyrocketed and the price dropped dramatically. The effects of overproduction can in fact derail sustainability efforts.

Yet productivity and yield remain the focus of "sustainability." For example, Mars' cocoa sustainability language emphasizes this repeatedly, with such statements as "[t]o increase their yields and incomes, we need to help provide better access to improved planting materials, fertilizers, and best-practices training…this not only boosts supplies, but it also helps farmers lift their families up financially…"[111] Similarly, Mondelez describes their Cocoa Life Challenge this way: "Demand for chocolate is growing, especially in emerging markets. But cocoa supply is constrained…We want to help maintain the long-term stability of the cocoa supply chain and improve the welfare of cocoa farmers and their communities."[112] A key element of Cargill's solution is "[t]raining, aggregation and diversification."[113] The systemic changes that Barry Callebaut suggest involve mapping "the size of the farm, its soil quality, its productivity," and pilot projects to "test the effectiveness of productivity packages, which include measuring the impact of proper pruning techniques, fertilizer packages, designing the diversification of farm income through introduction of alternate crop packages to farmers, and giving the farmers access to innovative financial instruments."[114] Olam focuses in large part on "increasing yields and opening up alternative income sources for cocoa farmers."[115] While each sustainability program includes the issue of farmer livelihoods, it is telling that this critical issue consistently places second, after the primary emphasis on supply, yield, and productivity.

"The money is not enough for our expenses. We do not have money to buy fertilizer. To treat our farm for a good production." -female farmer

Notably, in our visits to cocoa-growing communities across Cote d'Ivoire, where we saw evidence of some of these initiatives, and where we did see the presence of a particular company or program, we did not see meaningful improvements for farmers. In fact, tribal elders and village representatives, themselves also cocoa farmers, generally did not know which agribusiness companies purchased their cocoa—let alone what brand purchased from the agribusiness companies. Largely through other sources, we learned that at least some of the cocoa produced by these farmers was purchased by Cargill and Olam, but it was not evident that company sustainability programs were reaching these farmers.[116] In some villages, farmers shared that they had received a training on the use of pesticides but little follow up and even less support on purchasing the required inputs to continue. Others had received a small amount of inputs from their coop, but they noted that it was only enough for one hectare. This is striking, as the villages we visited were all connected with local civil society organizations and thus likely more accessible than, for example, the less-formal *campements* (more informal groupings of farmers, often further from roads and lacking other traditional village infrastructure in many cases) who produce a significant amount of the country's cocoa.

Many of the farmers that CAL spoke with discussed the challenges with protecting their cocoa plants from disease, and emphasized the lack of inputs available to help manage the farms.

In fact, in every village we visited, we heard how farmers struggled to purchase the required inputs to engage in good farming practices. While companies tend to view productivity as a problem of training, farmers reported that they were sufficiently trained in good agricultural practices but lacked the resources to implement them. This conclusion is supported in a 2017 study published by the French Development Agency (AFD) and Barry-Callebaut, which found that "[t]he main reason for not adopting better agricultural practices is not the lack of knowledge, but the lack of means."[117] The effectiveness of a sustainability strategy is highly questionable when it focuses disproportionately on production and yield without addressing the issue of the capital needed to engage in those practices.

b. Certification

Certification indicates that an enterprise follows environmental, social, or economic standards set by the certifying body. These programs now certify around a quarter of global cocoa production.[118] We found the benefits of these programs to be significantly overstated and misleading to consumers. Despite this, companies have relied heavily on certification as a stand in for taking meaningful action to address the social and environmental problems in the sector.

Background. There are now two primary entities certifying cocoa: Rainforest Alliance and Fairtrade. UTZ and Rainforest Alliance merged in January 2018, with the new entity (operating as Rainforest Alliance) now responsible for almost 80% of certified cocoa.[119] Much of the rest of certified cocoa reaches consumers under the Fairtrade label. The biggest Fairtrade cocoa producers are Cote d'Ivoire and Ghana, providing about 68% of the Fairtrade cocoa sold in the global market.[120] Several companies now have their own certifications, and smaller companies use a variety of "direct trade" labels indicating relationships with particular cooperatives or farmers.

While studies have shown that certification by UTZ, Rainforest Alliance and Fairtrade slightly improves a farmer's income, scholars have argued that certification programs have failed to lift farmers out of poverty or achieve any significant industry-wide improvements, and give consumers a misleading impression that farmers experience decent conditions.[121] CAL staff interviewed both certified (UTZ/Rainforest Alliance and Fairtrade) and non-certified farmers, and found little discernable difference between the two categories in terms of income or practices.

Both UTZ and Rainforest Alliance have been criticized by scholars and advocates for being a business-friendly alternative to Fairtrade. One paper made the case that the rapid growth of the UTZ certification program was due in part to its lax social and environmental standards and poor enforcement.[122] Another argues that both UTZ and Rainforest Alliance pose a threat to Fairtrade and the "fair trade" model generally because of the general watering down of standards, and the tendency to mislead consumers into thinking the label has more meaning than it does.[123]

The merged UTZ/Rainforest Alliance certification is currently developing new standards, but at present have no systems in place to protect farmers from price crashes. NGOs in the sector have argued that the new standard "will have to go beyond just agronomical solutions, and address the power imbalances in the supply chain, and specifically the pricing of cocoa, to ensure a living income for small holder farmers."[124]

Certification and Living Income: The only benefits to farmers of UTZ/Rainforest Alliance and Fairtrade that we identified were isolated trainings and the receipt of very small premiums. Fairtrade has a premium of approximately $200 per ton (with some variation), around half of which (depending on the country) goes to the coops to fund training and other programs, and the rest is divided among farmers.[125] The income made available through the Fairtrade premium does not come close to even the lowest living income level estimates.[126] Indeed, a study by Professor Genevieve LeBaron, an expert on forced labor in supply chains, found that these premiums were not sufficient to meet even the higher cost of production associated with certification (in those somewhat rare cases where farmers were even aware of the certification standards), much less lift workers out of deep poverty.[127]

> *Our farmer consultations revealed virtually imperceptible differences between certified and uncertified farms in terms of living incomes, poverty, education, access to healthcare, farmer bargaining power, or access to information.*

Of the certifying bodies in this sector, Fairtrade is the only one that sets a minimum price for cocoa in addition to requiring payment of a premium. Yet, until the 2016-17 crash, the minimum price (US$2,000 per ton) had never been activated. In light of the longstanding pervasive poverty among cocoa farmers, it not clear why the minimum has remained so low. Fairtrade has recently committed to raising its minimum price by 20% starting in October 2019.[128]

Lack of Enforcement. LeBaron's study argued that abuses on certified farms are unsurprising given the "extensive confusion at the base of the cocoa supply chain over the arrangements and practices of ethical certification schemes."[129] She attempted to compare labor conditions on certified and non-certified farms in Ghana, but found that such a study would be impossible due to the lack of traceability and transparency. In fact, LeBaron found that 95% of cocoa *workers* did not know whether the farms where they were employed were certified or not, and even more surprising, many *farmers* were unaware of whether their farms were certified or, if they were, what certification required of them. Farmers reported selling both certified and uncertified beans and that the "labour standards for all beans were the same."[130] Other recent reports noted a similar lack of aware-

While visiting a Fairtrade certified farm, CAL learned that the farmers only received a premium for one of the two growing seasons, and that this premium was not recorded on the paper receipt they receive when selling the cocoa beans.

ness from farmers of whether they were certified or not.[131]

This is consistent with our findings in Cote d'Ivoire. While the farmers we interviewed showed more awareness of whether they were certified (though some did not know what certification was), there was little evidence that they were complying with any standards to obtain that certification. One farmer even reported that when someone from Fairtrade came to the village, village leaders received a call in advance from the cooperative, telling them to clean up the pesticide bottles around the farm. Presumably, the farmers would similarly ensure there were no children on the farm at the time of the visit, and resolve other potential violations of which they were aware.

Significantly, LeBaron also found that most certification programs do not account for hired workers in their programs. As one of the certifiers interviewed explained, "the hired labour of smallholders is still an area we can't reach. Because you imagine, how much work it is to inspect groups of 4,000 smallholders and then to meaningfully control how they treat their hired labour…we don't have a system for that."[132] Considering the documented risks of child and forced labor in the cocoa sector, this is a staggering gap in oversight.

She also found that audits were exceedingly rare, and most schemes relied heavily on "self-verification" by farmers. One certifier reported that his organization's role was primarily about training, not monitoring, and another reported they had been unable to visit "any" farms, but that they could rely on the "internal" monitors (farmers and coop representatives).[133]

Nick Weatherill, executive director of the International Cocoa Initiative, has pointed out the sporadic nature of audits of certified farms, telling Confectionary News: "If you're trying to use that light and occasional coverage to check for the occurrence of something that happens from one day to the next…you're not really going to be picking up on the issue. It's a model where, if child labor is found, then farmers risk to lose their certificates then of course that threat of punishment drives the issue underground."[134]

This is consistent with our findings. Farmers reported that monitoring is generally done by coops or not at all. In addition, one cooperative consulted in October 2018 showed us the monitoring and evaluation forms used to assess compliance with certification standards. On every form, the farm was shown to be in compliance on every single standard. This was even true for standards related to bathrooms, while no farm we visited had a bathroom at all. This, along with the note above regarding advance notice of inspections, raises questions about the reliability of those few inspections that take place in this sector.

The failure to enforce standards has resulted in abuses on certified cocoa farms in the region. In 2010, a BBC investigation found children, including trafficked children, working on Fairtrade certified plantations in Ghana and Cote d'Ivoire. The Kuapo Kokoo cooperative, a Ghanaian coop supplying to Cadbury, and the Kvokiva Cooperative, an Ivorian coop supplying to Nestlé, were both certified Fairtrade when the children were discovered.[135] One advocate interviewed for this report found trafficked children working on Fairtrade certified cocoa farms in Cote d'Ivoire as recently as May 2017.[136]

Certification Fraud. In addition, there is some reporting of certification fraud in the West African cocoa sector. In several documented cases, farmers operating illegally inside of protected forests have obtained certification. According to one report:

> *In a village in the Marahoué National Park, Narcisse Kouadio N'Guessan along with his wife own a cocoa plantation of a few hectares. The cocoa pods dry in the sun, before being transported to Bouaflé the neighbouring village with several cooperatives. 'My wife has the cocoa certification' the owner claims, maintaining that he received 56 000 CFA francs (€85) as a bonus at the last harvest. Still, the couple's plantation is located within the boundaries of the Marahoué National Park.*[137]

That this couple's violation of basic standards is so blatant suggests, consistent with LeBaron's research, that some certified farms do not receive even the most cursory auditing.

Why Certification Fails. Advocates offer several explanations for why certification has been largely ineffective in the cocoa sector. First, certifiers compete amongst themselves to gain more customers, generally lowering standards and/or enforcement to attract clients. Second, certification has been used by multinational firms as a substitute for more rigorous social responsibility programs that place more responsibility on the firms themselves.

Certifying bodies also have no control over infrastructure in countries of production, and so are unable to have meaningful impacts in areas that lack roads, schools, or rule of law. Third, certification generally occurs through coops, rather than through specific farms. Many of the coops are weak, do not allow for or encourage active participation of farmers, lack transparency and have poor leadership. This can lead to poor compliance with standards, mismanagement of premiums, and certification fraud.

Misleading Consumers. Consumers, meanwhile, have been sold an image of "fair trade" that is inconsistent with what the label can offer. Rather than "fair trade" meaning that farmers and workers engaged in production are empowered or economically stable, as consumers expect, it often means that impoverished farmers receive very small benefits that fail to lift them out of poverty or to give them a say in the supply chains in which they participate. It is unclear the extent to which this gap in perception is a vulnerability for certifiers, both with consumers and with the businesses they certify.

In order to understand the gap between consumer perception and farmer impact better, we brought certified chocolate bars to villages where some or all farmers were certified. We held up the bar with the label, and explained to the farmers what consumers expected out of the label (primarily that farmers were paid a fair price, earned a decent living, and certain practices—like child labor and deforestation—were not present). We also explained the difference in retail price between Fairtrade and uncertified chocolate.

The overwhelming response of farmers to this information was shock and outrage. One farmer pulled his worn shirt out in front of him and asked if it looked like he earned a decent living. A woman in one village said she could hardly afford to send her children to school, so how could anyone think she earned a fair price. Our farmer consultations revealed virtually imperceptible differences between certified and uncertified farms in terms of living incomes, poverty, education, access to healthcare, farmer bargaining power, or access to information.

The lack of access to information negatively impacts farmers' ability to organize for better prices and other benefits, and leaves them at the mercy of more powerful actors in the supply chain. At two cooperatives CAL interviewed in October 2018, representatives reported that they never knew how much of the certified cocoa they brought in could be sold as certified. This means that while an individual farmer may be 100% certified, he or she will earn the premium on only a portion of production. The certified farmers we interviewed did not know that only a portion of their crop was sold as certified, and had no way to calculate in advance the premium they would earn for the year.

As a corporate social responsibility strategy, certification has failed to live up to its promises. This has a clear negative impact on farmers, but also presents problems for companies who genuinely seek to improve supply chain sustainability. Some companies may have chosen certification as a cheap and easy way to create the appearance of compliance with social standards, but others may have been legitimately misled into believing that purchasing certified cocoa was a meaningful step. Ineffective programs occupy space that could otherwise be filled by those that have impact for workers and farmers, exacerbating the harsh conditions farmers face and raising important questions about the legitimacy of certification as a model overall.

c. Scale

Many of the biggest companies boast a seemingly large number of participants in their various programs, and claim significant progress towards stated goals. Without the necessary context, these numbers are misleading.

Most CSR initiatives use broad language when stating their commitments to "benefit" or "improve the lives of" large numbers of farmers. Cocoa Action has an ambition to reach 300,000 farmers by 2020.[138] Cargill started its Cocoa Promise program in 2012, and in its updated plan, seeks to have 1,000,000 farmers "benefiting" from the services by 2030.[139] Barry Callebaut's Forever Chocolate plan has a goal to "lift more than 500,000 cocoa farmers out of poverty" by 2025.[140] The opacity of the language gives space for overly broad interpretations of how and to what extent people are actually benefitting. What concrete and tangible changes will result from these initiatives, and whose perspectives are taken into account when deciding if they are successful? Is success measured on farmers who actually participate, or simply those who have access? The companies have been making this type of vague promise for two decades, and despite the attractive language, their actual programs either impact very small numbers, or have intangible benefits.

On a visit to a cocoa plantation in one village, farmers told CAL how their parents were able to put them through school with the income from cocoa, but with the current price it is much more difficult.

The scale of these initiatives is also small relative to the total number of farmers producing for these companies. There are approximately 2 million cocoa farmers in Ghana and Cote d'Ivoire, with some estimates of around 700,000 in Cote d'Ivoire,[141] but it is estimated that more than five million people rely on cocoa farmers for their livelihoods, including workers and sharecroppers.[142] Thus, Cocoa Action's goal is to reach little more than 10% of cocoa farmers in those areas by 2020, or little more than .5% if you include the others with cocoa-related livelihoods. Even with a generous estimate of benefits reaching beyond the farmers alone to his/her family and hired labor, the number is still extremely low. Similarly, Barry Callebaut's goal is to reach roughly 25% of farmers by 2025, and Cargill aims for 50%, in the next 11 years. Reporting on progress shows similarly small numbers, despite the spin used in the publicity. For example, Nestle's Cocoa Plan works with just over 5% of the roughly 700,000 cocoa farmers in the country.[143] These numbers reveal "a lack of sector-wide ambition, and therefore a lack of urgency."[144]

Despite the slow progress to date, many CSR initiatives propose new, ambitious goals. The emergence of these new commitments with claims of quick success should be met with some skepticism, given the industry's track record. If Barry Callebaut can indeed be able to trace 100% of its cocoa from Cote d'Ivoire by the end of 2019,[145] and Olam expects to map 100% of its supplier network in Cote D'Ivoire by the end of 2019,[146] where is the same urgency to address the other issues? If they can reach the cocoa supply that quickly, why can they not reach the farmers with the benefits outlined in their initiatives at the same speed? Before making new promises, these companies should show that they are capable of keeping their earlier ones.

The narrative of progress and success is based on internal evaluations. The prevalence of self-reporting calls into question the accuracy of the scale of success that many companies report. As the 2018 Cocoa Barometer notes, "[c]orporate reporting on cocoa sustainability and human rights is often based on a principle of only communicating successes. Lessons learned are seldom made public, resulting in many companies trying the same unsuccessful approaches. Additionally, most communication is based solely on outcomes and numbers in absolute terms and not on the impact that these expenditures might have had, nor on how they relate to the size of the challenge."[147] There is almost no reporting showing any large-scale impact of these programs, and relevant information is often considered "proprietary," and thus not available.[148]

External reporting has been rare, and the few that have been published have shown a marked lack of progress. For several years, Nestle, Olam, and other chocolate companies have retained the Fair Labor Association (FLA) to conduct audits on their farms. While the FLA is not independent from the industry, and has a track record of failing to identify significant violations, its audits nonetheless identified serious violations, and its reports constitute one of the few publicly available information sources regarding violations on farms. A 2017 FLA audit of Olam-connected farms "show[ed] regression on four of the nine code areas monitored by the FLA, specifically harassment or abuse, nondiscrimination, forced labor, and child labor," and "the need for improvement on code areas such as employment relationship; health, safety, and environment; and compensation."[149] FLA audits of Nestle's supply chain noted similar "persistent issues," in areas of employment relations, child labor, health and safety, and compensation.[150]

Given that these conditions are persistent on farms that are open to external audits, it is likely that conditions are equally as bad, if not worse, on farms with no publicly released audits. What this should signal to companies is not that they should report less, but that they should work harder to address these issues. If industry actors truly want to understand the positive and negative impacts of their various initiatives in order to make them more effective, increased transparency is critical. Independent, external reporting needs to be done, and the results need to be shared. Promises to "reach" or "impact" large numbers of farmers have little value when framed in such general terms, and should be assessed only after concrete goals are demonstrably achieved.

d. Calls for Change

Advocates, and even industry groups, are calling out these shortcomings and demanding stronger efforts. The 2018 Berlin Declaration, drafted after the April 2018 World Cocoa Conference, acknowledges the fact that CSR and sustainability initiatives to date have not been effective, and that stronger measures are needed.[151] At Chocoa 2019, the ICCO's new Executive Director Michel Arrion stated that there needs to be less talk and more action.[152]

While the various legal and regulatory measures discussed above have different focuses, scope, and specific requirements, together they signal a growing expectation that companies make stronger efforts in their supply chains, and a shrinking willingness to accept voluntary commitments as a means to demonstrate those efforts.

There appears to be some support by companies for regulatory intervention,[153] with significant caveats. Virginie Mahin, the global social sustainability & human rights lead for Mondelez International, stated in a recent interview that while they support calls for EU-wide Human Rights Due Diligence laws, "[c]ompanies need to have confidence they can be transparent about risks in their supply chains without fearing that they will be exposed to increased risk of litigation."[154] Creation of such a "safe harbor" creates the risk of protecting companies from legal liability while requiring only superficial efforts in return. This provides little incentive for companies to make the changes that have become generally accepted as necessary and urgent.

C. The Role of NGOs in Corporate Accountability

NGOs working in this sector have been on the frontlines of documenting abuses, consulting with affected populations, pressuring government and corporate actors, and developing the economic analysis necessary to understand why these problems persist. Reports cited throughout this document are evidence of this important work.

When seeking to change corporate behavior, NGOs take various approaches, often described as either "carrot" or "stick." There are valid arguments for engaging in a gentler approach, which may be seen as necessary in an industry where, despite the significant financial investments in sustainability initiatives, the space for civil society and community groups is extremely limited.[155] However, a gentle approach is often insufficiently critical of ineffective CSR efforts, thus providing little real incentive for corporate actors to change. Benchmark reports that give credit to companies based on public commitments are one example, often providing limited to no assessment of actions or impacts. While low scores may draw attention to poor corporate commitments, they also give companies fodder to defend themselves from critics, while their actual behavior may be identical to or worse than the behavior of their lower-ranking competitors. They fail to create a meaningful measure of corporate progress or lack thereof, and give companies undeserved credit for steps that are little more than greenwashing.[156] While there is a role for analyzing company policies, it is important that authors of such reports make clear that their reports limited to *policy only*, and do not purport to assess company *behavior*.

It is time to move away from giving companies credit for what they claim they will do, and give credit only for what they have done to generate meaningful, documented improvements in supply chain sustainability.

As discussed above, the cocoa industry has been in the business of making major commitments on sustainability for nearly 20 years, with an almost imperceptible impact on the ground. While Nestlé or Cargill may perform better in corporate benchmark reports than several other actors in the industry, a farmer growing cocoa beans for one of these companies will likely face identical rates of troubling social indicators, such as poverty and lack of access to education, as farmers producing for other brands who rank lower in such reports. This means that the policy commitments are not translating into meaningful action on the ground, consistent with past behavior. It is time to move away from giving companies credit for what they claim they will do, and give credit only for what they have done to generate meaningful, documented improvements in supply chain sustainability.

VIII. Conclusion

Voluntary CSR efforts have failed to make meaningful change in the cocoa sector. Based on this record, companies should be assessed exclusively in terms of actual impact of their policies and promises. Given farmers' lack of bargaining power in this industry, even companies' anxiety about ensuring sufficient supply of cocoa has not driven prices up. There is one clear action companies could take immediately to improve the lives of the farmers that produce for them: "unilaterally pay a higher farm gate price until structural price solutions have been found."[157]

Paying a higher price is not a stand in for all other sustainability activities. Rather, a higher price should be the first element of *any* sustainability program, and should be complemented with additional services, including trainings, supporting the building of schools, rehabilitation and reintegration services for trafficked children, and other services. Nor is it a substitute for due diligence. Shortcomings in sustainability projects and certification schemes are exacerbated by a lack of adequate oversight and monitoring.

The responsibilities of companies are similarly not a stand in for the government's responsibility to provide a better pricing system, as well as proper infrastructure, access to education and healthcare, and overall rural development efforts. While outside the scope of this report, the governments of both producing and buying countries need to take measures to protect basic human rights, including the right to an adequate standard of living. They need to take measures to shield farmers from the instability of the market, and provide access to information and participation for farmers, workers, community groups, and all others who face impacts in this sector. And they need to ensure that companies doing business in their countries, or companies from their country doing business abroad, do not cause or contribute to human, environmental, and labor rights violations.

That said, companies must not wait for government action in order to comply with their own very real responsibilities and obligations. Given the extent to which companies profit in the cocoa sector, the clear influence they have, and the existing activities that they conduct, not to mention their obligations under various legal instruments, there are a number of actions that they can, and must, take immediately. Providing a living income to the farmers they purchase from is a critical step. "The simplest way to raise farm gate prices—and it almost feels too obvious to mention—is for companies that buy cocoa beans to simply pay more to farmers. Paying the farmers more is the fastest, most efficient, and simplest way to address cocoa poverty in the short term."[158]

> *"The simplest way to raise farm gate prices—and it almost feels too obvious to mention—is for companies that buy cocoa beans to simply pay more to farmers. Paying the farmers more is the fastest, most efficient, and simplest way to address cocoa poverty in the short term."*
> *-Cocoa Barometer*

Many of the farmers we interviewed for this report were trapped: even if they wanted to move to farming another crop, it would take years to destroy their cocoa trees and grow another productive crop; they were in debt to other supply chain actors; and they lacked other adequate and stable sources of income. They were forced to accept whatever price they were provided, even if that price barely covered the cost of production, without any opportunity to question or oppose it. These farmers are growing an export crop to produce a luxury item for Global North consumers—an item those consumers buy cheaply and waste often. The cost to the global chocolate brands or the consumers to upend this system is negligible—just a few cents on a chocolate bar. The path is clear. It's time for the companies to take the first step.

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156 One recent report, Oxfam International's "Companies Spoke: Did their Suppliers Listen?" does just this. While we agree with many of Oxfam's conclusions and find some of the report valuable, we are concerned that both the methodology of aggregating data across sectors and countries and the almost complete reliance on company policy commitments rather than impact gives excessive credit to companies for often meaningless activities. The framing itself begs the question: if the suppliers didn't listen, weren't the company's words meaningless? The report is available at https://www.oxfam.org/en/research/companies-spoke-did-their-suppliers-listen.

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CORPORATE ACCOUNTABILITY LAB
Legal Design for a Globalized Economy
6214 N. Glenwood Ave
Chicago, IL 60660
www.legaldesign.org