

CRS Report for Congress

Received through the CRS Web

Child Labor in West African Cocoa Production: Issues and U.S. Policy

July 13, 2005

Tiaji Salaam-Blyther, Coordinator
Foreign Affairs Analyst
Foreign Affairs, Defense, and Trade Division

Charles Hanrahan
Senior Specialist in Agriculture Policy
Research, Sciences, and Industry Division

Nicolas Cook
Specialist in Foreign Affairs
Foreign Affairs, Defense, and Trade Division

Child Labor in West African Cocoa Production: Issues and U.S. Policy

Summary

Stories of children being trafficked to work under horrific conditions in West African cocoa fields emerged in 2000. Shortly thereafter, in 2001, Congress passed H.Amdt. 142 to P.L. 107-76, *FY2002 Agriculture, Rural Development and Food and Drug Administration (FDA) Appropriations*, which would have provided \$250,000 to the Food and Drug Administration, to be used to develop a label for chocolate products indicating that no child slave labor had been used in the growing and harvesting of cocoa in a product so labeled. A Senate companion bill was never introduced, in part because after House passage of the bill, representatives of the cocoa industry, the International Labor Organization (ILO), several private labor rights groups, and Members of Congress, negotiated “a comprehensive, six-point problem-solving” protocol aimed at ending the “use of abusive child labor in cocoa growing.” Signatories to the protocol committed to developing a certification process that would ensure that no abusive child labor would be used in cocoa production. It is currently being debated whether the protocol has been implemented in full by its July 1, 2005 deadline. Critics contend that the cocoa/chocolate industry fell short of its commitments, as it has only developed a pilot certification scheme in Ghana and Cote d’Ivoire — which does not encapsulate the entire West African cocoa producing region. The industry counters that significant progress has been made, the affected governments have contributed significant resources towards this endeavor, and that this is a work in progress. According to a joint statement released by Senator Tom Harkin, Representative Eliot Engel, and the cocoa/chocolate industry on July 1, 2005, the cocoa/chocolate industry has committed to expanding its pilot certification system to cover 50% of the cocoa growing areas of Cote d’Ivoire and Ghana within three years.

There has been a wide range of suggestions in countering the use of abusive child labor in cocoa production. Some advocate revoking trade preferences. Others point to the root cause of child labor: poverty. Those analysts suggest boosting investments in education, and boosting world cocoa prices. Still some observers assert that conflict and political instability will hinder any effort to counter abusive child labor.

This report outlines how and where cocoa is produced, discusses the use of abusive child labor in the industry, efforts by Congress to counter abusive child labor — including the Harkin-Engel Protocol, and initiatives by affected governments and international organizations to address the problem. This report also provides possible policy options that might undertaken to stop the use of child labor in cocoa production. This report will be periodically updated.

Contents

Introduction	1
Cocoa: Background	2
U.S. Imports	4
Production Methods and Farm Labor	5
Child Labor in the West African Cocoa Sector	6
The Six Steps of the Harkin-Engel Protocol	7
Findings of the Study	8
Child Trafficking in West African Cocoa Production	10
Role of Congress	12
Harkin-Engel Protocol	13
Current Initiatives to Counter Child Labor in Cocoa Production	15
Sustainable Tree Crops Program	15
Combating Trafficking of Children for Exploitive Labor	16
West Africa Cocoa/Commercial Agriculture Program	16
Fair Trade Certified™ Cocoa	18
Policy Options	18
Trade Agreements	18
Enhance Harkin-Engel Protocol	19
Encourage Enforcement of U.S. Tariff Act of 1930	20
Other Framework Agreement Models	21
Multilateral Poverty Reduction Strategies	22
Other Issues	22
Impact of Political Instability	22
Limited Educational Infrastructure	23
Low World Prices for Cocoa	23
Appendix	24
Definitions and Concepts Related to Child Labor and Used in the IITA Study	24

List of Tables

Table 1. World Cocoa Production	2
Table 2. Cocoa Production in West Africa	3
Table 3. Sources of U.S. Unground Cocoa Bean Imports by Value and Share, 2000-2004	5
Estimates of Working Children at High Risk by Selected Activities and Characteristics in Study Areas of West Africa	9

List of Figures

Figure 1. Cocoa Prices, 1960-2004	4
---	---

Child Labor in West African Cocoa Production: Issues and U.S. Policy

Introduction

In 2000, a series of media accounts reported that children were being trafficked and forcibly used in the West African cocoa sector. Shortly thereafter, the House passed H.Amdt.142 to P.L. 107-76, *FY2002 Agriculture, Rural Development and Food and Drug Administration (FDA) Appropriations*, which would have provided \$250,000 to the Food and Drug Administration to be used to develop a label for chocolate products indicating that no child slave labor had been used in the growing and harvesting of cocoa in a product so labeled. A Senate companion bill was never introduced, in part because after House passage of the bill, representatives of the cocoa industry, the International Labor Organization (ILO), several private labor rights groups, and Members of Congress, negotiated “a comprehensive, six-point problem-solving” protocol aimed at ending the “use of abusive child labor in cocoa growing.”¹ The protocol, known colloquially as the as the Harkin-Engel Protocol (discussed below) after Senator Tom Harkin and Representative Eliot Engel, outlines six steps that the industry formally agreed to undertake in order to end abusive and forced child labor on cocoa farms by July 2005.² To date, the first five steps of the Protocol have been completed. There are differences of opinion on whether the final step, the development of a certification system, has been completed.³ It is possible that if Senator Harkin and Representative Engel, after consulting with the industry signatories and witnesses to the Protocol, find that the signatories have not met their commitments under the Protocol, they may initiate renewed legislative efforts to address the problem of child labor in cocoa production.

This report provides background on the production of cocoa and discusses the issue of child labor in the industry, efforts by Congress, including the Harkin-Engel Protocol, and those of other governments, international organizations, and non-governmental groups to address the problem. It also discusses potential policy options that might accomplish that end.

¹ Senator Harkin, “Senator Harkin, Congressman Engel Announce Child Labor Agreement With Global Chocolate Industry,” Oct. 1, 2001, [<http://harkin.senate.gov/news.cfm?id=178880>].

² The six steps are outlined in the section entitled, *Harkin-Engel Protocol*.

³ Certification refers to a system of continuous monitoring, corrective action, and regular reporting on child labor practices in a country’s cocoa farming sector.

Cocoa: Background⁴

Cocoa, used in chocolate products, is obtained from the processed beans of fruit pods produced by the tropical evergreen cacao tree (*Theobroma cacao*), a plant of New World origins. There are three main varieties of cacao tree: *Criollo*, *Trinitario*, and *Forastero*; the latter predominates in West Africa. Each pod contains 20 to 40 large, fat-rich seeds. Cacao trees are grown in rainy, tropical equatorial zones, within 20 degrees of the Equator, primarily in West Africa, Southeast Asia, and South and Central America.

West Africa produced about 72% of the total global supply in 2003/04, a year which yielded a rapid, nearly 10% production increase, a record harvest, according to the International Cocoa Organization (ICCO). During the last three production years, Côte d'Ivoire and Ghana produced about 43% and 16% of world output, respectively, and about 62% and 22% of total African cocoa production. Other key producers are Indonesia, with about 14% of global production, followed by Nigeria, Cameroon, and Brazil, each producing about 5% of world output. Recent global and Africa-specific production trends are shown in tables 1 and 2.

Table 1. World Cocoa Production

(1000s of metric tonnes and percent share of world production)

Country/region	2001/02		2002/03		2003/04		2004/05 (forecast)	
	Tonnes	Share	Tonnes	Share	Tonnes	Share	Tonnes	Share
Ivory Coast	1,218	43%	1,367	43%	1,500	44%	1,275	41%
Ghana	371	13%	498	16%	605	18%	530	17%
Nigeria	170	6%	170	5%	165	5%	170	5%
Cameroon	131	5%	155	5%	150	4%	150	5%
Other Africa	31	1%	37	1%	38	1%	39	1%
Total Africa	1,920	68%	2,227	70%	2,458	72%	2,164	70%
Indonesia	453	16%	430	14%	420	12%	415	13%
Malaysia	15	1%	24	1%	25	1%	26	1%
Other Asia	61	2%	64	2%	65	2%	67	2%
Total Asia/Oceania	528	19%	518	16%	510	15%	508	16%
Brazil	124	4%	163	5%	163	5%	164	5%
Ecuador	83	3%	87	3%	100	3%	93	3%
Other America	163	6%	167	5%	165	5%	170	5%
Total Americas	370	13%	416	13%	428	13%	427	14%
World Total	2,819	100%	3,161	100%	3,396	100%	3,099	100%

Source: Bill Guyton, "Figure 1: World Production Forecast," *Commodities — Cocoa Review*, World Cocoa Foundation, N.D. and CRS calculations.

⁴ Data on cocoa production and trade are drawn from a number of sources, including, the International Cocoa Organization, the Food and Agricultural Organization, the U.S. Department of Agriculture, and the World Cocoa Foundation.

Table 2. Cocoa Production in West Africa
(1000s of tonnes and percent share of African production)

Country	2001/02		2002/03		2003/04		2004/05 (forecast)	
	Tonnes	Share	Tonnes	Share	Tonnes	Share	Tonnes	Share
AFRICA								
Ivory Coast	1,218	63%	1,367	61%	1,500	61%	1,275	59%
Ghana	371	19%	498	22%	605	25%	530	24%
Nigeria	170	9%	170	8%	165	7%	170	8%
Cameroon	131	7%	155	7%	150	6%	150	7%
Other Africa	31	2%	37	2%	38	2%	39	2%
Total Africa	1,920	100%	2,227	100%	2,458	100%	2,164	100%

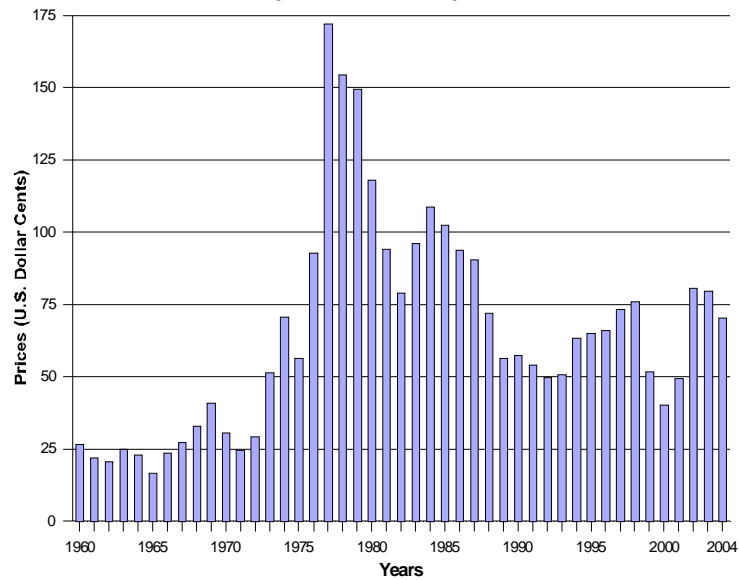
Source: Bill Guyton, "Figure 1: World Production Forecast," Commodities — Cocoa Review, World Cocoa Foundation, N.D. and CRS calculations.

In general, world cocoa production is expected to gradually increase in the medium term. The Food and Agricultural Organization (FAO) has projected a growth rate of about 2.2% annually during the present decade, compared to a growth rate of about 1.7% per year during in the 1990s, and expects production to reach about 3.7 million tonnes by 2010. Opinions are mixed over the extent to which Africa will contribute to this expected growth. In 2003, the ICCO projected that Africa would continue to provide the bulk of cocoa production, and that Africa, along with the Americas, would produce the largest proportional increases in production in the near future. The FAO, by contrast, projects that Africa's share of world production will drop by about a 1% in the period up to 2010. Despite expectations of generally rising cocoa production trends, a slight drop in production is forecast for 2004/2005 due to lower harvest levels.⁵

Cocoa prices experienced a moderate rise after slumps in the early 1990s and 1999-2001, but have recently been flat or have slightly declined. Historical price trends are shown in Figure 1.

⁵ ICCO, "What are the trends in cocoa production?," September 2003, [<http://www.icco.org/questions/production3.htm>]; and Economic and Social Depart., "Cocoa Commodity Notes," Food and Agriculture Organization, May 2005.

**Figure 1. Cocoa Prices, 1960-2004
(US\$ cents/lb.)**



Source: ICCO, "ICCO Monthly and Annual Averages of Daily Prices of Cocoa Beans, 1960-2003," [<http://www.icco.org/prices/pricesave.htm>]

U.S. Imports. Most U.S. imports of unprocessed cocoa beans come from Côte d'Ivoire, Indonesia, and the Dominican Republic. Ghana, the second largest global producer is the fifth largest source of U.S. cocoa beans, but only supplied 4.20% of such imports from 2000-2004. The leading sources of U.S. cocoa bean imports are shown in Table 3. Côte d'Ivoire exports more than 75% of its annual cocoa bean production although an increasing proportion of its cocoa is exported in the form of higher value products such as cocoa cake, cocoa paste, cocoa butter, cocoa powder and chocolate. European Union countries are the leading export destinations for Côte d'Ivoire cocoa, accounting for about 65% of the country's total exports. Among EU countries, the Netherlands is the largest importer. The United States gets about 20% of total Ivorian cocoa exports. Other cocoa importing countries, e.g., Canada and a number of European countries, however, are the major suppliers to the United States of products processed from cocoa beans (paste, cake, powder, butter, chocolate, chocolate containing products). Cocoa beans enter the U.S. market duty free, but higher tariffs are applied to processed cocoa products.

Table 3. Sources of U.S. Unground Cocoa Bean Imports by Value and Share, 2000-2004

(\$ millions and country percentage share by quantity and value)

Global Rank	Country	Value (\$ Millions)	Quantity Share	Value Share
1	Côte d'Ivoire	1,406.38	48.72%	51.51%
2	Indonesia	728.93	29.60%	26.70%
3	Dominican Rep	156.52	5.91%	5.73%
4	Ecuador	152.47	5.35%	5.58%
5	Ghana	114.80	4.74%	4.20%
6	Papua New Guinea	65.80	2.48%	2.41%
7	Nigeria	48.60	1.43%	1.78%
8	Singapore	25.25	0.70%	0.92%
9	Haiti	12.95	0.52%	0.47%
10	Mexico	6.20	0.17%	0.23%
—	Others	12.43	0.38%	0.46%
Totals		2730.33	100%	100%

Data Source: International Trade Commission Trade DataWeb reports of U.S. annual general imports of cocoa by volume and value.

Production Methods and Farm Labor⁶

After harvest, cocoa beans are fermented, which kills the bean and helps develop the distinct taste of cocoa; dried; and then roasted. They are then typically used to produce semi-processed cocoa paste (also known as cocoa liquor or mass), further refined products, such as cocoa butter and cocoa cake (paste with most cocoa butter removed), cocoa powder, and chocolate.

Prior to processing, the farm-based work of cultivating and harvesting cocoa is labor-intensive. In West Africa, cocoa farming typically begins with the thinning or partial clearing by hand of primary or mature tropical forest growth, which is used to shelter the cocoa trees. Although some varieties of cacao trees can thrive in sun if sufficient nutrients and water are present, shade also helps to reduce damage by certain types of tree pests and diseases, and helps retain adequate moisture. Such forest areas are also used because they provide a ready-made source of shade that does not require planting of cover plants, and because forest areas are rich in nutrients resulting from the decomposition of organic forest detritus. The tropical soils in many areas of West Africa where cocoa is grown are thin and easily leached of their nutrients. Mature forest is also cleared because a widespread local traditional

⁶ Sources for this section include J. E. K. Amoah, *Development of Consumption, Commercial Production and Marketing*, Accra-North: Jemre Enterprises, 1995; Robin Dand, *International Cocoa Trade*, 2nd ed., Boca Raton: CRC Press, 1999; Sarah A. Laird, Cosmos Obialor, Elizabeth A. Skinner, *An Introductory Handbook to Cocoa Certification: a Feasibility Study and Regional Profile of West Africa*, New York, N.Y.: Rainforest Alliance, 1996; Research Papers on Shade Grown Cacao, in association with Smithsonian Institution workshop on sustainable cacao farming, March 1998, [<http://nationalzoo.si.edu>] and Robert A. Rice; Russell Greenberg, "Cacao Cultivation and the Conservation of Biological Diversity," *Ambio*, Vol. 29 No. 3, May 2000; and ICCO, "Questions and Answers," various entries, [<http://www.icco.org/menuqa.htm>], *inter alia*.

agricultural technique is to open new or long-disused land to farming, use it until the soil is exhausted, and then leave it in regenerative fallow for lengthy periods, sometimes many years. Such practices are changing in many areas; the application of chemical fertilizers and, alternatively, the use of organic growing methods, are becoming more common, increasingly allowing more intensive farming to take place. Traditional land use methods, however, remain widespread, and in many areas cocoa farming continues to be undertaken by clearing mature forest areas.

Planting of seedlings, which are usually transplanted after propagation and take three to five years to reach productive fertility, also takes place by hand, as does weeding — which is especially intensive in the year or so after forests are cleared for planting — and the application of fertilizers and pesticides. Harvesting, which is usually on-going during several months of the year, is also labor-intensive. Cocoa pods must be cut carefully from the cacao tree branches, known as brooms, so as not to damage the flower “cushion” from which the fruit grows. Pods are then usually split and emptied by hand to remove the seeds and pulp for purposes of fermentation and drying, which are typically undertaken at the farm level. It is in the harvesting process that child labor has been reportedly most commonly found.

Child Labor in the West African Cocoa Sector⁷

Reports of children being trafficked to work on cocoa farms, and stories of children working under abusive conditions began to emerge in 2000. Following these reports, some began calling for boycotts and other punitive actions against the cocoa and chocolate industries. In response, the cocoa and chocolate industries, in conjunction with international labor organizations, other non-governmental organizations, U.S. government agencies, and affected African governments developed a protocol entitled, *Protocol for the Growing and Processing of Cocoa Beans and their Derivative Products in a Manner that Complies with ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor*, to end the use of abusive child labor in cocoa production.⁸ The Protocol, widely known as the Harkin-Engel Protocol after Senator Tom Harkin and Representative Eliot Engel, outlines six steps the industry formally agreed to undertake to end abusive and forced child labor on cocoa farms by July 2005. The Protocol is voluntary and non-legislative.

⁷ IITA, Summary of Findings from the Child Labor Surveys in the Cocoa Sector of West Africa: Cameroon, Côte d’Ivoire, Ghana, and Nigeria, July 2002, available at [http://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?article=1151&context=key_workplace].

⁸ See section entitled, *Harkin-Engel Protocol* for more information.

The Six Steps of the Harkin-Engel Protocol.

1. Issue a public statement of the problem and develop the terms of an action plan.
2. Form a multi-sectoral advisory group to investigate labor practices in West Africa, and develop appropriate remedies for the elimination of the worst forms of child labor in the growing and processing of cocoa.
3. Sign a Joint Statement on the need to end the worst forms of child labor in cocoa production, and identify alternatives for children removed from the cocoa sector.
4. Develop a memorandum of cooperation that establishes a joint action program of research, information exchange, and steps to enforce the internationally-recognized and mutually-agreed upon standards to eliminate the worst forms of child labor in cocoa production. Establish an independent system to monitor and report compliance with standards.
5. Establish a joint international foundation to manage and sustain anti-child labor efforts, promote field projects, and establish a clearinghouse of best practices to eliminate the worst forms of child labor.
6. Develop an industry-wide certification process that ensures that cocoa beans and their derivative products have not been grown and/or processed with any of the worst forms of child labor.

A critical component of the Protocol was to ascertain the extent to which abusive child labor and trafficking occurred in cocoa production, as the numerous reports on the practice were largely anecdotal. In July 2002, the International Institute of Tropical Agriculture (IITA) completed a study to determine the extent of child labor in the four major cocoa producing countries of West Africa. The study was carried out with the support of the U.S. Agency for International Development (USAID), the U.S. Department of Labor (DOL), the World Cocoa Foundation, the International Labor Organization (ILO), and the governments of Cameroon, Côte d'Ivoire, Ghana, and Nigeria. The study was conducted under the auspices of the Sustainable Tree Crops Program (STCP) of IITA (discussed below in this report). IITA is one of a number of international agricultural research centers funded by a consortium of multilateral and bilateral donors, including the World Bank, the United Nations Development Program, the United States and a number of other developed countries.

Surveys were carried out in all four countries and included Baseline Producer Surveys conducted in 203 villages in Cameroon, Ghana, and Nigeria. Producer-Worker Surveys (PWS) and Community Surveys were conducted in Côte d'Ivoire. The PWS were more detailed surveys conducted in Cote d'Ivoire only. The surveys covered the entire cocoa producing region and 1,500 producers were interviewed. USAID, which funded the study, established a Technical Advisory Committee of 16 independent experts drawn from other international research centers, the World Bank, United Nations agencies, national research organizations, trade unions, and NGOs to oversee the study.

The ILO expressed concern that full details of the survey results were never released, although a “synthesis” was made public. Consequently, the organization has questioned the validity of the data, and plans to conduct its own survey of Cote d’Ivoire and the cocoa-producing sector.⁹ Nonetheless, the survey provides the most comprehensive data to date on the use of children in the West African cocoa sector.

Findings of the Study. Cocoa production occurred most often on small family farms, typically smaller than 6 hectares (about 15 acres) in size. The average cocoa farm sizes were 4.9, 5.7, 6.3, and 4.7 hectares in Côte d’Ivoire, Cameroon, Ghana, and Nigeria, respectively. Average annual quantities produced per household ranged between 900 kg (1,980 lbs) and 1700 kg (3,740 lbs). Approximately 284,000 children were found to be working under hazardous conditions, the large majority in Cote d’Ivoire (200,000). The survey only indicated the number of children found to be working under hazardous conditions, not how many children were found on the farms overall. The survey also did not provide extensive information on non-paid working children. Detailed information was provided, however, on salaried child workers.

Farmers hiring salaried child workers had produced nearly twice as much cocoa as those who did not. Larger farms were also found to use significantly more children from within farm families. An estimated 4,630 farmers were employing some 5,120 children as full-time permanent workers in Côte d’Ivoire (versus 61,600 adults). In Ondo State, Nigeria, 1,220 children (versus 11,800) adults were full-time workers. All of the salaried child workers in Côte d’Ivoire originated outside of the cocoa-producing zone. Sixty-two percent (756) of the salaried child workers expected to be paid personally, while 32% (390) reported that their earnings were received by their family members, and 6% indicated that payment was made to the intermediary who had brought the child to the work site. The latter situation may, in some cases, be an indicator of the use of indentured labor.

Child Labor in Cocoa Farming. The study also found that:

- In West Africa, children in rural areas have traditionally worked in agriculture as part of the family unit. Family labor is the only type of labor employed on 31% of the cocoa farms in Côte d’Ivoire, 23% of Cameroonian farms, 17% of Ghanaian farms, and 10% of Nigerian farms.
- Family labor is the most used labor type, e.g., in Côte d’Ivoire 87% of permanent labor in cocoa farming came from the family, with family children accounting for 24% of household labor. These children are the most likely to be unpaid.

⁹ ILO, “Combating Child Labor in Cocoa Growing,” February 2005. [http://www.ilo.org/public/english/standards/ipecc/themes/cocoa/download/2005_02_c1_cocoa.pdf]

- Some children working on cocoa farms have no family ties to the farmers — some 4% (12,000 children) in Côte d'Ivoire. The ILO speculates that these children were most likely trafficked.¹⁰
- Children are engaged in almost all tasks/activities involved in cocoa farming.
- Boys are more likely to work in cocoa farming. Fifty-nine percent of children in cocoa farming are boys.
- More than 60% of children working in cocoa farming are below the age of 14.

Children in Potentially Hazardous/Exploitative Situations. Other findings included that:

- Children work in a variety of tasks, which depending on conditions, may or may not be detrimental to the child's well-being.
- Children with no family ties and those recruited through intermediaries are more likely to be at risk for exploitation. An intermediary was involved in the recruitment process for an estimated 41% (2,100) of the 5,120 salaried child workers in Côte d'Ivoire. In Nigeria, an estimated 29% of the 1,220 salaried child workers were recruited through intermediaries. An intermediary could be a known family friend or trafficker. The survey does not make a determination.

Estimates of Working Children at High Risk by Selected Activities and Characteristics in Study Areas of West Africa

Characteristic	Côte d'Ivoire	Cameroon	Ghana	Nigeria
Application of Pesticides	142,610	5,500	—	4,600
Recruited through intermediaries	2,100	0	0	354
Used machetes (under 15)	109,299	16,192	18,189	2,325
Children without family ties	11,994	—	—	—

Source: STCP Surveys

¹⁰ ILO, "Combating Child Labor in Cocoa Growing," February 2005. [http://www.ilo.org/public/english/standards/ipecc/themes/cocoa/download/2005_02_c1_cocoa.pdf]

Child Labor and Education. In relation to education, the study found that:

- In Côte d’Ivoire, one-third of school-age children (6 to 17 years) living on cocoa farms have never attended school.
- In Côte d’Ivoire, children working in all cocoa farming tasks were less likely to be enrolled in school (34% enrollment rate) compared to those children who did not work (64% enrollment rate).
- In Côte d’Ivoire, children of immigrant cocoa farmers also are less likely to be enrolled in school.
- In all four countries, girls have lower enrollment rates than boys.

Farmers’ Income and Child Labor. Compensation trends were also covered in the study, which found that:

- In West Africa, cocoa production is labor-intensive.
- Most production is by small-scale farmers with few resources who often use the entire family to contribute to cocoa farming.
- Average annual cocoa revenues ranged from \$30 to \$205 per household member. However, wages varied significantly. In Côte d’Ivoire, child workers reported a mean annual payment of \$80, while adult workers reportedly received \$135 per year. In Nigeria, children reportedly earned \$115 annually, while adult workers were paid an annual average salary of \$205.
- Cocoa accounts for a large share of total household income among cocoa farmers — 50% in Cameroon, 55% in Ghana, 66% in Côte d’Ivoire, and 68% in Nigeria.
- Even though cocoa farming is the main source of income, the quantity of cocoa production is relatively low, making it difficult for families to have sufficient income to meet their needs.

Child Trafficking in West African Cocoa Production

The practice of trafficking of children to work in West African cocoa production is widely acknowledged, but information about its extent is not widely available. Much of the information is anecdotal and focused on Côte d’Ivoire, the largest cocoa producing country.¹¹ For example, in 2000, the BBC broadcast a documentary that portrayed children being trafficked from Mali into Côte d’Ivoire and made to work on cocoa farms where almost all children involved in cocoa production and

¹¹ Save the Children (Canada), an international non-governmental organization, surveyed media accounts of child trafficking in West Africa. Its summary is available at [<http://www.savethechildren.ca/whatwedo/advocate/traffick/childlabor.html>]

harvesting are often exposed to hazardous conditions (as revealed in the IITA child labor survey above).¹² In July 2001, Knight Ridder published a series of reports on young boys who had been tricked, sold or trafficked to Ivoirian cocoa farmers. Among other things, these reports of child trafficking gave impetus to the Harkin-Engel Protocol discussed in this report.

The extent to which West African cocoa producers employ child labor is, in part, a function of economic factors.¹³ The extent of child trafficking is likewise affected by such factors, these include low cocoa prices, low incomes of family farmers, and large numbers of small holder farmers who cannot afford to engage hired labor. Lack of adequate school facilities in cocoa producing areas also plays a role. Cultural factors are involved too. Sociologists point out that not only is there a tradition of children participating in household and farm work from an early age (the IITA study), but there is a strong tradition in West Africa of child migration both within countries and across borders. Such migratory patterns make it difficult to monitor and control child trafficking.¹⁴ A study of Malian children points out that children are often sent to live outside the family, village or country for work, family solidarity, or education and concludes that migration is a rite of passage, and a financial necessity for many.¹⁵

Acknowledging that reliable and verifiable data on child trafficking in West African cocoa production are very scarce, one non-governmental organization — Save the Children — proposes that anti-trafficking efforts should be undertaken along two tracks: prevention and protection.¹⁶ Preventive measures would include such actions as developing and implementing national action plans to combat trafficking, including legal and legislative frameworks to make child trafficking a crime. It would be up to national governments to provide care for intercepted and repatriated children, most likely in cooperation with local and international NGOs working in regions where children are at risk.

¹² The IITA study itself noted that in Côte d'Ivoire, 2100 children had been recruited by intermediaries and that almost 12,000 children working on cocoa farms had no ties to the family owners of the farms. Some have suggested that this in itself is evidence of child trafficking, although IITA did not draw that conclusion in its report.

¹³ See ILO/IPEC, Synthesis report on Combating trafficking in children for labor exploitation in West and Central Africa, 2001, available at [<http://www.globalexchange.org/campaigns/fairtrade/cocoa/iloChildLabor2001.pdf>], as well as the IITA study cited above.

¹⁴ See Sandra Castel, "International Migration of Young Malians: Tradition, Necessity or Rite of Passage?" available, along with other studies of child migration in West Africa, at [<http://lte-ivoire.org/download.html#rapports>].

¹⁵ Ibid.

¹⁶ Save the Children, *Combating Child Trafficking* at [<http://www.savethechildren.ca/whatwedo/advocate/traffick/traffick4.html>].

Role of Congress¹⁷

Congress has consistently expressed interest in and supported efforts to abolish and counter child labor, particularly the worst forms of child labor. Congress has funded programs to combat child labor, expand the United States' role in the global fight against child labor, and include clauses that require eliminating child labor in trade agreements. In 1997, Congress prohibited the importation of goods made with forced or indentured child labor.¹⁸ Later in 2000, Congress amended Section 307 of the Tariff Act of 1930 — which prohibited the importation of goods made with forced or indentured labor — to ensure that the statute applied to goods made with forced or indentured child labor.¹⁹ Congress also added child labor stipulations to foreign aid legislation through the Export-Import Bank Re-authorization Act of 1997.²⁰ This law integrates child labor into the list of criteria for denying credit by the Export-Import Bank. Another law relating to child labor abuses is the Victims of Trafficking and Violence Protection Act of 2000.²¹ The law provides punishment for traffickers, as well as assistance and protection to trafficking victims, with a special emphasis on women and children, both in the U.S. and abroad.

Congress has used various international trade agreements to fight child labor. The Generalized System of Preferences (GSP) is a program that extends duty-free entry to a wide range of products from more than 140 countries and territories. The Trade and Development Act of 2000 expanded the GSP ineligibility criteria to include the Worst Forms of Child Labor.²² The act prohibits any country from GSP consideration if “[s]uch country has not implemented its commitments to eliminate the worst forms of child labor.”²³ The Office of the United States Trade Representative (USTR) is required to conduct a yearly review of countries receiving these benefits to determine, among other things, whether they are implementing their commitments under International Labor Organization (ILO) Convention 182 to eliminate the worst forms of child labor. The Trade Act of 2002 amended the Andean Trade Preference Act (ATPA) to add child labor criteria.²⁴ The North American Agreement on Labor Cooperation (NAALC), the labor supplement to the North American Free Trade Agreement (NAFTA), also has a child labor component. The agreement seeks to promote fundamental labor standards, including those addressing child labor, compliance with labor laws, and the enforcement of those laws in each country. The Office of the U.S. Trade Representative states that the

¹⁷ For information on Congressional actions to eliminate child labor in all sectors see CRS Report RL31767, *Eliminating International Child Labor: U.S. and International Initiatives*.

¹⁸ P.L. 105-61

¹⁹ P.L. 106-200

²⁰ P.L. 105-121

²¹ P.L. 106-386

²² P.L. 106-200

²³ *Ibid.*

²⁴ P.L. 107-210

NAALC has enhanced transparency and public debate on labor law and enforcement issues.²⁵

In 1993, Congress directed the U.S. Department of Labor (USDOL) International Child Labor Program (ICLP) to investigate and report on child labor around the world. Since then, Congress has continued to fund the USDOL-ICLP research and reporting efforts. It has expanded the ICLP's mandate to include administering grants to organizations engaged in efforts to eliminate child labor and to improve access to quality basic education; and raising public awareness and understanding of child labor issues. Congress appropriated \$79 million in FY2005 to ICLP for the elimination of international child labor. Congress has also enhanced U.S. efforts to fight child labor by adding child labor responsibilities to a host of U.S. agencies including, USAID, U.S. Department of State, and U.S. Customs Service.

Harkin-Engel Protocol

In 2001, a number of news reports were released that described children being trafficked and forcibly used in the West African cocoa sector. In the wake of these reports, and the increasing publicity about the use of child labor in the cocoa sector, a range of policy initiatives and efforts to combat the practice were initiated by a mix of non-governmental development and human rights organizations, firms in the cocoa industry, and governments. In the United States, congressional efforts to create a public-private response to the use of abusive child labor in cocoa production were among the most prominent attempts to achieve this goal. On June 28, 2001, the House passed H.Amdt.142, which provided \$250,000 to the Food and Drug Administration. The funds were intended to develop a label for chocolate products indicating that no child slave labor was used in the growing and harvesting of cocoa.

A Senate companion bill to H.Amdt. 142 was never introduced, in part, because following passage of the House bill, policy advocates affiliated with the cocoa industry, the International Labor Organization (ILO), several private labor rights groups, together with three Members of Congress, negotiated "a comprehensive, six-point problem-solving" protocol aimed at ending the "use of abusive child labor in cocoa growing," known as the Harkins-Engel Protocol.

At this date there is consensus that the first five steps have been completed. There are differences of opinion on whether the final step, the development of a certification system, has been completed.²⁶ After representatives of the chocolate industry informed Senator Harkin that they will not meet the July deadline,²⁷ the Senator reportedly warned that Congress might again take legislative action related

²⁵ USTR website, *Chapter 3: Worker Rights: Cooperation and Labor Law Enforcement*. [<http://www.ustr.gov/>], September 12, 2002.

²⁶ Certification refers to a system of continuous monitoring, corrective action, and regular reporting on child labor practices in a country's cocoa farming sector.

²⁷ Senator Tom Harkin website, "Harkin: consider flowers this Valentine's Day." February 11, 2005. [<http://harkin.senate.gov/press/>]

to the issue.²⁸ Some speculate that the Senator might reintroduce a bill analogous to S.1551, the Child Labor Deterrence Act (Harkin, 106th Congress). It would have prohibited the importation into the United States of manufactured and mined goods that are produced by abusive child labor.²⁹ Companies violating the prohibition against importing these products would have been subject to stiff penalties. The legislation was referred to the Senate Finance Committee but did not receive further action.

According to representatives of the cocoa/chocolate industry, anti-child labor programs in Côte d'Ivoire and Ghana have made significant progress toward fulfilling the terms of the Harkin-Engel Protocol.³⁰ The President of the World Cocoa Foundation points out that the Ivorian Government has funded a child labor monitoring pilot program in the Oumé District and field staff have been trained using International Labor Organization (ILO) question guides. The cocoa/chocolate industry is reportedly spending \$5 million annually to support the development of a region-wide certification process, and for programs to improve the economic well-being of the cocoa farming families in West Africa.³¹ Data is now being collected and compiled into a certification report which will be reviewed by the National Steering Committee. In Ghana, a similar process has also been undertaken in five districts. Finally, the surveys used to monitor the use of child labor will be carried out on an on-going basis, during the harvest periods. Ultimately the industries and the Governments hope to refine and scale up the monitoring efforts to include a statistical representation of cocoa communities across the countries.

The non-governmental organization, Global Exchange, released a progress report on implementation of the Protocol. Instead of reporting success, that organization asserted that the industry had failed to fully implement the Protocol.³² Key areas of concern cited by Global Exchange, include:

- Substitution of pilot certification efforts for the an industry-wide certification system;
- Failure to address the root cause of abusive child labor — poverty;

²⁸ Coelho, Jeff, "US chocolate makers ready plan to end child labor." May 26, 2005. Reuters. [<http://za.today.reuters.com/news/default.aspx>]

²⁹ Similarly titled bills have included H.R.1328 (Frank, 105th Congress), S.332 (Harkin, 105th Congress), S.340 (Harkin, 105th Congress)

³⁰ Interview with Bill Guyton, President of the World Cocoa Foundation, and representatives of country anti-child labor programs, June 22, 2005.

³¹ Senator Harkin website, "Joint Statement from U.S. Senator Tom Harkin, Representative Elito Engel and the Chocolate/Cocoa Industry on Efforts to Address the Worst Forms of Child Labor in Cocoa Growing." July 1, 2005. [<http://harkin.senate.gov/news.cfm?id=240245>]

³² Global Exchange, "The News on Chocolate is Bittersweet: No Progress on Child Labor, but Fair Trade Chocolate is on the Rise," June 2005, [<http://www.globalexchange.org>].

- The use of pre-existing anti-child labor programs (Combating Trafficking in Children for Labor Exploitation in West and Central Africa and Sustainable Tree Crops Program, described below) that have had minimal success; and
- Lack of enforcement and compliance mechanism after full implementation.

On July 1, 2005, Senator Tom Harkin, Representative Eliot Engel, and the Chocolate/Cocoa Industry released a joint statement on efforts to address the worst forms of child labor in cocoa growing. In the statement, the industry highlighted the positive steps taken since signing the Protocol, and committed to ensuring that 50% of cocoa growing areas would be under a certification system within three years. Senator Harkin and Representative Engel also expressed their disappointment that the Protocol was not implemented in full, but stated their willingness to work with the industry to ensure full implementation.³³

Current Initiatives to Counter Child Labor in Cocoa Production

The first three programs described herein are complementary initiatives that work together to combat the use of child labor in cocoa production. They are all implemented through the ILO with U.S. and international support.

Sustainable Tree Crops Program

The Sustainable Tree Crops Program (STCP) is a public-private partnership that seeks to raise the income and quality of life in cocoa-producing communities. The cocoa/chocolate industry addresses abusive child labor through its efforts to improve agricultural marketing and production, and support farmers' organizations. The U.S. Agency for International Development (USAID), along with the World Cocoa Foundation (WCF), the International Labor Organization (ILO), the Governments of Cameroon, Côte d'Ivoire, Ghana, Guinea, and Nigeria, and local agribusiness firms, share in the management and implementation of the program. In Cote d'Ivoire, the government reportedly funds the trainers in the Farmer Field Schools discussed below.

Recognizing that abusive forms of child labor are often a symptom of poverty, STCP aims to increase access to environmentally friendly technology that raises profitability, productivity and efficiency of smallholder tree crop systems. According to STCP representatives, farmers who have participated in pilot programs in Côte d'Ivoire and Ghana have experienced boosted crop yields of between 20% and 50%.³⁴ As a result, STCP staff report that some farmers have been able to afford school fees for their children. Additionally, STCP staff report that more than 4,000 farmers have

³³ See Senator Harkin's website, [<http://harkin.senate.gov/news.cfm?id=240245>].

³⁴ Interview with Côte d'Ivoire and Ghana STCP staff on June 22, 2005.

been sensitized in Côte d'Ivoire and Ghana on the dangers of abusive child labor. Key activities of the program include:

- Farmer Field Schools - where farmers work together to solve crop disease and pest problems;
- Spraying minimization;
- Crop rotation techniques;
- Agribusiness skills training;
- Child labor sensitization; and
- HIV/AIDS awareness.³⁵

Combating Trafficking of Children for Exploitive Labor

The U.S. Department of Labor's International Child Labor Program (ICLP) implements a regional anti-trafficking program in West Africa through the ILO to stop child trafficking within the affected countries and across the borders. The program received \$225,525 in FY1999, \$7.3 million in FY2001, and \$2 million in FY2004. Upon completion in 2007, the initiative will have been implemented in Benin, Burkina Faso, Côte d'Ivoire, Gabon, Mali, and Togo. Key activities of the project include:

- Rescue and rehabilitate trafficked children (rehabilitation includes placing rescued children in educational and/or vocational programs);
- Establish awareness-raising campaigns among at-risk groups;
- Develop sub-regional and bilateral coordination mechanisms for the prevention of child trafficking, withdrawal from exploitative labor, and reintegration;
- Facilitate the development of a national legal environment that would implement actions against child traffickers;
- Train border authorities to detect and intercept child trafficking; and
- Provide non-formal education, referral to local schools, or occupational skills training.³⁶

West Africa Cocoa/Commercial Agriculture Program

ICLP also implements through the ILO a complementary West African regional program to prevent and eliminate the use of child labor in the cocoa sector. The West Africa Cocoa/Commercial Agriculture Program (WACAP) received \$5 million from DOL in FY2002. Upon completion in January 2006, the program would have been implemented in Cameroon, Ghana, Guinea, and Nigeria. To date WACAP has

³⁵ For more information on STCP, see [<http://www.treecrops.org/index.htm>].

³⁶ Project Summary provided by Department of Labor staff on June 17, 2005.

reportedly reached more than 25,000 people through its awareness raising and capacity building activities. Also, according to Ivorian and Ghanaian STCP officials, more than 3,000 of the targeted 9,000 children below age 13 involved in child labor have been identified, counseled, withdrawn from work, and placed in educational or vocational training facilities.³⁷ Ultimately, the project seeks to:

- Develop a National Plan of Action for prevention and elimination of hazardous and exploitative child labor in the cocoa/agriculture sector;
- Prepare and launch awareness raising campaigns to combat and prevent child labor in the cocoa/agriculture;
- Inform local communities and local administrative authorities about national child labor legislation;
- Educate approximately 9,700 children who have been withdrawn from work under the program;
- Provide skills to at least 500 adult family members to enhance their income-earning potential;
- Train children 12 years and older in marketable skills;
- Monitor the use of child labor in the cocoa sector;
- Prevent/protect about 70,000 children between 13 and 18 years from engaging in hazardous work;
- Rehabilitate children removed from hazardous work through education and vocational training provisions;
- Establish an independent child labor monitoring/verification system in participating countries; and
- Integrate labor inspection programs with child labor monitoring/verification system.³⁸

Since launching WACAP, Cote d'Ivoire has ratified the ILO Minimum Age Convention 138 and the ILO Worst Forms of Child Labor Convention 182, has established a national steering mechanism for a country-wide anti-child labor program, set up a national Cocoa Task Force, and has integrated Convention 182 into its national laws. Nigeria and Ghana have also initiated national anti-child labor programs.

³⁷ Interview with STCP officials on June 22, 2005.

³⁸ Project Summary provided by Department of Labor staff on June 17, 2005.

Fair Trade Certified™ Cocoa

In an effort to combat the use of child labor in cocoa production, Fair Trade Label Organizations International (FLO) encourages the formation of farmer cooperatives. Participating farmers are guaranteed a minimum price per pound through direct sales to Fair Trade buyers under long-term contracts. Specifically, farmers who sell to Fair Trade buyers receive a minimum of \$1,750 per metric ton (\$1,950 per metric ton organic). If the world price rises above \$1,600 per metric ton, the Fair Trade price meets the world price and adds a \$150 premium per metric ton (\$200 premium per metric ton for organic). In exchange for receiving above market price sales, farmers must not use forced or child labor. This process is certified by the Fair Trade Label Organizations International (FLO). Additionally, farmers are required to reserve a portion of their revenues for social projects, such as community development and technical training. To date, 42,000 cocoa farmers and their families participate in eight Fair Trade cooperatives in Ghana, Cameroon, Bolivia, Costa Rica, Nicaragua, Dominican Republic, and Ecuador³⁹. Additional key elements of the cooperatives include:

- Promotion of environmentally sustainable practices, such as shade cultivation, composting, and minimization of chemical inputs;
- Encouragement of crop diversification;
- Regular farm inspection to ensure compliance of labor standards;
- Access to credit for labor and production costs; and
- Training in marketing and record keeping.⁴⁰

Some economists point to fair trade schemes or to labeling schemes as effective ways to raise labor standards, including discouraging child labor, while providing producers with increased returns and compensation for increased costs (from not using children).⁴¹ A difficulty with Fair Trade approaches, however, is that their scope may be limited by the numbers of producers involved and by the number of consumers willing to pay a higher price for a “fairly traded” product.

Policy Options

Trade Agreements

The Trade and Development Act of 2000 (PL. 106-200) expanded the Generalized System of Preferences (GSP) eligibility criteria to include barring the

³⁹ Lobe, Jim, “Activists Target Chocolate, Gold on Valentine’s Day.” Heine Brothers’ Coffee website, February 13, 2005. [<http://www.heinebroscOFFEE.com/newsfeb04.htm>]

⁴⁰ Global Exchange website, “*Fair Trade Cocoa Cooperatives*.” Downloaded on June 14, 2005. [<http://www.globalexchange.org>]

⁴¹ Robert M. Stern discusses such approaches in “Labor Standards and Trade,” in *New Directions in International Economic Law: Essays in Honor of John H. Jackson*, edited by Marco Bronckers and Reinhard Quick. The Hague; Boston: Kluwer Law International, 2000.

worst forms of child labor.⁴² The act prohibits any country from GSP consideration if “[s]uch country has not implemented its commitments to eliminate the worst forms of child labor.”

Some trade analysts advocate the rescission of trade benefits for countries that continue to use child labor in cocoa production. The Africa Growth and Opportunity Act (AGOA), seeks to offer sub-Saharan African countries greater access to the U.S. market. Although Côte d’Ivoire gained GSP/AGOA status in 2002,⁴³ according to the USTR, on January 1, 2005, Côte d’Ivoire’s AGOA beneficiary status was “terminated for reasons related to lack of progress on key economic reforms and the Ivorian government’s decision to unilaterally violate the U.N. monitored cease-fire in November 2004.” Côte d’Ivoire is also subject to U.S. sanctions under Section 508 of the Foreign Assistance Act of 1961, as amended, that bar bilateral U.S. assistance, with some exceptions. These sanctions are in place due to a change of government by military coup in 1999, and because the subsequent election won by President Laurence Gbagbo in 2000 was administered by the government formed as a result of the 1999 coup. The election was not seen as free and fair by the United States. Consequently, there may be a relative paucity of options to impose further assistance or trade-based sanctions on Côte d’Ivoire (the largest producer of cocoa) for its use of abusive child labor. Furthermore, as cocoa beans enter the U.S. market on a duty free basis, they are not included in GSP/AGOA preferential schemes. Nonetheless, advocates of a trade-based solution underscore that the child labor provision should be considered for the other cocoa-producing countries, and for Côte d’Ivoire if and when Côte d’Ivoire’s GSP/AGOA status is restored. Furthermore, it has been pointed out that a number of cocoa containing products do enter the United States under these preferential schemes. One option may be to withdraw preferences for cocoa containing products on the basis that the exporting countries are not abiding by their child labor commitments.

Enhance Harkin-Engel Protocol

The Harkin-Engel Protocol calls for the establishment of a certification system in cocoa-producing countries by July 1, 2005. Critics maintain that the Protocol should be augmented to include enforcement mechanisms. Since the Protocol is a voluntary, self-regulatory agreement, advocates of tougher measures argue that the Protocol may have a minimal impact on the use of abusive child labor. Furthermore, observers note that national governments may not have the capacity nor the will to ensure that the worst forms of child labor are not used in cocoa production. Some advocates are calling for an outline stipulating how a certification process could work, and detailing who might fund such an effort.

⁴² The Generalized System of Preferences (GSP) is a program that extends duty-free entry to a wide range of products from more than 140 countries and territories. See CRS Report 97-389, *Generalized System of Preferences*.

⁴³ U.S. Trade Representative, 2005 Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act, May 2005.

Industry proponents say that it is premature to consider alternatives to the industry certification plan that was slated to begin on July 1, 2005. It appears that the industry certification plan will begin as a series of pilot projects in Côte d'Ivoire and Ghana with a focus on farm level conditions, rather than on the other supply chain components including sorting, transport, and storage networks.⁴⁴ Industry spokespersons say that given the size of the sector — there are 1.5 million cocoa farms in the two countries — it will not be possible to certify that all cocoa beans have been produced and harvested without child labor.⁴⁵ However, according to a July 1, 2005, press release issued by Senator Harkin, Representative Engel, and the cocoa/chocolate industry, 50% of all cocoa producing areas will be certified by 2008.

Encourage Enforcement of U.S. Tariff Act of 1930

Child rights advocates claim that legislation already exists to prevent the use of abusive child labor in cocoa production. Proponents argue that the U.S. Customs Service should prohibit the importation of cocoa derivative products from some sources, citing the Tariff Act of 1930, as amended. In 2000, Congress amended the Tariff Act to explicitly state that the statute applied to goods made with forced or indentured child labor.⁴⁶ Supporters assert that the U.S. Customs Service is failing to enforce this anti-child labor law. Non-governmental organizations, Global Exchange, the International Labor Rights Fund (ILRF), and the Fair Trade Federation have reportedly filed a lawsuit against the U.S. Customs Service to force the Service to act under the Tariff Act.⁴⁷

Using Section 307 of the Tariff Act of 1930, as amended, to ban imports of cocoa from Côte d'Ivoire or other producing countries raises a number of potential law implementation concerns. Trade analysts differ as to whether such a ban to enforce child labor standards could withstand a challenge in a World Trade Organization (WTO) dispute settlement.⁴⁸ Some maintain that WTO agreements do not include labor standards and that violation of labor standards, with one exception, is not covered under WTO rules. The only specific mention of a labor standard is in Article XX(e) of GATT 1994 which permits exceptions to GATT obligations in cases where prison labor has been used to produce a product. Conversely, others argue that U.S. imposition of an import ban, because of the use of abusive child labor in production could withstand WTO challenges because of more general language in

⁴⁴ Reuters News, "Europe Chocolate Lobby Hopes to Stop Child Labor." June 8, 2005.

⁴⁵ Ibid.

⁴⁶ P.L. 106-200.

⁴⁷ Global Exchange, "The News on Chocolate is Bittersweet: No Progress on Child Labor, but Fair Trade Chocolate is on the Rise." June 2005. [<http://www.globalexchange.org>]

⁴⁸ For a wide-ranging discussion of trade and labor strategies under WTO rules, see *Trade-Based Strategies for Combatting Child Labor* by Frank J. Garcia and Soohyun Jun, Research Paper no. 59, February 9, 2005, Boston College Law School, Legal Studies Research Paper Series; the issue of using Section 307 of the Tariff Act of 1930 is addressed specifically in "Outlawing the Trade in Child Labor Products: Why GATT Article XX Health Exception Authorizes Unilateral Sanctions," by Matthew T. Mitro, *American University Law Review*, 51Am.U.L.Rev.1223, August 2002.

article XX(b) which permits exceptions to GATT rules in order to protect human health. This position is based on the notion that abusive child labor is injurious to health, and that children have been reportedly found to be using pesticides without adequate protection. Proponents of banning cocoa imports because they are produced using abusive child labor practices also argue that recent WTO dispute panel decisions validate a broad approach to enforcement of a member country's laws when health considerations are involved.

Some contend that an import ban on cocoa produced using abusive child labor might contribute little to improving the lot of children in rural Côte d'Ivoire or other cocoa producing countries. Critics do not argue that abusive or unsafe child labor practices should be ignored, but rather that the underlying cause of child labor is rural poverty which should be the focus of efforts to improve the lot of children. Questions of targeting and fairness are also at issue. As trade data above show, while the United States imports about 1/4 of its cocoa beans from Côte d'Ivoire, about 65% of Ivorian cocoa goes to Europe, from which the United States imports cocoa products. To what extent would an import ban cover imports of products from Europe manufactured from cocoa beans produced under conditions of abusive child labor, as well as to the bean-producing countries?

Other Framework Agreement Models

The Harkin-Engel Protocol is an agreement by which two cocoa/chocolate industry groups committed themselves and their members to the goals outlined in the protocol. Their pledge was witnessed by the government of Côte d'Ivoire, Members of Congress, the International Labor Organization (ILO), and several private labor rights groups.

Were the Protocol to experience implementation challenges, or if broader participation were found to be useful, based on Protocol implementation experience, the creation of other cooperative action plans or framework agreements could conceivably be pursued. One possible model for such an effort is the Kimberley Process Certification Scheme (KPCS), an international voluntary agreement that seeks to regulate the trade in rough diamonds through the creation of a closed system of trade between "legitimate" traders of rough diamonds, as defined under the KPCS.⁴⁹ The system is based upon the use of certificates issued by state participants, which accompany and vouch for the legitimacy of diamonds that they import or export. The aim of the KPCS is to prevent trade in "conflict diamonds" (diamonds sold by rebel groups to fund armed insurgencies, mostly in Africa) while helping to protect the legitimate rough diamond trade. The KPCS is comprised of states and regional economic integration organizations that are eligible to trade in rough diamonds under the KPCS. The diamond industry and civil society groups act as observers to the KPCS, and actively take part in monitoring and improving the scheme. The KPCS, which could be viewed as a restraint on trade under World

⁴⁹ For more information on the Kimberley Process, see the official website of the KPCS [<http://www.kimberleyprocess.com>] and CRS Report RL30751, *Diamonds and Conflict: Background, Policy, and Legislation*.

Trade Organization (WTO) rules, has a temporary WTO waiver that expires in 2006. Observers expect a further WTO waiver to be sought to continue the Process.⁵⁰

While the KPCS has what some observers see as drawbacks,⁵¹ it is undergoing continued review by Participants and Observers. Some may argue, however, that creating a similar process aimed at ending abusive labor processes in the cocoa industry could delay implementation of efforts to achieve that goal, since the time that would likely be involved in negotiating such an agreement could be lengthy. In addition, such an effort could lead to the adoption of “lowest common denominator” labor standards, since implementation of such a framework would likely be arrived at by voluntary consensus by participating governments, some of which may lack the capacity or legal mechanisms to ensure adherence to strict labor standards. In addition, some non-participating countries might object to such a scheme as a restraint on trade under WTO rules, and challenge it in the WTO. While a waiver similar to that under the KPCS could potentially be sought, some observers believe that WTO rule exceptions related to public health and morals might not be applicable to such a cocoa trade regime; from this perspective, such a regime might not conflict with WTO rules.

Multilateral Poverty Reduction Strategies

Researchers note that cocoa-producing countries could use findings about cocoa agricultural labor patterns for their benefit. The use of child labor in cocoa production, for instance, could be seen as an indicator of poverty. Consequently, countries could potentially incorporate education-based anti-child labor initiatives into their country Poverty Reduction Strategies (PRS). According to STCP officials, Ghana and Côte d’Ivoire have already programmed some of their revenues gained through the Highly Indebted Poor Countries (HIPC) Initiative to bolster their education infrastructure, and thereby address one of the basic goals of anti-child labor efforts.⁵²

Other Issues

Impact of Political Instability

Ivorian officials maintain that their country is committed to ending the use of abusive child labor in cocoa production, and that they are working vigorously to combat the problem and expand anti-child labor efforts, but face significant challenges in doing so. They note that large parts of key cocoa-growing areas in western Côte d’Ivoire are the site of instability and armed conflict related to the

⁵⁰ WTO, Waiver Concerning Kimberley Process Certification Scheme for Rough Diamonds - Decision of 15 May 2003, WT/L/518.

⁵¹ These are cited as a lack of independent monitoring and oversight; statistical anomalies pertaining to reporting requirements, and lack of internal controls and tracking of diamonds domestically from “mine to export point” in some countries

⁵² Interview with STCP officials on June 22, 2005.

larger civil conflict that afflicts the country.⁵³ The government of Côte d'Ivoire has reportedly spent more than \$1 million on countering abusive child labor in cocoa production — largely through STCP.⁵⁴

Limited Educational Infrastructure

Analysts point out that even in instances when children can be removed from the worst forms of child labor, there may not be educational institutions available to them. Many farms in West Africa are in rural areas where educational infrastructure is limited, and transport to schools over long distances is limited or virtually non-existent. Furthermore, many farmers are unable to afford school fees, uniforms, and/or books. Although in Ghana primary education is free and compulsory, the government reportedly does not enforce the law because it knows that there are not enough schools to service all children. Many of the teachers in the country are obtained through the compulsory national service, a limited service program.

Low World Prices for Cocoa

Interviews conducted during the IITA survey revealed that greater employment of family labor was a common response to the drop in cocoa prices during the 1990s, and the resulting decline in cocoa incomes. In addition to the substitution of family labor for paid labor, farmers have also reduced the use of purchased inputs, such as fertilizers. The net effect of both of these factors has led to lower productivity and incomes, and to reduced household investments in children's education. Some analysts argue that the fall of world cocoa prices led to an increase in the use of child labor.⁵⁵ Labor rights advocates argue that if farmers could gain greater profits from their crops, then they would be less likely to use children in cocoa production. (For prices trends, see Figure 1, above.)

⁵³ See CRS Report RS21989, *Côte d'Ivoire Divided: Civil War Reprise?*

⁵⁴ Interview with STCP officials on June 22, 2005.

⁵⁵ International Cocoa Organization (ICCO), [<http://www.icco.org>].

Appendix

Definitions and Concepts Related to Child Labor and Used in the IITA Study

- *Child labor*, as derived from ILO Convention 138, is any economic activity performed by a person under the age of 15. Not all work is considered harmful to or exploitative of children. Child labor is work that prevents children from attending and participating effectively in school or is performed by children under hazardous conditions that place their healthy physical, intellectual, or moral development at risk.
- The *worst forms of child labor*, as defined in ILO Convention 182, is the use of any individual under the age of 18 for the purposes of debt bondage, armed conflict, commercial sexual exploitation, drug trafficking, and other types of work identified as hazardous to children by ratifying members.
- *Working children* are those who carried out at least one task/activity on the cocoa farm, i.e., clearing ground; weeding; maintaining cocoa trees; applying pesticides; spreading fertilizer; harvesting; piling/gathering up; pod breaking; fermenting; transporting; drying; and other activities.