



10 December 2009

International Cocoa Verification Board (ICVB) Comment on the initial determination of the US Department of Labor's 'List of Products Produced by Forced or Indentured Labor' issued pursuant to Executive Order 13126 of 1999.

The International Cocoa Verification Board (ICVB) is a non-profit, multi-stakeholder organization that was convened in December 2007, to ensure that sector wide certification efforts, specifically designed to evaluate and publicly report on the occurrence of child or forced adult labor in cocoa producing areas in Côte d'Ivoire and Ghana, are independently verified. Verifying the soundness of the data collection methodologies and the accuracy of survey findings (completed as part of the sector wide certification effort) helps to ensure that subsequent intervention efforts are more strategically focused on the areas and issues that are in greatest need of remediation and, through future surveys, ensure that remediation has achieved its intended effect, i.e., the progress toward elimination of child or forced adult labor in cocoa producing areas. Reliable data informs meaningful, enduring change for cocoa producing communities in Côte d'Ivoire and Ghana. All stakeholders, from governments to civil society actors, will be able to use the results of this verification effort to strengthen their work going forward.

The ICVB is made up of nine individuals from Africa, Europe, and the United States who represent the nongovernmental (NGO), industry, and government sectors. Biographies of the ICVB members are available on the ICVB website (www.cocoaverification.net). Of the nine seats on the board, the NGO caucus is the largest with five seats. NGO caucus members include representatives of traditional nongovernmental organizations (both international and African) as well as representatives of academia and trade unions. The diversity of sectors, nationalities, and areas of expertise represented on the ICVB reflect the cocoa sector itself and allow the ICVB to make decisions based on the unique areas of expertise and diverse viewpoints of all three sectors.

The ICVB hereby offers comments on the US Department of Labor's September 10th publication of reports designed to raise awareness and curb the incidence of child labor and forced labor, specifically the 'List of Products Produced by Forced or Indentured Labor' issued pursuant to Executive Order 13126 of 1999. It is further noted that some of our comments also pertain to the 'List of Goods produced by Child or Forced labor' required by the Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA) and we trust that these comments will also be taken into consideration by the US DOL in their future deliberations regarding the improvement of these important processes.

The ICVB commends the Department of Labor's initiative to take strong action to fight forced labor globally. However, while the TVPRA report recognizes the efforts undertaken by the cocoa industry and the governments of Ghana and Cote d'Ivoire, cocoa is listed alongside products that have not undertaken a similar multi-year, multi-million dollar

initiative engaging all stakeholders (civil society, governments and industry) within the supply chain. Furthermore, it is equally disappointing to see that Côte d'Ivoire is noted in the Executive Order list along with producers of cocoa that have not undertaken the committed effort that has gone on since the signing by Côte d'Ivoire of the Harkin / Engel Protocol in September of 2001.

Efforts undertaken since the signing of the Harkin - Engel Protocol have yielded progress in many areas:

- Both Côte d'Ivoire and Ghana have conducted pilot and scaled-up surveys that were found to be statistically credible by internationally recognized independent verifiers.
- These surveys, along with others recently completed, provide the critical baseline upon which ongoing remediation strategies are based.
- Upon the completion of a statistical weighting process, expected in the very near future, the results of these surveys will be representative of the entire cocoa sector in both countries. These sector wide results will more clearly reflect the magnitude and extent of the challenge, thereby allowing both governments to intensify efforts and shift limited resources from surveys into remediation programs.
- Both governments have designed and begun implementing national remediation plans (that were informed by, and are on file with, the ILO). A community-based child labor monitoring system (CLMS) -- an approach often recommended by the ILO - is under development in both countries.
- Governments of Ghana and Cote d'Ivoire have each invested over two million dollars in remediation programs in response to the findings in their certification surveys.
- Additionally the global chocolate and cocoa industry has invested more than US \$75 million since 2001 to improve conditions and support the National Action Plans in both countries
- Both governments and industry publicly acknowledged their willingness to take action on the verifiers' most important findings notably that additional targeted research on trafficking and forced adult labor is needed (and appropriate actions taken as recommended by the research).
- Both governments are sharing experiences of successful approaches to addressing the Worst Forms of Child Labor and Forced Adult Labor through the creation of a Joint Technical Working Group.

The ICVB further notes that the US Department of Labor's lists draw on the very information collected by both governments as part of this ground-breaking initiative to inform the creation of their lists.

While the ICVB supports the need for increased publicly available information regarding the production of goods using child labor or forced labor; it believes that the current process of listing all products and all countries in the same manner, characterizes each country and product as having been produced in an equivalent fashion with an equal approach to the issue being taken by each country. It has therefore created a process and reporting mechanism that is a "yes or no" measure – with no method for describing activities taking place within a supply chain that are underway to address the issue in question. This approach then, does not serve to properly inform interested parties regarding how countries and supply chains are addressing the labor issues that exist.

As a matter of principle, the ICVB believes this approach can be counterproductive, because it does not recognize specific efforts that have been initiated and that are in fact making a difference for children within the supply chains in question. Because of this approach there is little incentive for progressive countries to undertake the complex, resource intensive and in some cases long term approach to addressing labor issues. In fact, inclusion of products on the Executive Order list, with its potential prohibition of purchasing by the US Government, may jeopardize the very efforts that are underway to address this critically important issue.

The ICVB recommends that in the future, the US Department of Labor creates a tiered or graduated list based on clearly defined criteria that demonstrates a degree of engagement and progress toward effectively addressing the issue. For example, the list could possess 'tiers' related to the following:

1. Countries that violate human rights within a specific supply chain and do not recognize nor address the problem.
2. Countries that have clearly identified and acknowledge the existence of a problem and are in the very early stages of addressing it.
3. Countries that have identified the issue and are making appreciable and clearly defined efforts at addressing it.

Such an approach will recognize progress as it is made and will create incentives for countries to move through the process of addressing labor issues in defined and measurable steps.

Finally, in line with our comments and recommendations on both the EO and TVPRA list and the process of creating the list, the ICVB recommends that Cocoa from Côte d'Ivoire be removed from the EO list because of the significant efforts that have been made to address the issue of Forced Child Labor within its supply chain.

Respectfully submitted,

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The ICVB Board.

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