

Always Left Holding the Bag

*The Economic Impacts of the COVID-19 Pandemic
on Cocoa Farmers and Children in Côte d'Ivoire*



This report is a collaboration between Corporate Accountability Lab (CAL) and Mouvement Ivoirien des Droits Humains (MIDH).

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Cover Picture: Children carrying cocoa beans on their heads. December 2019.

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Executive Summary

In the spring of 2020, the COVID-19 pandemic upended global trade. Across the world, people “sheltered in place” as shops, schools, workplaces, and restaurants closed, travel came to a halt, and supply chains – including the cocoa supply chain – went into a frenzy. Suddenly, cocoa farmers’ livelihoods, already precarious in normal times, became even more uncertain.

For decades, multinational companies have reaped massive profits while cocoa farmers have lived on poverty wages. Most farmers in Côte d’Ivoire earn under the World Bank’s poverty line of \$1.90 per day. Farmers are often unable to support their families on such low incomes, much less pay adult workers fair wages. As a result, farmers generally hire migrant workers at very low wages, rely on their children to help on the farms – or, in some cases, buy trafficked children.

The COVID-19 pandemic impacted the Ivorian cocoa industry in myriad ways. This report examines four key aspects.

1. The Impact of COVID-19 on the Price of Cocoa and the Cocoa Supply Chain:

The combination of the COVID-19 pandemic and the implementation of the Living Income Differential (LID) in October 2020 led to a volatile cocoa market for much of 2020 and 2021. In October 2020, the Ivorian and Ghanaian governments implemented the LID, an extra \$400 per ton of cocoa above the farm gate price meant to give farmers additional income. Yet companies quickly found ways to avoid paying the full price, buying up large quantities of cocoa on the futures exchange and using the alleged decrease in demand from the pandemic as an excuse to negotiate lower prices with the Ivorian government. Although the LID remains in place as of November 2021, companies successfully negotiated down the overall price they must pay, ultimately depriving Côte d’Ivoire of much-needed revenue.

2. The Impact of COVID-19 on Farmer Poverty:

The initial wave of the pandemic in spring 2020 led to a decrease in farmer income as it became more difficult to produce and sell cocoa. Because farmers are paid so little for their cocoa, any decrease in income hits them especially hard. Such a loss can make it difficult for farmers to buy food for their families or pay for their children to attend school. When Côte d’Ivoire shut its borders in March 2020, the country went into lockdown and the country’s largest city, Abidjan, was isolated from the rest of the country to control the pandemic. During those first few months, in the small growing season, many cocoa farmers had difficulty producing and selling cocoa and often earned less than in previous seasons. Production suffered as migrant workers from Mali and Burkina Faso could no longer legally cross the border to work on cocoa farms, leading to a labor shortage, and cocoa

farmers had difficulty accessing inputs like fertilizers and pesticides that increase yields. Cocoa farmers also struggled to export and sell their cocoa, as farmers and cooperatives faced challenges transporting cocoa to the ports for export, especially with Abidjan isolated from the cocoa-growing regions.

3. The Impact of COVID-19 on Child Trafficking:

Although Côte d’Ivoire’s borders with Mali and Burkina Faso were closed for much of 2020 and 2021, during the pandemic children continued to be trafficked into Côte d’Ivoire and sent to work as forced laborers on cocoa farms. With the borders closed, trafficking across the border became more clandestine, with children reportedly crossing into Côte d’Ivoire at night on motorcycles instead of during the day on buses. Once in Côte d’Ivoire, trafficking patterns continued largely unchanged during the pandemic, with children bused south to cocoa-growing regions where they were forced to work on farms without pay, or were told that payment was given to their traffickers, who would deliver it to their families in their home countries. Although the number of children in forced labor is unknown, these children are spread across the cocoa-growing regions of Côte d’Ivoire. Recent enforcement actions by the Ivorian government, as well as evidence collected during our investigations, suggest that trafficking and forced labor are ongoing issues.

4. The Impact of COVID-19 on Child Labor:

While the impact of the pandemic on child labor will likely not be known for a number of years, there are signs that child labor may have increased during the early months of the pandemic. When the COVID-19 pandemic hit Côte d’Ivoire in March 2020, schools across the country closed for two months as the country went into lockdown. Prior to the COVID-19 pandemic, rates of child labor had already been high and had even increased over the previous decade. With schools closed from March to May 2020, many parents brought their children to the cocoa farms with them as a form of childcare, almost certainly increasing child labor rates nationwide. Once at the farm, children assisted parents in a variety of ways, often including using machetes, carrying heavy loads, or spraying pesticides – all forms of hazardous child labor. When schools reopened in May 2020, not all children returned to the classroom, as many parents could not pay for their children’s education because of decreased cocoa production.

The COVID-19 pandemic highlighted many of the challenges that have existed in the Ivorian cocoa industry for decades. So many of these challenges result from companies paying too little for cocoa and pushing the risk of a bad harvest – or a global pandemic – onto cocoa farmers who already live under the World Bank’s poverty line. To address the issues of a volatile cocoa market, farmer poverty, forced child labor, and hazardous child labor, companies must take on the risk and responsibility themselves by providing transparency in their supply chains down to the farm level, paying a living income, and committing to long-term contracts.

Recommendations for Multinational Cocoa and Chocolate Companies

1. Companies must make their supply chains transparent and publicly available.

This includes publicly releasing information about all cooperatives, *pisteurs*, and farms that they source from. While many companies have taken a first step by releasing the names of the cooperatives from which they source, they must also release information down to the farm level on their direct supply chains and provide full sourcing information on their indirect supply chains. If companies do not have this information, they must immediately take steps to trace their supply chains down to the farm level and make this information public.

2. Companies must pay the full Living Income Differential (LID) and the country premiums immediately and must move toward the Living Income price over the next eighteen months.

The Voice Network has calculated the current Living Income farm gate price in Côte d'Ivoire to be \$3,166 USD per metric ton of cocoa produced, a significant increase over the 2021-22 farm gate price of approximately \$1,450 per metric ton. Extreme poverty forces farmers to rely on illegal forms of labor to survive, and sometimes just to pay off the prior season's debts. Chocolate companies have purchased cocoa at or below the cost of production for decades. Companies must pay a high enough price that farmers can afford to produce cocoa legally and support their families.

3. Companies must provide long-term contracts at fixed prices to cocoa farmers.

Farmers bear the burden of market volatility, whether driven by commodity prices or by changes in demand. This generates economic precarity and indebtedness, which are both drivers of hazardous child labor and forced labor. Long-term, fixed-price contracts shift the majority of general market risk from farmers back onto companies, and distribute the remaining risk of volatility to supply chain actors who are better situated to absorb it. This results in greater stability and accountability across the supply chain.

I. Methodology

Corporate Accountability Lab (CAL) partnered with the Ivorian non-governmental organization Mouvement Ivoirien des Droits Humains (MIDH) to produce this report. This report is based on desk research and three field investigations carried out in 2020.

The investigations focused on the northern border region of Côte d'Ivoire near Mali and Burkina Faso and the cocoa-growing regions in Côte d'Ivoire. Throughout the investigations, we spoke with cooperative managers, farmers, children, teachers, community members, bus company employees, and soldiers. This report brings together information collected during these investigations, all of which took place during the COVID-19 pandemic. Carrying out these investigations during a pandemic likely impacted our ability to interact with certain people and impacted how communities viewed us. Some people were reluctant to speak with strangers during a pandemic due to their fear of catching COVID-19. Because travel was more limited during this period, our team was more visible during these investigations, impacting how communities viewed and interacted with us.

This report is not statistically representative. It is based on conversations and observations. The aim of this report is to provide a better understanding of how the pandemic has impacted cocoa farmers, cocoa workers, children, and others in cocoa-growing communities. It also aims to explain how multinational cocoa and chocolate companies responded – or failed to respond – to the crisis.



II. The Impact of COVID-19 on the Price of Cocoa and the Cocoa Supply Chain: A Volatile Market and the Living Income Differential

The Cocoa Supply Chain

Chocolate is a multi-billion-dollar industry, worth over \$137 billion in 2019.¹ Yet most farmers in Côte d'Ivoire, the largest cocoa producing country in the world,² earn under the World Bank's poverty line of \$1.90.³ Farmer poverty is a direct result of the low prices that multinational companies pay for cocoa.⁴ Because farmers earn so little, they are often unable to pay adult workers a fair wage. Hardly able to scrape by, they sometimes hire migrant workers from Mali or Burkina Faso who work for very low wages and who have been referred to as "the most marginalized actors in the cocoa supply chain."⁵ Alternatively, farmers may rely on family members, including their children, and in some cases on illegal forms of labor such as trafficked children.

Despite earning large profits, cocoa and chocolate companies externalize many of their production costs, passing them onto producing countries, cocoa farmers, and the most vulnerable in the cocoa supply chain. According to a 2016 study, when the price of cocoa beans

1 *Global Chocolate Market Report 2020: Market to Reach US\$182.090 Billion by 2025, Increasing from US\$137.599 Billion in 2019*, ResearchAndMarkets.com, Dec. 7, 2020, <https://www.businesswire.com/news/home/20201207005451/en/Global-Chocolate-Market-Report-2020-Market-to-Reach-US182.090-Billion-by-2025-Increasing-from-US137.599-Billion-in-2019--ResearchAndMarkets.com#:~:text=The%20global%20chocolate%20market%20is,food%20products%20across%20the%20globe.>

2 Corporate Accountability Lab, *Empty Promises: The Failure of Voluntary Corporate Social Responsibility Initiatives to Improve Farmer Incomes in the Ivorian Cocoa Sector*, July 2019, p. 1, <https://static1.squarespace.com/static/5810dda3e3df28ce37b58357/t/60f195f189c21a24009bd762/1626445305506/Empty+Promises+Report+2019+Final+1.pdf>. Côte d'Ivoire produces around 2.1 million tons of cocoa each year. Antonie C. Fountain & Friedel Huetz-Adams, *Cocoa Barometer 2020*, 2020, p. 22, <https://www.voicenetwork.eu/wp-content/uploads/2020/12/2020-Cocoa-Barometer.pdf> [hereinafter *Cocoa Barometer*].

3 Cocoa farmers' income depends on a number of factors, including the size of their cocoa farm, the farm gate price in any given season, and the amount of cocoa produced each year. Despite variations, it has been estimated that many cocoa farmers in Côte d'Ivoire earn under \$1.00 per day. See, e.g., Ghovind Bhutada, *Cocoa's bittersweet supply chain in one visualization*, WORLD ECONOMIC FORUM, Nov. 4, 2020, <https://www.weforum.org/agenda/2020/11/cocoa-chocolate-supply-chain-business-bar-africa-exports/> [hereinafter *Cocoa's bittersweet supply chain*]. The World Bank poverty line is \$1.90. See, e.g., R. Andres Castaneda Aguilar, et al, *September 2020 global poverty update from the World Bank: New annual poverty estimates using the revised 2011 PPPs*, WORLD BANK BLOGS, Oct. 7, 2020, <https://blogs.worldbank.org/opendata/september-2020-global-poverty-update-world-bank-new-annual-poverty-estimates-using-revised>.

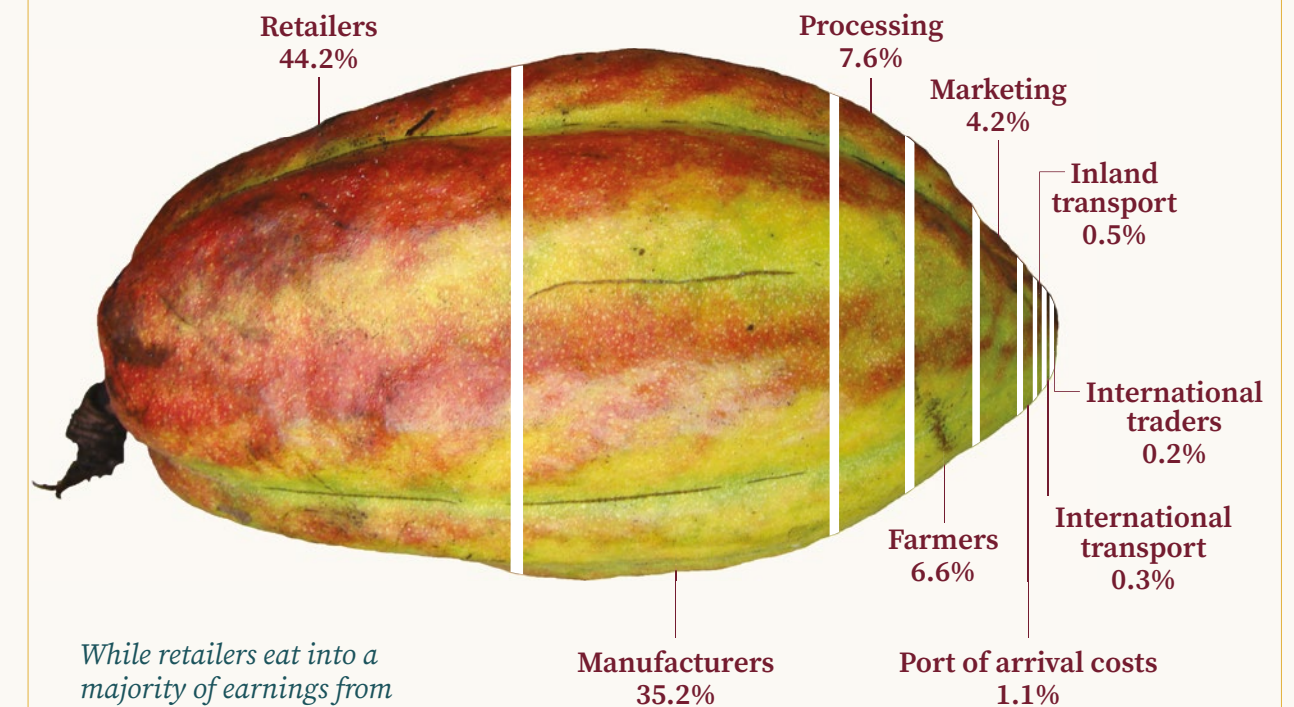
4 *Cocoa Barometer*, supra note 2, pp. 7–8.

5 International Labor Rights Forum, *The Fairness Gap: Farmer Incomes and Root Cause Solutions to Ending Child Labor in the Cocoa Industry*, Dec. 2014, p. 3, https://laborrights.org/sites/default/files/publications/Fairness%20gap_low_res.pdf ("[T]hese workers are even more impoverished than the producers that employ them. Since smallholder farmers make poverty incomes themselves, they have very little leftover to pay their hired laborers. Field research in Côte d'Ivoire revealed that hired workers receive poverty level wages. ILRF surveys revealed that hired workers receive between \$209 and \$1045 per year, which is far below the minimum wage set by the government (around \$4 per day, or \$1460 per year, although it is set lower for agricultural workers).").

in Côte d'Ivoire was \$1.59 USD (€1.35) per kilogram, external costs amounted to \$6.79 USD (€5.75) per kilogram, for a total "true price" of \$8.38 USD (€7.10) per kilogram of cocoa, or four times the price at the time.⁶ The vast majority of this price gap was attributed to underpayment of workers and under-earning of family workers, deforestation and land degradation, and reliance on child and forced labor.⁷

The low price that companies pay for cocoa beans also results in farmers retaining little of the value in the cocoa supply chain. Cocoa farmers earn just 6.6 percent of the price of a cocoa bar, while manufacturers like Nestlé and Mars earn on average 35.2 percent and retailers such as supermarkets earn an average of 44.2 percent.⁸ The low percentage farmers earn highlights the precariousness of cocoa farmers' economic situation and the skewed distribution of profits across the supply chain.

Each Stakeholder's Share in the Cocoa Supply Chain



While retailers eat into a majority of earnings from cocoa sales, farmers are among the lowest earners.

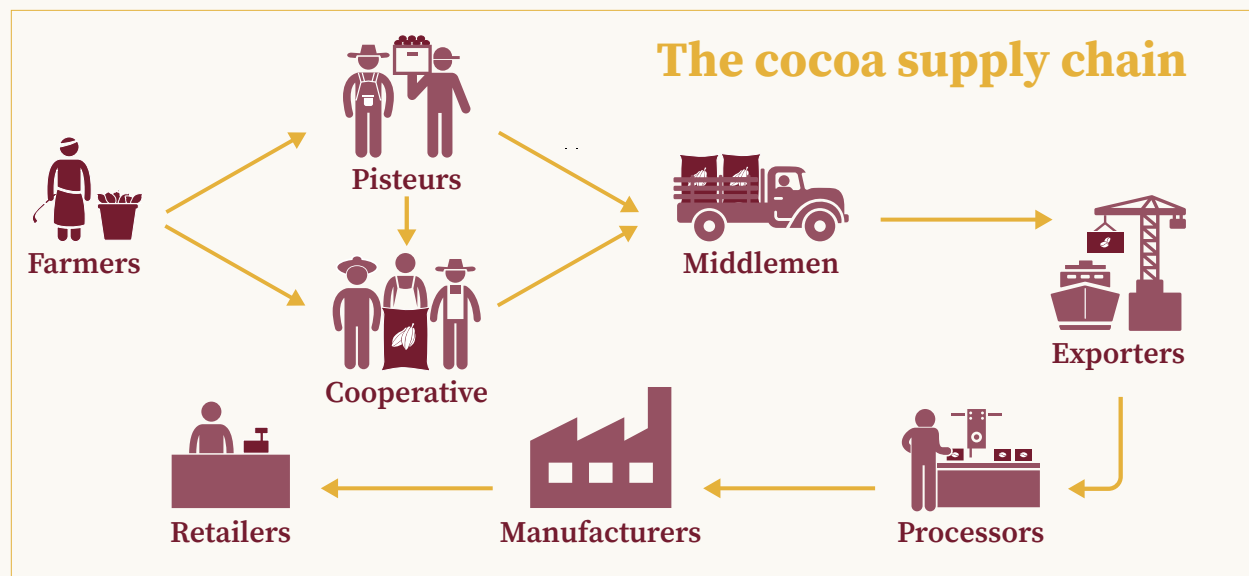
Per tonne of sold cocoa. Source: Financial Times.

6 IDH & True Price, *The True Price of Cocoa from Ivory Coast*, 2016, p. 3, <https://trueprice.org/wp-content/uploads/2016/03/TP-Cocoa.pdf>.

7 *Id.*

8 *Cocoa's bittersweet supply chain*, supra note 3.

The cocoa supply chain is long and opaque. Farmers often sell their cocoa to cooperatives (or to middlemen called *pisteurs* who sell it to cooperatives), which in turn sell the beans to other middlemen who transport them to ports for export. After exporting cocoa, exporters sell the cocoa to processors, who winnow, roast, and grind cocoa beans to produce cocoa liquor, cocoa butter, or cocoa cakes.⁹ Once processed, the cocoa product is sold to manufacturers (often brands) who produce chocolate bars, chocolate chips, baking chocolate, and other chocolate products.



Between 50 and 80 percent of all cocoa continues to be purchased through unofficial channels rather than through cooperatives.¹⁰ Some farmers sell part of their cocoa to cooperatives and the rest to *pisteurs*, while others may sell another farmer's cocoa as their own to receive a premium from a certified cooperative.¹¹ *Pisteurs* often travel to villages and cocoa farms and buy cocoa directly from farmers, bypassing the cooperative system. They may pay for cocoa in cash and sometimes pay less than the farm gate price,¹² the floor price set by the Ivorian government for all cocoa sales. This cocoa is generally co-mingled with cocoa from other farms and cooperatives, making it untraceable, which in turn allows illegal forms of labor and environmental abuses, including forced child labor and farming in protected forests, to occur in these indirect supply chains.

⁹ *Id.*
¹⁰ *Cocoa Barometer*, *supra* note 2, p. 30 (stating that “approximately half of the cocoa is still bought via indirect supply chains and the involved companies do not know its origin. Therefore, they do not know if the cocoa comes from illegal plantations in protected areas or is connected to human rights abuses.”); Oliver Nieburg, *Fair game: How effective is cocoa certification?* Confectionerynews.com, Dec. 20, 2017 (updated Sept. 28, 2021), <https://www.confectionerynews.com/Article/2017/12/20/Fair-trade-How-effective-is-cocoa-certification> (stating that “[o]nly 20-30% of cocoa farmers in the main growing nation Cote d’Ivoire are part of a group or co-op...”).
¹¹ *Cocoa Barometer*, *supra* note 2, p. 43.
¹² Abdel El Makhlofi, et al., *Towards a Sustainable Agro-Logistics in Developing Countries: The Case of Cocoa’s Supply Chain in San Pedro Region/Cote D’Ivoire*, 77, Amsterdam University of Applied Sciences, Sept. 2018, <https://documents1.worldbank.org/curated/en/735521553488355096/pdf/Towards-Sustainable-Agrologistics-in-Developing-Countries-Cocoa-Supply-Chain-in-Cote-D-ivoire.pdf>.

The Living Income Differential

Since March 2020, the price of Ivorian cocoa has fluctuated greatly, rising with the implementation of the Living Income Differential (LID), and dipping in the spring and summer of 2021. The Ivorian and Ghanaian governments regulate the lowest price that can legally be paid for cocoa by setting the farm gate price each season.¹³ The farm gate price is the lowest price that companies can pay for cocoa beans, although many companies act as though it is a ceiling rather than a floor. Companies can, and in rare cases do, pay a higher price.¹⁴

In 2019, the governments of Côte d’Ivoire and Ghana announced that they planned to implement the LID in October 2020.¹⁵ The LID added \$400 per ton to the farm gate price of cocoa, with the goal of putting more money into farmers’ pockets.¹⁶ Despite the volatile cocoa market resulting from the pandemic, the LID went into effect in October 2020 and increased the farm gate price for Ivorian cocoa by 21 percent to 1,000 CFA francs (\$1.80) per kilogram, or \$1,800 per ton.¹⁷ With the LID, farmers earned about 20 percent more in the 2020-21 main growing season than they had during the 2020 mid-season harvest, or 70 percent of the price floor of \$2,600 per ton.¹⁸

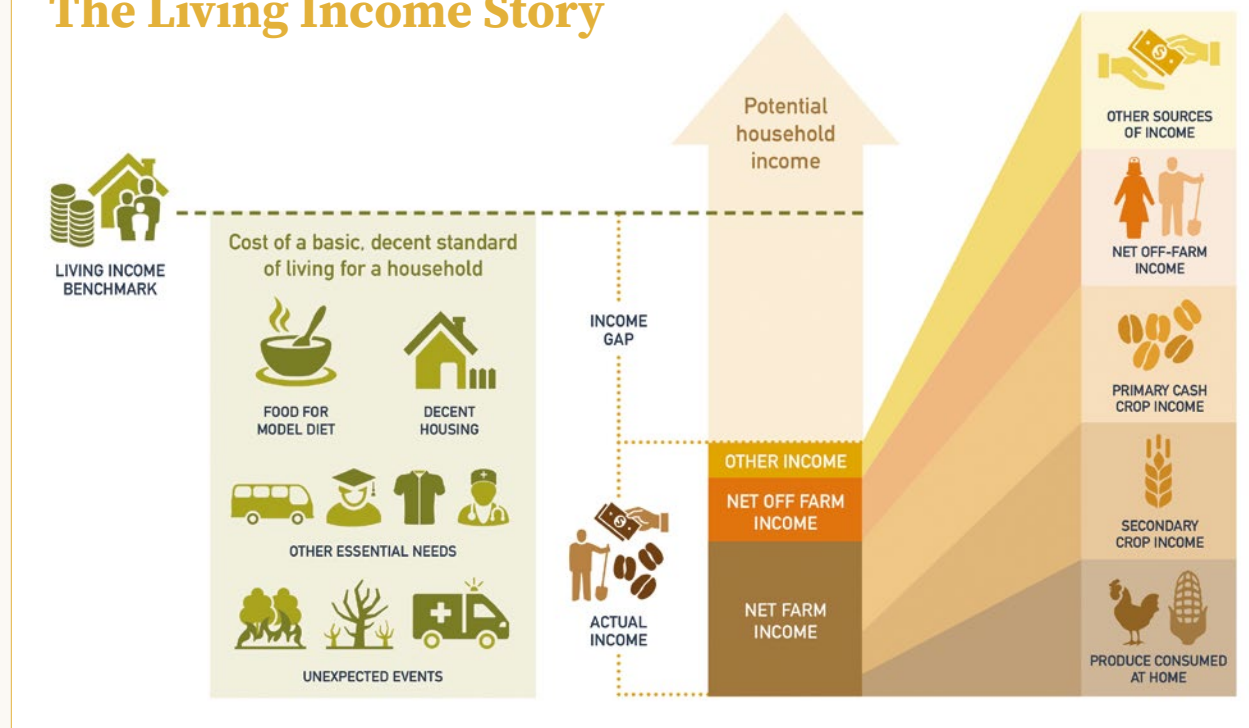
This price increase was significant for cocoa farmers for the 2020 main growing season, but it was merely a small first step and did not provide farmers with a living income, defined as

the net annual income required for a household in a particular place to afford a decent standard of living for all members of that household. Elements of a decent standard of living include: food, water, housing, education, health care, transport, clothing, and other essential needs including provision for unexpected events.¹⁹

According to the Voice Network, for cocoa farmers to be able to earn a living income, the farm gate price in Côte d’Ivoire must reach at least \$3,166 in the 2021/2022 cocoa season.²⁰

¹³ Other cocoa-growing countries, including Nigeria, Cameroon, and Indonesia, determine prices either by market forces or import prices. See Nienke Oomes et al., *Market Concentration and Price Formation in the Global Cocoa Value Chain*, pp. 42, 97, Nov. 15, 2016, SEO AMSTERDAM ECONOMICS, https://www.tonysopenchain.com/resources/uploads/2019/03/2016-79_Market-Concentration-and-Price-Formation-in-the-Global-Cocoa-Value-Chain.pdf.
¹⁴ Tony’s Five Sourcing Principles, Tony’s Chocolonely, <https://tonyschocolonely.com/us/en/our-mission/serious-statements/the-5-sourcing-principles>; ABOCFA, Uncommon Cacao, <https://www.uncommoncacao.com/abocfaghana>.
¹⁵ The Conseil Café Cacao (CCC) regulates the price of cocoa in Côte d’Ivoire. Like its equivalent institution in Ghana, the Ghana Cocoa Board (COCOBOD), the CCC sets the price of cocoa and coffee for export.
¹⁶ Maytaal Angel, et al., *Ivory Coast, Ghana strike first cocoa deals with living income premium*, REUTERS, Sept. 13, 2019, <https://www.reuters.com/article/cocoa-west-africa-pricepremium/ivory-coast-ghana-strike-first-cocoa-deals-with-living-income-premium-idUSL5N2644FR>.
¹⁷ Ange Aboa, *Ivory Coast raises 2020/21 cocoa farmgate price by 21%*, REUTERS, Oct. 1, 2020, <https://www.reuters.com/article/us-cocoa-ivorycoast/ivory-coast-raises-2020-21-cocoa-farmgate-price-by-21-idUSKBN26M79F> [hereinafter *Ivory Coast raises 2020/21 cocoa farmgate price by 21%*]; *Cocoa Barometer*, *supra* note 2, p. 22.
¹⁸ *Ivory Coast raises 2020/21 cocoa farmgate price by 21%*, *supra* note 17.
¹⁹ *Cocoa Barometer*, *supra* note 2, p. 39, citing Global Living Wage Coalition, *Living Income*, <https://www.globallivingwage.org/about/living-income/>.
²⁰ Voice Network, “Necessary Farm Gate Prices for a Living Income: Existing Living Income Reference Prices are Too Low Consultation Paper for the 2020 Cocoa Barometer,” Jan. 2020, p. 2, <https://www.voicenetwork.eu/wp-content/uploads/2020/01/200113-Necessary-Farm-Gate-Prices-for-a-Living-Income-Definitive.pdf> [hereinafter *Necessary Farm Gate Prices for a Living Income*]; *Cocoa Barometer*, *supra* note 2, p. 52.

The Living Income Story



Source: Living Income Community of Practice

Moreover, this price increase did not last. While many companies publicly supported the LID, some discreetly tried to undermine it.²¹ These companies used the apparent decrease in demand for chocolate during the early months of the pandemic as an excuse not to pay the LID.²² While the pandemic negatively impacted many industries, media reported that chocolate consumption actually increased during the pandemic, as people looked for small luxuries to enjoy at home. Many companies' 2020 profits show an increase over 2019, suggesting that demand, at least for major brands of chocolate, increased.²³

21 Maytaal Angel & Ange Aboa, *UPDATE 1-Ghana, Ivory Coast threaten to suspend cocoa companies' sustainability schemes*, REUTERS, Nov. 20, 2021, <https://www.reuters.com/article/cocoa-poverty-conference/update-1-ghana-ivory-coast-threaten-to-suspend-cocoa-companies-sustainability-schemes-idUSL1N2I60LS>.

22 Demand decreased at the beginning of the pandemic, in the second quarter of 2020. However, sale rebounded by the end of the third quarter of 2020. For instance, The Hershey Company increased its sales revenue by over 4 percent in 2020 despite a 19 percent dip in its refreshment product sales. See, e.g., Emiko Terazoo & Neil Munshi, *Choc waves: how coronavirus shook the cocoa market*, FINANCIAL TIMES, <https://www.ft.com/content/37aa0ac8-e879-4dc2-b751-3eb862b12276> [hereinafter *Choc waves*]; *Coping with Covid-19: Candy and chocolate sales surge during coronavirus*, VENDING TIMES, Sept. 1, 2020, <https://www.vendingtimes.com/news/candy-and-chocolate-sales-surge-during-coronavirus/>; Lydia Dishman, *How Hershey's Turned Uncertain Times Into Sweet Success*, Chamber of Commerce, Jan. 5, 2021, <https://www.uschamber.com/co/good-company/the-leap/hersheys-pandemic-growth>; see also *Sweet Insights: State of Treating 2021*, National Confectioners' Association, https://candyusa.com/wordpress/wp-content/uploads/2021/03/2021_State-Of-Treating_Bite-Sized-Taste.pdf.

23 *Pandemic pumped up 2020 chocolate sales: Packaged Facts*, CANDY INDUSTRY, May 24, 2021, <https://www.candyindustry.com/articles/89745-pandemic-pumped-up-2020-chocolate-sales-packaged-facts> (stating that a report by Packaged Facts found a 12 percent increase in chocolate sales in 2020 to \$27 billion); *"Tectonic shift" in confectionery purchasing during COVID-19 as sales hit US\$36.7B, highlights NCA*, FOOD INGREDIENTS 1ST, Mar. 12, 2021, <https://www.foodingredientsfirst.com/news/tectonic-shift-in-confectionery-purchasing-during-covid-19-as-sales-hit-us367b-highlights-nca.html> (stating that sales of chocolate grew 4.2 percent in 2020); *Hershey Reports Fourth-Quarter and Full-Year 2020 Financial Results; Provides 2021 Outlook*, PRNEWswire, Feb. 4, 2021, <https://www.prnewswire.com/news-releases/hershey-reports-fourth-quarter-and-full-year-2020-financial-results-provides-2021-outlook-301221704.html>.

The fact that companies earned larger profits in 2020 did not stop them from trying to avoid paying the LID. Hershey was one of the first big companies to find a way around paying the extra \$400 per ton on some cocoa. In November 2020, Hershey began to buy up cocoa on the Intercontinental Exchange (ICE Exchange),²⁴ eventually buying as much as 30,000 tons.²⁵ This was a very unusual move, as chocolate companies usually buy physical cocoa from traders and processors.²⁶ In fact, Hershey bought so much cocoa that the company was required to obtain special permission from the exchange for the transaction.²⁷ Hershey allegedly saved about \$200 per ton of cocoa by buying cocoa on the futures market.²⁸

Hershey's attempt to avoid paying higher prices to cocoa farmers set off a fight between the cocoa-producing countries and the company. In late November 2020, Côte d'Ivoire and Ghana temporarily canceled all of Hershey's "sustainability" schemes,²⁹ money-making schemes that "certify" cocoa as allegedly free of labor and environmental abuses and allow companies to sell chocolate at higher prices.³⁰ Ghana and Côte d'Ivoire also accused Blommer, a Chicago-based company that processes much of Hershey's chocolate, of assisting Hershey to avoid paying the LID.³¹ (The West African countries reinstated the sustainability schemes in December 2020.)³²

In winter 2020-21, many big cocoa and chocolate companies publicly claimed to support the LID while engaging in various strategies to circumvent it. Companies continued to buy physical cocoa from Côte d'Ivoire and Ghana, but behind the scenes they negotiated with the governments for discounts and, in some cases purportedly changed buying and production patterns. The Ivorian and Ghanaian governments accused Mars of changing its buying patterns,³³ Olam of decreasing the amount of Ivorian and Ghanaian cocoa in its products,³⁴ and Mondelez of

24 Ben Winck, *Hershey drove a record spike in cocoa prices after reportedly sourcing beans from the futures market instead of physical sellers*, MARKETS INSIDER, Nov. 23, 2020, <https://markets.businessinsider.com/commodities/news/hershey-cocoa-futures-record-spike-commodity-futures-market-ice-exchange-2020-11-1029831388> [hereinafter *Hershey drove a record spike*].

25 Reuters Staff, *U.S. company Hershey grabs cocoa stocks from exchange, avoids African price premium*, REUTERS, Nov. 20, 2020, <https://www.reuters.com/article/us-cocoa-hershey-delivery/u-s-company-hershey-grabs-cocoa-stocks-from-exchange-avoids-african-price-premium-idUSKBN2802X5>.

26 Isis Almeida, *Hershey Is Behind Big Cocoa Trade That Upended N.Y. Markets*, BLOOMBERG, Nov. 20, 2020, <https://www.bloomberg.com/news/articles/2020-11-19/hershey-is-behind-the-big-cocoa-trade-that-upended-n-y-markets>.

27 *Hershey drove a record spike*, supra note 24.

28 Emiko Terazono, *Hershey's buys cocoa futures as tensions with African producers grow*, FINANCIAL TIMES, Nov. 20, 2020, <https://www.ft.com/content/0e55b4da-5a7e-47da-b65e-bcd2cfda401c>.

29 Ange Aboa & Maytaal Angel, *Ivory Coast, Ghana cancel cocoa sustainability schemes run by Hershey*, REUTERS, Nov. 30, 2020, <https://www.reuters.com/article/us-cocoa-poverty-dispute/ivory-coast-ghana-cancel-cocoa-sustainability-schemes-run-by-hershey-idUSKBN28A227>.

30 *Id.*

31 *Id.*; Isis Almeida, Baudelaire Mieu & Leanne de Bassompierre, *In a Global Chocolate War, It's Hershey Against West Africa*, BLOOMBERG, Nov. 30, 2020 (updated Dec. 1, 2020), <https://www.bloomberg.com/news/articles/2020-11-30/top-cocoa-growers-hit-back-at-hershey-with-ethical-programs-ban> [hereinafter *In a Global Chocolate War, It's Hershey Against West Africa*].

32 Christian Peña, *The war on cocoa: Hershey Co. accused of not upholding sustainability efforts in West Africa*, NBC NEWS, Dec. 12, 2020, <https://www.nbcnews.com/business/business-news/war-cocoa-hershey-co-accused-not-upholding-sustainability-efforts-west-n1250798>.

33 *In a Global Chocolate War, It's Hershey Against West Africa*, supra note 31.

34 *Id.*

trying not to pay the LID by making bids that did not take the LID into account.³⁵ All companies have denied these allegations.³⁶

The Ivorian and Ghanaian governments accused Mars of changing its buying patterns, Olam of decreasing the amount of Ivorian and Ghanaian cocoa in its products, and Mondelez of trying not to pay the LID by making bids that did not take the LID into account.

By January 2021, multinational companies were reportedly asking Côte d'Ivoire and Ghana to postpone deliveries of cocoa from October-December 2021 to January-March 2022.³⁷ With cocoa beans sitting at the ports, exporters had no more space to store cocoa, leaving the cocoa to be stored at farms and cooperatives – and filling up their own storage facilities, making it difficult for cooperatives to buy more cocoa from farmers.³⁸ By late February 2021, Côte d'Ivoire had begun to sell cocoa at discounts of about \$280-\$350 (£200-£250) a ton.³⁹ The government had no choice but to cut the price, as about 100,000 tons of cocoa piled up in warehouses in Côte d'Ivoire.⁴⁰

In April 2021, the Ivorian government cut the price of cocoa by 25 percent. While the LID remained in effect, the price of cocoa for the 2020-21 mid-crop season dropped from 1000 CFA francs to 750 CFA francs per kilogram,⁴¹ even less than the 2020 mid-crop season price before the LID was implemented.⁴² Moreover, by the end of May, Côte d'Ivoire was giving exporters

discounts of \$212-\$283 per ton.⁴³ This discount came out of the country differential that Côte d'Ivoire charges for the quality of its beans, a premium that is usually between \$99 and \$212 and is separate from the LID.⁴⁴ While the LID was still added to the season's cocoa price, the "discount" on the country premium essentially canceled out the price increase from the LID and cut into the government's revenue from cocoa sales.⁴⁵

As of October 2021, farmers earned only 825 CFA francs (\$1.45) per kilogram, or \$1,450 per ton,⁴⁶ a mere 46 percent of a living income, while cocoa companies continue to benefit disproportionately from the global chocolate trade.



35 Leanne de Bassompierre, *Top Cocoa Grower Accuses Mondelez of Backtracking on Farmer Pay*, BLOOMBERG, June 18, 2021, <https://www.bloomberg.com/news/articles/2021-06-18/top-cocoa-grower-accuses-mondelez-of-backtracking-on-farmer-pay-kq2oa64r>.

36 *Id.*; *In a Global Chocolate War, It's Hershey Against West Africa*, *supra* note 31.

37 Ange Aboa, *Ivory Coast faces 100,000-tonne cocoa bean pile-up as demand slows*, REUTERS, Jan. 13, 2021, <https://www.reuters.com/article/uk-ivorycoast-cocoa-stocks/ivory-coast-faces-100000-tonne-cocoa-bean-pile-up-as-demand-slows-idUSKBN29I0PV>; Anthony Myers, *Cocoa beans remain stockpiled at Cote d'Ivoire's ports as demand plummets*, CONFECTIONARYNEWS.COM, Jan. 14, 2021, <https://www.confectionarynews.com/Article/2021/01/14/Cocoa-beans-remain-stockpiled-at-Cote-d-Ivoire-s-ports-as-demand-plummets> [hereinafter *Cocoa beans remain stockpiled*].

38 *Cocoa beans remain stockpiled*, *supra* note 37.

39 James Trigg, *Côte d'Ivoire – Do new EU laws promise sweet success or a bitter aftertaste?*, GLOBAL RISK INSIGHTS, March 20, 2021, <https://globalriskinsights.com/2021/03/cote-divoire-do-new-eu-laws-promise-sweet-success-or-a-bitter-aftertaste/>; Ange Aboa, *Ivory Coast seeks to sell 100,000 tonnes of cocoa as buyers haggle*, REUTERS, Feb. 22, 2021, <https://www.reuters.com/article/ivorycoast-cocoa/ivory-coast-seeks-to-sell-100000-tonnes-of-cocoa-as-buyers-haggle-idUSL8N2KS4LE> [hereinafter *Ivory Coast seeks to sell 100,000 tonnes of cocoa*].

40 *Ivory Coast seeks to sell 100,000 tonnes of cocoa*, *supra* note 39.

41 See Reuters Staff, *Ivory Coast lowers 2020/21 mid-crop cocoa farmgate price by 9%*, REUTERS, March 31, 2021, <https://www.reuters.com/article/cocoa-ivorycoast/ivory-coast-lowers-2020-21-mid-crop-cocoa-farmgate-price-by-9-idUSL8N2LT1OE> [hereinafter *Ivory Coast lowers 2020/21 mid-crop cocoa farmgate price by 9%*]; Chloe Taylor, *'It's difficult to feed our families': Volatile cocoa prices are pushing West African farmers further into poverty*, CNBC, Nov. 2, 2021, <https://www.cnbc.com/2021/11/02/volatile-cocoa-prices-are-pushing-african-farmers-further-into-poverty.html> [hereinafter *It's difficult to feed our families*].

42 See *Ivory Coast lowers 2020/21 mid-crop cocoa farmgate price by 9%*, *supra* note 41; Reuters Staff, *Ivory Coast holds cocoa mid-crop farmgate price at 825 CFA francs/kg*, REUTERS, March 31, 2020, <https://www.reuters.com/article/ozabs-us-cocoa-ivorycoast-estimate-idAFKBN211V8-OZABS> [hereinafter *Ivory Coast holds cocoa mid-crop farmgate price at 825 CFA francs/kg*].

43 Ange Aboa, *Ivory Coast sells 2021/2022 cocoa contracts after wrangle over premium*, REUTERS, June 8, 2021, <https://www.reuters.com/article/ivorycoast-cocoa/ivory-coast-sells-2021-2022-cocoa-contracts-after-wrangle-over-premium-idUSL5N2NQ43C> [hereinafter *Ivory Coast sells 2021/2022 cocoa contracts*].

44 Reuters Staff, *Ivory Coast, Ghana push cocoa industry to boost premium payments*, REUTERS, May 13, 2021, <https://www.reuters.com/world/africa/ivory-coast-ghana-push-cocoa-industry-boost-premium-payments-2021-05-13/>; *Ivory Coast sells 2021/2022 cocoa contracts*, *supra* note 43.

45 *Ivory Coast sells 2021/2022 cocoa contracts*, *supra* note 43.

46 *Ivory Coast lowers 2020/21 mid-crop cocoa farmgate price by 9%*, *supra* note 41; *It's difficult to feed our families*, *supra* note 41.

III. The Impact of COVID-19 on Farmer Poverty

The COVID-19 pandemic hit Côte d'Ivoire in mid-March 2020, as the mid-crop harvest was about to begin. During the mid-crop harvest, which runs from April to September, farmers produce about 30 percent of the year's total cocoa production.⁴⁷ While the price of cocoa remained the same as in 2019 – at 825 CFA francs⁴⁸ – many farmers produced less cocoa, resulting in a drop in income. According to farmers and cooperatives interviewed for this report, the difference in production varied, ranging from a couple hundred kilograms less (530 kilograms in 2020 compared to 700 kilograms during the 2019 harvest) to half as much (1 ton in 2020 compared to 2 tons in 2019) to less than a third (259 kilograms of cocoa in 2020 compared to 1000 kilograms in 2019).⁴⁹

Farmers lost income during the pandemic due to a number of factors:

- A labor shortage
- An inability to access inputs such as pesticides and fertilizers
- Difficulty selling beans
- Difficulty transporting beans to ports for export

Because of border closures, fewer migrant workers entered Côte d'Ivoire in spring 2020, leading to a labor shortage and decreased yields on cocoa farms. As the president of the Capressa farmer cooperative in Abengourou explained, with the borders closed, "We can't do farm work the way it should be done so production will be [affected]."⁵⁰ The impact of this labor shortage on farmers was "disastrous," as it made it more difficult for farmers to pay school fees for their children, buy food, or pay for adequate housing for their families.⁵¹

Some farmers could not afford inputs such as pesticides and fertilizers during the 2020 mid-crop season, which also led to decreased production. Prior to the pandemic, many farmers already had difficulty accessing credit to buy inputs.⁵² During the early months of the pandemic, farmers reported that inputs such as pesticides and fertilizer has become more expensive.

47 Ivory Coast holds cocoa mid-crop farmgate price at 825 CFA francs/kg, *supra* note 42.

48 *Id.*

49 During this period, from May to August 2020, cocoa arrivals at ports in Cote d'Ivoire decreased by 5.4-6.5% each month. See ICCO, Cocoa Market Review, May 2020, <https://www.icco.org/wp-content/uploads/ICCO-Monthly-Cocoa-Market-Review-June-2020.pdf>; ICCO, Cocoa Market Review, June 2020, <https://www.icco.org/wp-content/uploads/ICCO-Monthly-Cocoa-Market-Review-May-2020.pdf>; ICCO, Cocoa Market Review, July 2020, <https://www.icco.org/wp-content/uploads/ICCO-Monthly-Cocoa-Market-Review-July-2020.pdf>; ICCO, Cocoa Market Review, Aug. 2020, <https://www.icco.org/wp-content/uploads/ICCO-Monthly-Cocoa-Market-Review-August-2020.pdf>.

50 *Choc Waves*, *supra* note 22.

51 *Id.*

52 *Cocoa Barometer*, *supra* note 2, p. 44.



Farmers' inability to access pesticides and fertilizers was likely exacerbated by the fact that most multinational companies pulled their employees out of the cocoa regions – the necessary choice given that their employees could spread COVID-19 to rural areas.⁵³

Additionally, during the 2020 mid-crop harvest cocoa farmers had difficulty transporting and selling their cocoa, there were delays from buyers purchasing beans, and cooperatives faced security issues, including the risk of being robbed while transporting the beans.⁵⁴ One cooperative manager explained that it had become more expensive to transport the beans to the ports, which meant the transport costs cut into farmers' income. Because Abidjan, which has a large port, was closed off from the rest of the country to stop the spread of COVID-19 to rural areas, some cocoa farmers were forced to sell their beans at low prices to *pisteurs*. The director of a cooperative near Soubré explained that the cooperative's expenses had increased because it had to pay to transport the cocoa beans to the San-Pedro port instead of to Abidjan.

53 *Id.*, p. 42; Richard Scobey, *Cocoa and chocolate companies help farmers fight the coronavirus and beyond*, CONFECTIONARY NEWS.COM, Apr. 13, 2021, <https://www.confectionerynews.com/Article/2020/04/13/Cocoa-and-chocolate-companies-help-farmers-fight-the-coronavirus-virus-and-beyond>.

54 Security issues while transporting cocoa beans is a common problem in Côte d'Ivoire. Robbers, commonly called "coupeurs de route," are rampant in cocoa production areas.

Moreover, because of some cooperative's lack of liquidity, some cooperatives were unable to buy all the beans farmers produced. Similarly, farmers in Abengourou, who usually sell cocoa from the mid-harvest season to *pisteurs* from Ghana, were unable to do so because the borders were closed and the *pisteurs* did not arrive. While these *pisteurs* likely smuggle the cocoa beans across the border to sell at a higher price – an illegal practice – the absence of the smuggling routes made it even harder for cocoa farmers to earn a living.

Farmers also reported that multinational companies did not assist them during this period--assistance upon which farmers are dependent due to the low farm gate price. According to the director of a cooperative near Soubré, multinational companies did not provide adequate aid to farmers during the early months of the pandemic. As stated above, multinational companies pulled their employees out of rural Côte d'Ivoire, following public health guidelines. However, while companies highlighted their donations to cocoa-growing countries and communities, these were rarely the cash infusions or assistance with growing or selling cocoa so that cocoa farmers needed to support themselves during this period.⁵⁵

The decreased production and difficulties in selling and transporting cocoa in summer 2020 meant that many farmers reported having to borrow money to maintain their farms, feed their families, or pay other bills. These loans were generally with someone in the village, the cooperative, or a *pisteur*. While farmers do not typically borrow from banks, some farmers sought to fill this gap by seeking bank loans, only to find that the banks lacked the liquidity to make loans.

The increased income from the LID during the main cocoa-growing season likely allowed farmers to pay off debts from the prior season. However, the price of cocoa has again decreased, meaning that farmers may once again go into debt to buy inputs in the upcoming season.

55 Companies often donated to governments or large non-profit organizations, or they donated medical equipment or PPE. See, e.g., Nestle, *Cocoa industry donates \$835,000 to help farmers fight COVID-19*, May 11, 2020, <https://www.nestle-cwa.com/en/media/cocoa-industry-help-farmers-fight-covid-19>; Mars, *Mars Commits \$26M to Communities in COVID-19 Response*, Apr. 3, 2020, https://www.mars.com/news-and-stories/press-releases/Mars-commits-donation-to-communities-in-covid19-response?utm_source=linkedin.com&utm_medium=social&utm_campaign=covid-19-response; General Mills, *General Mills supports employees and communities in response to COVID-19*, Apr. 1, 2020, <https://www.generalmills.com/en/News/NewsReleases/Library/2020/April/General-Mills-supports-employees-and-communities-in-response-to-COVID-19>; *Cocoa, chocolate industry donates \$835,000 to help farmers fight COVID-19*, World Cocoa Foundation, May 4, 2020, <https://www.worldcocoafoundation.org/press-release/cocoa-chocolate-industry-donates-835000-to-help-farmers-fight-covid-19/>.

IV. The Impact of the COVID-19 Pandemic on Child Trafficking



For over two decades, multinational cocoa and chocolate companies have bought cheap cocoa from Côte d'Ivoire, knowing that trafficked children harvested and produced some of it. Although the Ivorian government closed its northern borders to Mali and Burkina Faso for much of 2020, children continued to be trafficked into Côte d'Ivoire through unofficial channels during the first year of the pandemic. As a soldier stationed at Côte d'Ivoire's northern border explained, "[e]ven though the borders have closed [because of COVID-19], the movement of people has not stopped. Populations from neighboring countries [Mali and Burkina Faso] come into the country through non-official routes. They enter with motorcycles late at night or very early in the morning with the help of human traffickers."

Even though the borders have closed [because of COVID-19], the movement of people has not stopped. Populations from neighboring countries [Mali and Burkina Faso] come into the country through non-official routes. They enter with motorcycles late at night or very early in the morning with the help of human traffickers.

Once across the border, children continued to be trafficked into the cocoa-growing regions on regular bus routes. According to interviews with employees at a bus company on Côte d'Ivoire's northern border, the bus company runs buses from the border region through some of the main cocoa-growing regions to Abidjan. The employees reported that a known trafficker frequently purchased bus tickets for children to travel south to cocoa-growing regions. The buses take the children to Pogo, Bouaké, Yamoussoukro, and Abidjan. The employees explained that at each stop, children get off the bus and head to other nearby cities or towns and then travel to cocoa farms.

The bus routes used to traffic children⁵⁶



Child trafficking is a known issue in Côte d'Ivoire. Over the past few years, the Ivorian government has increased its enforcement and started a campaign against child trafficking. Children are now required to show their birth certificates while traveling to prove that they are accompanied by their parents,⁵⁷ and foreign citizens must produce birth certificates when requested by police. This is necessary because, as a policeman in a border town explained, "Every time we ask the children, they say they are going to a relative's house. Often, they are accompanied by adults who they present as a relative with whom they are going."⁵⁸

"Every time we ask the children, they say they are going to a relative's house. Often, they are accompanied by adults who they present as a relative with whom they are going."

56 Investigative journalist Abou Traoré (AT) also reported that there is a trafficking network that uses the Sikasso-San Pedro road. The road runs through some of the main cocoa-growing regions, ending at San Pedro, Côte d'Ivoire's second largest port. While traffickers use several routes, the most frequented route goes from Sikasso (Mali) to Soubré or to San-Pedro in Côte d'Ivoire. AT reported that Yamoussoukro is a primary destination and that trafficked children depart from there for their final destinations near Soubré, San Pedro, Duekoué, Guiglo, Bolequin, or other cocoa-growing regions. See Abou Traoré, *Travail des enfants dans les plantations de cacao*, CENOZO, Jan. 8, 2019, <https://cenozo.org/travail-des-enfants-dans-les-plantations-de-cacao-le-traffic-a-la-peau-dure/> [hereinafter *Travail des enfants dans les plantations de cacao*].

57 *Id.*

58 *Id.* ("Chaque fois qu'on demande aux enfants, ils disent qu'ils vont chez un parent. Souvent, ils sont accompagnés d'adultes qu'ils présentent comme un parent chez qui ils vont...").

Yet corruption still occurs. In some cases, police are not only aware of child trafficking, but actively facilitate it and profit from it. Non-Ivorian passengers are reportedly required to pay an additional "fee" to bus companies to cover bribes at checkpoints along the bus route if they cannot produce the required documents. Prior to reaching the checkpoints, the bus drivers collect non-Ivorian passengers' identity documents to present to police and gendarmerie officers. Once on the bus, the police officer asks that all passengers whose money had been collected raise their hands. The police officer then compares the number of people raising their hands with the amount of money collected, takes the corresponding amount of money, and exits the bus without performing other identity checks. In some cases, traffickers reportedly bribe police officers who are suspicious.⁵⁹

While it is difficult to document exact numbers of forced laborers,⁶⁰ it is clear that forced child labor is an ongoing issue.⁶¹ It has been estimated that there are about 30,000 forced laborers in Côte d'Ivoire and Ghana,⁶² including 16,000 children who are forced to work on cocoa farms by people who are not their parents—and the real number is probably much higher.⁶³ Moreover, while forced labor has always been difficult to document, the increased attention to the issue has pushed it even further underground.⁶⁴ According to an NGO worker in Côte d'Ivoire, "[b]ecause of the existence of this [anti-trafficking] center, all traffickers are now discreet."⁶⁵

59 *Travail des enfants dans les plantations de cacao*, supra note 56. During our investigations, we witnessed two situations in which policemen allowed children who appeared not to have birth certificates to continue traveling south on a bus from Côte d'Ivoire's northern border to the cocoa-growing regions. In one situation, a girl who looked to be twelve or thirteen and who did not have any form of identification was taken off the bus but was then allowed to get back on after a short "negotiation."

60 See, e.g., Aarti Kapoor, *Children at the Heart: Assessment of Child Labour and Child Slavery in Cote d'Ivoire's Cocoa Sector and Recommendations to Mondelez International*, EMBODE, 2016, p. 10, https://www.cocoalife.org/~media/CocoaLife/Files/pdf/Library/FULL_REPORT_Cote_Ivoire_Mondelez_Embode_ChildrenattheHeart.pdf ("Community members were also highly reticent to talk about cases or trends of child labour on their farms. ... Finally, the assessment was not able to engage meaningfully with children to any large extent. Two focus groups were undertaken with children, however with the small amount of time for the sessions, children were shy and difficult to engage. It was felt that children were well aware of the sensitivities around talking about working on cocoa farms. In one community, the focus group discussion was observed (and intervened upon) by a group of adults, potentially making it difficult for children to express themselves openly.").

61 Despite the challenges, there are numerous reports and studies that do document the existence of child trafficking and forced child labor. See Dep't of Labor, 2020 List of Goods Produced by Child Labor or Forced Labor, p. 21, https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2019/2020_TVPR_List_Online_Final.pdf; U.S. Dep't of Labor, Bureau of Int'l Labor Affairs, 2020 Findings on the Worst Forms of Child Labor: Côte d'Ivoire, https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2020/Cote-d-Ivoire.pdf; U.S. Dep't of Labor, CLCCG Report: 2010-2020 Efforts to Reduce Child Labor in Cocoa, <https://www.dol.gov/sites/dolgov/files/ILAB/reports/CLCCG-Ten-Year-Report.pdf>; U.S. Dep't of State, Bureau of Democracy, Human Rights, & Labor, *Cote d'Ivoire 2020 Human Rights Report*, p. 33, https://www.state.gov/wp-content/uploads/2021/03/COTE-D_IVOIRE-2020-HUMAN-RIGHTS-REPORT.pdf; 2021 U.S. Dep't of State, *Trafficking in Persons Report: Côte d'Ivoire*, <https://www.state.gov/reports/2021-trafficking-in-persons-report/cote-divoire/>.

62 Elke de Buhr & Elise Gordon, *Bitter Sweets: Prevalence of forced labour & child labour in the cocoa sectors of Côte d'Ivoire & Ghana*, Sept. 2018, pp. 28–29, https://cocoainitiative.org/wp-content/uploads/2018/10/Cocoa-Report_181004_V15-FNL_digital.pdf (estimating that there are 9,600 adults and 2,000 children in forced labor in Côte d'Ivoire, and about 3,700 adults and 14,000 children in forced labor in Ghana).

63 *Cocoa's child laborers; Verité, Assessment of Forced Labor Risk in the Cocoa Sector of Côte d'Ivoire*, 2019, p. 5, <https://www.verite.org/wp-content/uploads/2019/02/Verite-Report-Forced-Labor-in-Cocoa-in-CDI.pdf> ("Given the hidden nature of much human trafficking and forced labor, it is also possible that levels may be significantly higher within isolated pockets in the sector.").

64 *Travail des enfants dans les plantations de cacao*, supra note 56.

65 *Id.* ("En raison de l'existence de ce Centre, tous les trafiquants se font désormais discrets. Quand nous découvrons des cas nous saisissons automatiquement le Centre. Les auteurs sont arrêtés et les victimes prises en charge par le centre."). The anti-trafficking center referred to here is one of the three centers that the First Lady's Office established. U.S. Department of State, *2019 Trafficking in Persons Report: Côte d'Ivoire*, Côte d'Ivoire: Tier 2, <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/cote-divoire>.



A young boy carrying a bag of cocoa beans near Soubré in December 2020.

It has been estimated that there are about 30,000 forced laborers in Côte d'Ivoire and Ghana, including 16,000 children who are forced to work on cocoa farms by people who are not their parents—and the real number is probably much higher.

The Ivorian government increased its enforcement in 2020 and 2021, carrying out more raids than previously. In January 2020, a government raid in Côte d'Ivoire rescued 137 children from Ghana, Niger, Nigeria, Benin, and Togo from human traffickers.⁶⁶ In a separate raid in October 2020, police arrested three farmers suspected of trafficking and rescued eleven children and two teenagers from cocoa farms in southwestern Côte d'Ivoire.⁶⁷ Then, in February 2021,

⁶⁶ *Ivory Coast Rescues 137 Child Trafficking Victims*, VOA News, Jan. 14, 2020, <https://www.voanews.com/a/africa-ivory-coast-rescues-137-child-trafficking-victims/6182545.html>; Leanne de Bassompierre, *Ivory Coast Rescues 137 Children in Raid on Traffickers*, BLOOMBERG, Jan. 13, 2020, <https://www.bloomberg.com/news/articles/2020-01-13/top-cocoa-grower-rescues-137-children-in-raid-on-traffickers>.

⁶⁷ *Ivory Coast police rescue 11 children working on cocoa farms*, CNN, Oct. 8, 2020, <https://www.cnn.com/2020/10/08/africa/ivory-coast-police-rescue-children-cocoa-farm-intl/index.html>.

the Ivorian government rescued nineteen children in Aboisso and arrested four suspected traffickers.⁶⁸ A few days later, the Ivorian police arrested three Burkinabe nationals suspected of child trafficking, who were detained in Soubré while traveling on a bus with three children from Burkina Faso.⁶⁹ In May 2021, the Ivorian government rescued 68 children from forced labor on cocoa farms and arrested 25 suspected traffickers.⁷⁰ Most of these children had been trafficked into Côte d'Ivoire from Burkina Faso.⁷¹ While this increased enforcement is a step in the right direction, these high-profile enforcement actions rescue only a small percentage of trafficked children in the industry.



A young boy working on a cocoa farm near Daloa in December 2019.

Identifying trafficked children among the hundreds of thousands of children engaged in child labor in the Ivorian cocoa sector can be challenging. Children are often hesitant to admit they have been trafficked, either because an adult is nearby or because they have been told not to admit that they are not members of the local community. However, there may be signs, such as the presence of several International Labor Organization (ILO) Indicators of Forced Labor, that children are trafficked and doing forced labor.

Children are often hesitant to admit they have been trafficked, either because an adult is nearby or because they have been told not to admit that they are not from the local community.

⁶⁸ Ange Aboa, *Ivory Coast arrests three suspected child traffickers in cocoa belt*, REUTERS, Feb. 12, 2021, <https://www.reuters.com/article/cocoa-childlabour-ivorycoast/ivory-coast-arrests-three-suspected-child-traffickers-in-cocoa-belt-idUSL8N2KI3GR>.

⁶⁹ *Id.*

⁷⁰ *Ivory Coast police rescue 68 children working on cocoa farms*, REUTERS, May 10, 2021, <https://www.reuters.com/world/africa/ivory-coast-police-rescue-68-children-working-cocoa-farms-2021-05-10/>.

⁷¹ *Id.*

The ILO Indicators

1. Abuse of vulnerability
2. Deception
3. Restriction of movement
4. Isolation
5. Physical and sexual violence
6. Intimidation and threats
7. Retention of identity documents
8. Withholding of wages
9. Debt bondage
10. Abusive working and living conditions
11. Excessive overtime⁷²

Children who are working on cocoa farms without adults in the middle of the day, when they should be in school, may be trafficked. For instance, one boy who claimed to be twelve years old and in fifth grade (CM2) was seen holding a machete in the middle of a school day around 1:45 pm. He claimed to be heading to the cocoa farm to meet his parents, yet the parents were nowhere to be seen. This young child, alone in the middle of the day, was isolated in a rural region, in a vulnerable position by virtue of his age, and engaged in hazardous labor. Similarly, near Daloa, another young boy carried a machete in a cocoa field during the school day. The boy claimed that he was “on vacation” but then avoided speaking with us and ran off into the fields. We witnessed similar situations repeatedly, such as the young boy, who looked to be between nine and eleven years old, lifting a large bag of cocoa beans around 3:00 pm on a weekday, a bag that looked to be much too heavy for him.

These documented cases of forced child labor are just the tip of the iceberg. Yet they show that children in conditions of forced labor produce cocoa that is used in chocolate bars around the world. Cocoa and chocolate companies know that the low prices they pay for cocoa make it all but impossible for farmers to hire adult workers for a fair wage, creating an environment ripe for illegal labor practices. While the Ivorian government has recently implemented stronger laws and policies to fight trafficking and forced labor, child trafficking remains a key issue in the country, one in which police and other government officials are often complicit.



A young boy holding a machete near Daloa in December 2020.

⁷² International Labour Office, ILO Indicators of Forced Labor, Special Action Programme to Combat Forced Labour, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf.

V. The Impact of the COVID-19 Pandemic on Child Labor

For over twenty years, cocoa and chocolate companies have promised to eradicate child labor in their supply chains. In 2001, a group of cocoa and chocolate companies signed the Harkin-Engel Protocol, a voluntary protocol in which companies agreed to eradicate child labor in the West African cocoa industry by 2005.⁷³ That deadline came and went, with the companies extending their voluntary deadline to 2010, then changing it to eradicating 70 percent of child labor by 2020.⁷⁴ In July 2018, the cocoa industry admitted it was unable to make either the 2020 or its newer 2025 goal.⁷⁵ Sixteen years after the first missed deadline, child labor remains prevalent in the West African cocoa industry and even increased in recent years prior to the pandemic.⁷⁶



A young boy working on a cocoa farm near Abengourou in December 2019.

⁷³ Chocolate Mfrs. Ass'n, *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* (2001), https://cocoainitiative.org/wp-content/uploads/2016/10/Harkin_Engel_Protocol.pdf.

⁷⁴ Joint Statement from U.S. Senator Tom Harkin, Representative Eliot Engel and the Chocolate and Cocoa Industry on the Implementation of the Harkin-Engel Protocol, CSR WIRE, June 16, 2008, <https://tinyurl.com/y6qr4dbh>; Framework of Action to Support Implementation of the Harkin-Engel Protocol 1, Sept. 13, 2010, https://cocoainitiative.org/wp-content/uploads/2016/10/Cocoa_Framework_of_Action_9-12-10_Final-1-1.pdf; Andreas Becker, *Cocoa Farming, Cheap Chocolate and Child Labor*, DW, Nov. 26, 2020, <https://www.dw.com/en/cocoa-farming-cheap-chocolate-and-child-labor/a-55726542>.

⁷⁵ Tim McCoy, *2018 Child Labor Cocoa Coordinating Group 8th Annual Meeting Remarks*, World Cocoa Foundation, Aug. 21, 2018, <https://www.worldcocoaoundation.org/blog/2018-child-labor-cocoa-coordinating-group-8th-annual-meeting-remarks/>. For a more detailed discussion of the Harkin-Engel Protocol, see Corp. Accountability Lab and IRAdvocates, *Petition to U.S. Custom & Border Protection to exclude cocoa produced in Côte D'Ivoire manufactured with forced or trafficked child labor under 19 C.F.R. § 12.42* (Feb. 14, 2020), <https://tinyurl.com/rjxw6mk>.

⁷⁶ See Santadarshan Sadhu, et al., *NORC Final Report: Assessing Progress in Reducing Child Labor in Cocoa Production in Cocoa Growing Areas of Cote d'Ivoire and Ghana*, Oct. 2020, pp. 12–15, https://www.norc.org/PDFs/Cocoa%20Report/NORC%202020%20Cocoa%20Report_English.pdf [hereinafter *NORC Report*].

According to the most recent Department of Labor report, published by NORC at the University of Chicago and released in October 2020, there are currently 1.56 million children engaged in child labor in the West African cocoa sector, including 790,000 in Côte d'Ivoire.⁷⁷ Over 90 percent of child laborers in Côte d'Ivoire, or about 770,000 children, are engaged in hazardous child labor in cocoa production.⁷⁸ Despite corporate promises to end child labor, the prevalence of child labor in agricultural households in the Ivorian cocoa sectors actually rose by 14 percent over ten years, from 31 percent in 2008/09 to 45 percent in 2018/19.⁷⁹ Moreover, some forms of child labor are worsening. Children are exposed to pesticides at higher rates than they were just a few years ago.⁸⁰



A young boy seen carrying a large bag of cocoa pods to an assembly point on a farm near Abengourou. This farm sells its cocoa to the FAHO cooperative, which was certified by UTZ through August 2021 and, as of November 2021, was also certified by Fairtrade.⁸¹

As a result of the large numbers of children engaged in hazardous labor on cocoa farms, children are harmed in a variety of ways. According to the NORC Report, of children working in agriculture in Côte d'Ivoire and Ghana, 41 percent “felt very tired or exhausted” from working on cocoa farms; 34 percent were “in very bad pain”; a full 25 percent “felt very sick”; and 12 percent had to receive medical treatment at a hospital or health center.⁸²

⁷⁷ *Id.*, p. 10.

⁷⁸ *Id.*

⁷⁹ *Id.*, p. 12.

⁸⁰ *Id.*, pp. 15–17.

⁸¹ List of UTZ certified cocoa producers, List valid on: August 25, 2021, <https://utz.org/wp-content/uploads/2017/05/List-of-UTZ-certified-cocoa-producers.pdf> [hereinafter List of UTZ certified cocoa producers]; Fairtrade International, Fairtrade Finder, <https://www.fairtrade.net/finder> [hereinafter Fairtrade Finder].

⁸² *NORC Report*, p. 83, *supra* note 76.

The COVID-19 pandemic likely made a bad situation even worse. While the long-term impact of the COVID-19 pandemic on child labor in the cocoa industry will not be known for a number of years, there are indications that child labor increased during the summer of 2020, which may lead to a higher incidence of child labor in the near future. Between 2016 and 2020, rates of child labor increased globally, with over 8 million additional children entering child labor, of whom 6.5 million carried out hazardous labor.⁸³ Since child labor generally increases when children cannot attend school and parents earn less money, it is likely that the pandemic led, at least temporarily, to higher rates of child labor.⁸⁴ As one cocoa farmer explained in August 2021, “They tell us that children are not supposed to work but they are the ones who help me feed the family. Children work in the plantations because the cooperatives and companies treat us so badly that we need to make children work on the plantations.”⁸⁵



A little girl working on a farm near Aboisso in December 2020, carrying cocoa pods on her head. This farm sold their cocoa beans to the CNEK cooperative, which as of November 2021, is certified by both Rainforest Alliance and Fairtrade.⁸⁶

“They tell us that children are not supposed to work but they are the ones who help me feed the family. Children work in the plantations because the cooperatives and companies treat us so badly that we need to make children work on the plantations.”

83 Bureau of International Labor Affairs, 2020 Findings on the Worst Forms of Child Labor, p. 5, https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2020/2020_TDA_BigBook_Online_optimized.pdf; International Labor Organization & United Nations Children’s Fund, *Child Labour Global Estimates 2020, Trends and the Road Forward*, ILO and UNICEF, New York, 2021, p. 8.

84 See, e.g., *Cocoa Barometer*, *supra* note 2, p. 4.

85 This cocoa farmer explained that he sold his cocoa to the NECAYO cooperative, which was certified by UTZ through September 2021 and, as of November 2021, was also certified by Fairtrade. See List of UTZ certified cocoa producers, *supra* note 81; Fairtrade Finder, *supra* note 81.

86 See Rainforest Alliance, Certificate Search and Public Summaries, Last updated Nov. 8, 2021, <https://www.rainforest-alliance.org/business/certification/certificate-search-and-public-summaries/>; Fairtrade Finder, *supra* note 81.

When the COVID-19 pandemic began, the Ivorian government closed all primary and secondary schools for two months, from March 16 to May 25.⁸⁷ Generally, child labor increases when children are unable to attend school or when their parents earn less income. Because both issues were present during the pandemic, it is likely that child labor increased in the cocoa industry, at least for a period of time before the schools and borders reopened.⁸⁸

During the two months of school closures, many parents brought their children to the cocoa fields with them so as not to leave them alone at home. Often, once on the cocoa farms, children helped their parents with the work, which often entailed carrying or spraying pesticides, using a machete, carrying heavy loads, or other tasks that the International Labor Organization (ILO) considers to be hazardous child labor.



A young girl on a cocoa farm near Soubré in December 2019.

87 Luciana Debenedetti, et al., *The Economic Impacts of COVID-19 in Cote d’Ivoire: Lessons from the RECOVR Survey*, Sept. 3, 2020, <https://www.poverty-action.org/blog/economic-impacts-covid-19-côte-d’ivoire-lessons-recovr-survey>.

88 See Ellie Murphy, *The impact of COVID-19 on child labor*, NATIONAL CONSUMERS LEAGUE, June 30, 2020, <https://nclnet.org/the-impact-of-covid-19-on-child-labor/> (stating that “There is a strong correlation between access to education and preventing child labor. ‘Lack of access to education keeps the cycle of exploitation, illiteracy, and poverty going—limiting future options and forcing children to accept low-wage work as adults and to raise their own children in poverty,’ noted the children’s advocacy group, Their World.”); see also *Cocoa Barometer*, *supra* note 2, p. 4.

The International Labor Organization differentiates between “child work” and “child labor.”⁸⁹ Child work is defined as work that does not affect children’s health and personal development or interfere with their schooling.⁹⁰ In contrast, child labor is understood to mean “work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development.”⁹¹ This includes work that is “mentally, physically, socially or morally dangerous and harmful to children; and/or interferes with their schooling.”⁹²

When schools reopened in late May 2020, they were often not set up to deal with the sanitization and social distancing needed for children to attend school safely during a pandemic. In some cases there were not enough sinks for children to wash their hands. At one school visited for this report, there was only one sink for 700 children in twelve classes. Soap and hand sanitizer were also often not available. Moreover, some schools faced the difficult choice of how to respond when children could not afford masks. Requiring children to wear masks would mean that some children would not be able to return to school, yet allowing them to attend unmasked posed a risk to public health.

At one school visited for this report, there was only one sink for 700 children in twelve classes.

For some children, the school closure in March meant the end of the school year, as many children did not return when school resumed. Some children at schools that required that all children wear masks did not return because their parents could not afford to buy masks while others did not return because the schools reopened shortly before summer vacation. Absenteeism was exacerbated by the fact that many schools used two shifts to try to accommodate social-distancing. With children out of school, parents often brought their children to the fields during the day. While there are not yet statistics on child labor in the cocoa industry during the pandemic, these trends signal that the pandemic could have led to a decrease in school attendance and an increase in rates of child labor.

89 See International Labor Organization, C138 - Minimum Age Convention, 1973 (No. 138); International Labor Organization, C182 - Worst Forms of Child Labour Convention, 1999 (No. 182).

90 International Labour Organization, *What is child labour*, <https://www.ilo.org/ipec/facts/lang--en/index.htm>.

91 *Id.*

92 *Id.*

VI. The Way Forward

The cocoa industry, as it currently exists, is unsustainable for cocoa farmers, workers, and children. Since March 2020, chocolate companies have earned record profits, yet cocoa farmers remain reliant on the low prices companies pay for cocoa. As a result, farmer income fluctuated dramatically during the pandemic. Cocoa and chocolate companies have the resources and the power to change the cocoa industry for the better. But to do so, they must commit to real change.

Multinational companies must treat the cocoa farmers from whom they buy cocoa as individuals deserving of dignity, respect, and a living income. This requires companies to provide full transparency of their supply chains down to the farm-level, including tracing their supply chains fully and publicly releasing information about all cooperatives, *pisteurs*, and farms that they source from. Companies must also increase the price they pay for cocoa, pay the full LID and country premiums, and move towards a Living Income price over the next eighteen months. This means committing to paying a farm gate price of \$3,166 USD per ton of cocoa produced,⁹³ a significant increase over the current farm gate price but a necessary step to pull farmers out of poverty. Extreme poverty forces farmers to rely on illegal forms of labor to survive, including in some cases to pay off the prior season’s debts. Cocoa farmers must be able to buy food for their families, send their children to school, and hire adult workers at a fair wage. Additionally, companies should provide farmers with long-term contracts at stable prices to distribute risk back onto themselves and to supply chain actors who are better situated to absorb it. Long-term contracts with fixed pricing can help to reduce the impact of price fluctuations and spread the risk when there are downward trends.

93 See Necessary Farm Gate Prices for a Living Income, *supra* note 20, p. 2; *Cocoa Barometer*, *supra* note 2, p. 52.

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