

# **Broken Hearts:**

# A Review of Industry Efforts to Eliminate Child Labor in the Cocoa Industry January 25, 2010

When the US Department of Labor (US DOL) released its "List of Goods Produced by Child Labor or Forced Labor" in September of 2009, cocoa from Cameroon, Cote d'Ivoire, Ghana, Guinea and Nigeria were listed as goods produced by child labor and cocoa from Cote d'Ivoire and Nigeria were also listed for forced labor. On the same day, US DOL also recommended that cocoa from Cote d'Ivoire and Nigeria be included on a list of goods believed to be produced by forced or indentured child labor that are prohibited from federal government procurement as a result of Executive Order 13126 which was signed in 1999.<sup>2</sup>

Immediately following the release of these reports, the International Cocoa Verification Board (ICVB) issued a press release calling the reports "counterproductive" and stated that they "may jeopardize the very efforts that are underway to address this critically important issue." So what is the ICVB and why does it object to the US DOL reports?

As this report will show, chocolate companies have been able to control initiatives meant to eliminate forced, child and trafficked labor in West Africa's cocoa industry under the auspices of the Harkin-Engel Protocol. As a result, the problem of child labor continues nine years after the industry committed to end these abuses. This report is a follow-up on recent developments in the Harkin-Engel Protocol process since the publication of ILRF's last cocoa industry report titled "The Cocoa Protocol: Success or Failure?" published on June 30, 2008.<sup>4</sup>

#### **Background**

In 2001, reports surfaced internationally about highly abusive conditions in the West African cocoa industry, particularly Cote d'Ivoire, including the use of the worst forms of child labor, forced labor and trafficked labor. Initially, the US House of Representatives passed legislation requiring chocolate companies to label their chocolate child-labor free, but before the bill got to the Senate, the chocolate industry

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http://www.dol.gov/federalregister/HtmlDisplay.aspx?DocId=23111&Month=9&Year=2009.

<sup>&</sup>lt;sup>1</sup> US Department of Labor. "List of Goods Produced by Child Labor or Forced Labor." Washington, DC, September 10, 2009; available from <a href="http://www.dol.gov/ilab/programs/ocft/PDF/2009TVPRA.pdf">http://www.dol.gov/ilab/programs/ocft/PDF/2009TVPRA.pdf</a>.

<sup>&</sup>lt;sup>2</sup> US DOL. "Notice of Initial Determination Updating the List of Products Requiring Federal Contractor Certification as to Forced/Indentured Child Labor Pursuant to Executive Order 13126." Federal Register 74:175 (September 11, 2009); available from

<sup>&</sup>lt;sup>3</sup> International Cocoa Verification Board. "The ICVB Comments on the Publication of the US Department of Labor's Reports on Child and Forced Labor." Available from <a href="http://www.cocoaverification.net/index.php">http://www.cocoaverification.net/index.php</a>.

<sup>&</sup>lt;sup>4</sup> Available from <a href="http://www.laborrights.org/stop-child-labor/cocoa-campaign/resources/10719">http://www.laborrights.org/stop-child-labor/cocoa-campaign/resources/10719</a>.

successfully convinced lawmakers that instead, they would develop a voluntary agreement to work toward elimination of child labor in the cocoa industry. The agreement, referred to as the Harkin-Engel Protocol, named after Senator Tom Harkin and Representative Eliot Engel, was signed in September 2001 by major chocolate companies and required them, among other things, to "develop and implement credible, mutually-acceptable, voluntary, industry-wide standards of public certification, consistent with applicable federal law, that cocoa beans and their derivative products have been grown and/or processed without any of the worst forms of child labor" by July 1, 2005.<sup>5</sup>

After several missed deadlines, the chocolate industry finally revealed its plan for the certification system they were required to implement under the Harkin-Engel Protocol. The industry "certification" primarily consists of publicly reported surveys of labor conditions on cocoa farms conducted by the governments of Ghana and Cote d'Ivoire. The "certification" program does not contain any standards for labor rights protections and has been critiqued by observers for a range of other problems. As part of the system, the certification reports produced by the governments of Ghana and Cote d'Ivoire must then be verified to ensure that the data is accurate.

The original body designed in 2001 to implement verification was an independent oversight group that was an independent, third party effort led by the International Union of Food Workers (IUF) and the National Consumers League called the Verification Working Group (VWG). The VWG did not include any direct representation by industry. In typical certification programs it is common and recommended for verification, monitoring or auditing processes to be conducted by an independent, third-party and as such, it was appropriate that the VWG did not include industry representation. This initiative was eventually defunded by the chocolate industry in 2006 in favor of a new entity, the ICVB, which was no longer third-party and independent and did include industry representation.<sup>7</sup>

# The International Cocoa Verification Board (ICVB) was created with a mandate of verifying the accuracy of the government surveys.

That is where the International Cocoa Verification Board (ICVB) enters the story. Here is a brief description of what the ICVB is from its website:

The International Cocoa Verification Board (ICVB) is a non-profit, multistakeholder organization that was convened by Verité in December, 2007, to ensure that certification efforts to evaluate the occurrence of child or forced

<sup>7</sup> International Labor Rights Fund. "Report on Cocoa and Forced Child Labor." October 2006; available from <a href="http://www.laborrights.org/sites/default/files/publications-and-resources/COCOA06Critique.pdf">http://www.laborrights.org/sites/default/files/publications-and-resources/COCOA06Critique.pdf</a>.

<sup>&</sup>lt;sup>5</sup> Chocolate Manufacturers Association. "Protocol for the Growing and Process 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." September 19, 2001; available from http://www.cocoaverification.net/Docs/Harkin-Engel%20Protocol.pdf.

<sup>&</sup>lt;sup>6</sup> "Letter Regarding Cocoa Industry 'Certification." June 17, 2008; available from http://www.laborrights.org/stop-child-labor/cocoa-campaign/resources/10716.

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 the findings [sic] helps to ensure that remediation efforts are more strategically focused on the areas and issues that are in greatest need of remediation. 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.<sup>8</sup>

Essentially, as the ICVB states, it's "primary mandate is to verify the accuracy of the certification surveys conducted by the Governments of Côte d'Ivoire and Ghana initiated under the Harkin-Engel Protocol."

The ICVB is composed of members of governments and NGOs, but also includes company representatives and concerns have been raised about conflicts of interest.

The actual Board is made up of nine individuals from Africa, Europe and North America who represent nongovernmental organizations (NGOs), companies and governments. The Board members were selected by Verité which serves as the secretariat of the ICVB. Verité was privately selected by the chocolate industry for this role and "is charged with administering and facilitating the activities of the ICVB." The original members of the Board, according to the official ICVB website, were:

- Isabelle Adam, European Cocoa Association
- Mme. Acquah, Government of Côte d'Ivoire
- Stephan Ayidiya, University of Ghana-Legon
- Tony Fofie, Government of Ghana
- Alice Koiho-Kipre, Afrique Secours et Assistance
- Jeff Morgan, Mars Incorporated
- Diane Mull, International Initiative to End Child Labor
- Andrews Tagoe, General Agricultural Workers Union of TUC
- John Trew, CARE International

However, the current list of Board members on the ICVB website has removed Mme. Acquah, Tony Fofie and John Trew and instead includes Malick Tohe (identified as the Special Advisor to the Prime Minister of Cote d'Ivoire) and Antwi Boasiako Sekyere (Honorable Deputy Minister for Employment and Social Welfare of Ghana). John Trew has left CARE International since the Board was formed in 2007 and his NGO representative seat has not been filled since he left. In fact, minutes from the September 2009 ICVB meeting state that replacement of the open civil society seat was "tabled pending further discussion."

<sup>&</sup>lt;sup>8</sup> ICVB. "Frequently Asked Questions." Available from <a href="http://www.cocoaverification.net/faq.php">http://www.cocoaverification.net/faq.php</a>.

<sup>&</sup>lt;sup>9</sup> ICVB. "Meeting Minutes and Agreements." September 10, 2009; available from <a href="http://www.cocoaverification.net/Docs/ICVB">http://www.cocoaverification.net/Docs/ICVB</a> September Minutes.pdf.

While the ICVB is pursuing the original Verification Working Group's mandate, the governance and design are completely different. For example, the ICVB includes company representatives. At the time that the members of the Board were initially chosen by Verité, no conflict of interest policy was in place.<sup>10</sup>

The ICVB has selected verifiers and released verification reports, but it is unclear if all recommendations for improvement have been implemented by the relevant governments.

The Board was tasked with selecting verifiers who would be the ones to conduct the review of the certification reports. In 2008, the ICVB selected Fafo AIS of Norway and Khulisa Management Services of South Africa as the two partner organizations that would work together to carry out field research. Fafo and Khulisa (the verifiers) released the initial verification reports in December 2008 and recommended that the ICVB accept the results of the certification reports, but advised that acceptance of the Ivorian report be conditioned on the re-evaluation of certain statistics.

The report on Cote d'Ivoire notes that the findings and results of the certification study related to forced adult labor was below average and that the certification study drew conclusions even though "the analysis regarding forced adult labor practices in the cocoa sector fell short of providing insights and conclusions about forced adult labor practices." Similarly, the Cote d'Ivoire verification report notes that the scaled-up certification study "didn't address the issue of child trafficking." Additionally, in the meeting minutes from the December 2008 ICVB meeting, it is stated that "the verifiers stressed the need for strengthening and improving survey instruments and methodologies that appropriately address" child trafficking and Forced Adult Labor. While some members of the ICVB have expressed strong support for additional research focused on child trafficking using appropriate research methods, the ICVB has no power to compel anyone to implement that recommendation. Ultimately, it is completely up to companies and to some extent the West African governments whether they will follow the recommendations. The ICVB is weakened in its ability to actually implement its recommendations by the same lack of "binding and enforceable"

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ILRF. "The Cocoa Protocol: Success or Failure?" June 30, 2008; available from <a href="http://www.laborrights.org/files/Cocoa%20Protocol%20Success%20or%20Failure%20June%202008.pdf">http://www.laborrights.org/files/Cocoa%20Protocol%20Success%20or%20Failure%20June%202008.pdf</a>.
 Fafo AIS and Khulisa Management Services (Pty) Ltf. "Final Verification Report: Cote d'Ivoire."
 Available from <a href="http://www.cocoaverification.net/Docs/Verification\_Report\_Cote\_d\_Ivoire\_FINAL.pdf">http://www.cocoaverification.net/Docs/Verification\_Report\_Cote\_d\_Ivoire\_FINAL.pdf</a>.
 For additional information about weaknesses in the Harkin-Engel Protocol's attempts to eliminate child trafficking, please see: Sheth, Anita. "Such a Long Journey: Barriers to Eliminating Child Trafficking for Labor Purposes in the West African Cocoa Value Chain." *The Protection Project Journal of Human Rights and Civil Society*, Issue 2, Fall 2009; available from

http://www.protectionproject.org/bin/e/v/JHU\_Journal\_vol2\_final.pdf.

<sup>&</sup>lt;sup>13</sup> ICVB. "International Cocoa Verification Board Minutes." December 5, 2008; available from <a href="http://www.cocoaverification.net/Docs/NYC">http://www.cocoaverification.net/Docs/NYC</a> 12 08 ICVB BOARD MINUTES.pdf.

labor rights" protections that ILRF recognized as a fatal flaw in the original Harkin-Engel Protocol.<sup>14</sup>

Importantly, to date, there are no commitments to remove the children identified by the surveys from harm's way. The ICVB has not endorsed any recommendations for remediation of child labor in the cocoa sector, nor is there any concrete plan from governments or industry to remove these thousands of children from exploitative labor and ensure they are receiving an education.

# Instead of working on remediation, the ICVB has shifted to make policy statements outside of its mandate.

It appears that the ICVB has taken on a different role after its September board meeting than its original mandate. While even the report by the verifiers that was approved by the ICVB stated, "both the certification and verification studies in the two countries indicated many children are engaged in hazardous child labor," the ICVB still issued a press release objecting to the inclusion of cocoa on the US DOL's list of goods produced by child labor. While the ICVB was created to "to verify the accuracy of the certification surveys conducted by the Governments of Côte d'Ivoire and Ghana initiated under the Harkin-Engel Protocol," the Board has now apparently taken upon itself to issue public policy recommendations.

According to the ICVB meeting notes from September 2009, the ICVB's statements were drafted by Isabelle Adam, a representative of the European Cocoa Association (ECA), which is an industry group. While the press release by the ICVB does commend the US DOL's "initiative," not surprisingly, the specific suggestions in the ICVB press release would clearly primarily be advantageous to the chocolate companies benefiting from low-cost labor by ensuring no disruption in the supply of cocoa that has been produced by forced and/or child labor. Executive Order 13126 actually only requires a contractor to make "a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under the contract" – an assurance that should not be of concern to the chocolate companies if the "certification" program developed under the Harkin-Engel Protocol actually provided an appropriate assurance that these labor rights abuses were not occurring in the production of chocolate. However, both the "certification" and verification reports demonstrate that the worst forms of child labor *are* occurring.

<sup>&</sup>lt;sup>14</sup> ILRF. "Statement on Industry Protocol Regarding the Use of Child Labor in West African Cocoa Farms." May 1, 2002; available from <a href="http://www.laborrights.org/sites/default/files/publications-and-resources/COCOACritique.pdf">http://www.laborrights.org/sites/default/files/publications-and-resources/COCOACritique.pdf</a>.

<sup>&</sup>lt;sup>15</sup> Fafo AIS and Khulisa Management Services (Pty) Ltd. "Strategy Report." January 2009; available from http://www.cocoaverification.net/Docs/Strategy\_Report\_from\_Verifiers\_Jan\_2009\_dated.pdf.

<sup>&</sup>lt;sup>16</sup> ICVB. "Meeting Minutes and Agreements." September 10, 2009; available from <a href="http://www.cocoaverification.net/Docs/ICVB\_September\_Minutes.pdf">http://www.cocoaverification.net/Docs/ICVB\_September\_Minutes.pdf</a>.

<sup>17 &</sup>quot;Executive Order 13126." Federal Register 64:115 (June 16, 1999); available from <a href="http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=1999">http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=1999</a> register&docid=99-15491-filed.

In fact, the tone, message and even wording of the ICVB press release are strikingly similar to the press releases from the National Confectioners Association (NCA) – the official trade association of the US chocolate industry. The ICVB says that including cocoa on the list "may jeopardize the very efforts that are underway to address this critically important issue." Meanwhile the NCA says, "Many important partnerships delivering positive change on the ground could be jeopardized otherwise - discouraging the very progress the DOL list is designed to promote."<sup>18</sup>

While of course the individual members of the ICVB may make policy recommendations on behalf of their individual organizations, a collective statement on behalf of the ICVB issuing political recommendations is inappropriate. The ICVB's shift from its mandate of assessing data collection techniques toward making public policy recommendations closely aligned with those of the major chocolate companies, along with other problems outlined here, raises serious questions about the independence of the ICVB.

# The chocolate industry is now supplanting the ICVB with a more industry-friendly Joint Working Group on Labor in Cocoa Farming (JWG).

At this point, the ICVB is seeing reductions in its funding (from the chocolate companies) and the Board has decided that it has accomplished its original mandate. The future of the ICVB remains unclear. In May 2009, a meeting was held in Ghana to discuss the future of "data collection and remediation of the Worst Forms of Child Labor and Forced Adult Labor." During the meeting, the attendees agreed to create a "Joint Working Group on Labor in Cocoa Farming" (or JWG) and an initial meeting of the JWG was held in Cote d'Ivoire in July 2009. Based on the extremely limited amount of public materials available about the JWG, it appears that Verité again is playing the role of secretariat and will be under a contract developed and paid for by industry representatives.

The JWG is structured so that the governments of Ghana and Cote d'Ivoire and the chocolate industry constitute three different delegations that are responsible for choosing and replacing their representatives. The group consists of two industry representatives, four government representatives from each country and, in principle, one civil society organization selected by each government. No guidelines for choosing the government or industry representatives appear to exist. The initial NGO selected for one of the two "civil society" seats, UNICEF, suggests that no genuinely grassroots groups will be given a seat at this table.

The JWG lacks genuine, democratic participation from civil society organizations and cocoa farmers and workers. Neither of the two civil society representatives in the JWG are from organizations directly representing or constituting farmers or children or

<sup>19</sup> NCA. "NCA Please to Support the Creation of a Joint Working Group on Labor in Cocoa Farming." October 6, 2009; available from <a href="http://www.candyusa.com/News/PRdetail.cfm?ItemNumber=1932">http://www.candyusa.com/News/PRdetail.cfm?ItemNumber=1932</a>.

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<sup>&</sup>lt;sup>18</sup> National Confectioners Association. "Cocoa Industry Calls on U.S. Department of Labor to Recognize and Encourage Progress in Cote d'Ivoire and Ghana." September 10, 2009; available from <a href="http://www.candyusa.com/News/PRdetail.cfm?ItemNumber=1797">http://www.candyusa.com/News/PRdetail.cfm?ItemNumber=1797</a>.

any other grassroots group from the affected countries as members. Authentic and meaningful participation of affected communities is clearly absent in the JWG.<sup>20</sup>

The main responsibilities of the JWG, according to the National Confectioners Association, include:

- Determining indicators, benchmarks, and methods for future data collection efforts;
- Conducting a meta-analysis a process which will inform the frequency and scope of future sector-wide surveys;
- Coordination of future remediation;
- Creating "data-gathering modules" for possible addition to future national surveys as an efficient method of sector wide data collection;
- Consulting trafficking experts to help create guidelines for future research including possible methodologies and root cause analysis.<sup>21</sup>

According to the minutes of the September 2009 ICVB meeting, the ICVB is slated to transition into the JWG once the details of a process are worked out.<sup>22</sup> Additionally, the agreements from the July 2009 JWG meeting state that the JWG "will be the focal point for all activities involved in the 4 [sic] stage process certification."<sup>23</sup> It appears certain that the JWG will supplant the ICVB. When that happens, the cocoa industry will successfully eliminate the last remaining vestige of the original Harkin-Engel Protocol multi-stakeholder process, having begun by unilaterally defunding the original Verification Working Group, replacing it with one of their liking, and finally dispensing with the ICVB entirely.

#### Conclusion

As US consumers spend billions of dollars on chocolate this Valentine's Day, the major chocolate companies continue to break the hearts of cocoa farmers, children and concerned consumers globally.

The Harkin-Engel Protocol originally envisioned a process where industry oversight would be exercised by global unions and consumer representatives. That vision of accountable oversight was abandoned in 2005. While the ICVB's role is problematic as described above, the JWG appears to be even less transparent and representative. Moreover, the "certification" process that is being verified is highly problematic as it contains neither standards nor any clear commitment to connect the data with effective

<sup>&</sup>lt;sup>20</sup> Joint Working Group. "Joint Working Group on Labor in Cocoa Farming." July 2009; available from <a href="http://www.verite.org/node/174">http://www.verite.org/node/174</a>.

NCA. "NCA Please to Support the Creation of a Joint Working Group on Labor in Cocoa Farming."
 October 6, 2009; available from <a href="http://www.candyusa.com/News/PRdetail.cfm?ItemNumber=1932">http://www.candyusa.com/News/PRdetail.cfm?ItemNumber=1932</a>.
 ICVB. "Meeting Minutes and Agreements." September 10, 2009; available from <a href="http://www.cocoaverification.net/Docs/ICVB\_September\_Minutes.pdf">http://www.cocoaverification.net/Docs/ICVB\_September\_Minutes.pdf</a>.

<sup>&</sup>lt;sup>23</sup> Joint Working Group. "Joint Working Group on Labor in Cocoa Farming." July 2009; available from <a href="http://www.verite.org/node/174">http://www.verite.org/node/174</a>.

remediation. In brief, after nine years, the chocolate industry data collection has yet to result in a single child being removed from exploitative labor. That is why many large chocolate companies are increasingly agreeing to work with separate certification programs for their cocoa that do include labor rights standards.

The recent trajectory of industry efforts outlined above raises key questions.

- What is the industry and West African governments' plan to remove children from the worst forms of child labor and rehabilitate children? Additionally, what is the plan to deal specifically with victims of forced labor and trafficking?
- What is the role of global and local civil society in providing recommendations and input in to the design of these programs?
- When and how will the chocolate industry work with grassroots groups on the ground and internationally to develop solutions to these labor rights abuses?

For more information about the International Labor Rights Forum and child labor in the cocoa industry please visit <u>www.LaborRights.org</u>.

# **APPENDIX A**

## 2009 Cocoa Updates

## **New Company Commitments:**

### Fair Trade

- Nestlé UK commits to achieving Fairtrade certification for Kit Kat bars in the UK and Ireland beginning in January 2010 (Announced: December 7, 2009).

  - Fairtrade Foundation press release:
     <a href="http://www.fairtrade.org.uk/press">http://www.fairtrade.org.uk/press</a> office/press releases and statements/december 20
     O9/kit kat gives cocoa farmers in cte divoire a break.aspx
  - ILRF, Global Exchange, Green America and Oasis USA press release: <a href="http://www.laborrights.org/stop-child-forced-labor/cocoa-campaign/news/12232">http://www.laborrights.org/stop-child-forced-labor/cocoa-campaign/news/12232</a>
- Cadbury commits to achieving Fairtrade certification for Cadbury Dairy Milk bar in UK and Ireland by the end of Summer 2009 (Announced: March 4, 2009).
   Cadbury then commits to certifying Cadbury Dairy Milk Fairtrade in Canada, Australia and New Zealand by early 2010 (Announced: August 25, 2009).
  - o Cadbury press releases: <a href="http://www.cadbury.com/media/press/Pages/cdmfairtrade.aspx">http://www.cadbury.com/media/press/Pages/cdmfairtrade.aspx</a> and <a href="http://www.cadbury.com/media/press/Pages/ftcdmanzcan.aspx">http://www.cadbury.com/media/press/Pages/ftcdmanzcan.aspx</a>
  - o ILRF and Global Exchange press release: <a href="http://www.laborrights.org/stop-child-labor/cocoa-campaign/news/11837">http://www.laborrights.org/stop-child-labor/cocoa-campaign/news/11837</a>

#### Rainforest Alliance

- \*\* Please see this document outlining ILRF's concerns with Rainforest Alliance certification: http://www.laborrights.org/stop-child-labor/cocoa-campaign/resources/10821 \*\*
- Kraft Foods commits to use cocoa beans only from Rainforest Alliance certified farms across it's entire Côte d'Or and Marabou lines by the end of 2012 (Announced: Oct. 30, 2009).
  - Rainforest Alliance press release: <a href="http://www.rainforest-alliance.org/news.cfm?id=kraft\_cocoa">http://www.rainforest-alliance.org/news.cfm?id=kraft\_cocoa</a>
  - Kraft press release: <a href="http://phx.corporate-ir.net/phoenix.zhtml?c=129070&p=irol-newsArticle&ID=1348441">http://phx.corporate-ir.net/phoenix.zhtml?c=129070&p=irol-newsArticle&ID=1348441</a>
- Blommer Chocolate Company will offer a line of Rainforest Alliance Certified cocoa and ingredient chocolate products starting in 2010 (Announced: June 25, 2009).
  - Rainforest Alliance press release: <a href="http://www.rainforest-alliance.org/news.cfm?id=blommer\_cocoa">http://www.rainforest-alliance.org/news.cfm?id=blommer\_cocoa</a>
- Mars, Incorporated aims to certify the Galaxy chocolate bar in the UK with Rainforest Alliance by early 2010. Mars also commits to getting its entire cocoa supply certified by 2020 (Announced: April 8, 2009).

- o Rainforest Alliance press release: <a href="http://www.rainforest-alliance.org/news.cfm?id=mars\_partnership">http://www.rainforest-alliance.org/news.cfm?id=mars\_partnership</a>
- Mars, Inc. press release:
   <a href="http://www.mars.com/global/News+and+media/Global+Press+Releases/Mars+commits">http://www.mars.com/global/News+and+media/Global+Press+Releases/Mars+commits</a>
   <a href="http://www.mars.com/global/News+and+media/Global+Press+Releases/Mars+commits">http://www.mars.com/global/News+and+media/Global+Press+Releases/Mars+commits</a>
   <a href="http://www.mars.com/global/News+and+media/Global+Press+Releases/Mars+commits">http://www.mars.com/global/News+and+media/Global+Press+Releases/Mars+commits</a>
   <a href="http://www.mars.com/global/News+and+media/Global+Press+Releases/Mars+commits">http://www.mars.com/global/News+and+media/Global+Press+Releases/Mars+commits</a>
- ILRF and Organic Consumers Association press release: http://www.laborrights.org/stop-child-labor/cocoa-campaign/news/11854

#### UTZ Certified

- Nestlé, Heinz, Mars, Cargill, Ahold, ECOM, Chocolat Frey and Ludwig Schokolade GMBH & Co. KG all joined the UTZ Certified cocoa program previous to 2009. In 2009, the first two cocoa cooperatives, both in Ivory Coast, received UTZ certification (Announced: September 9, 2009).
  - UTZ Certified 2008 press release: <a href="http://www.utzcertified.org/index.php?pageID=104&showltem=257&filterCat=B&offset=5">http://www.utzcertified.org/index.php?pageID=104&showltem=257&filterCat=B&offset=5</a>
  - UTZ Certified 2009 press release: <a href="http://www.utzcertified.org/index.php?pageID=104&showltem=413&filterCat=B">http://www.utzcertified.org/index.php?pageID=104&showltem=413&filterCat=B</a>
  - Cargill press release on first cooperative certification: <a href="http://cargill.com/news-center/news-releases/2009/NA3019789.jsp">http://cargill.com/news-center/news-releases/2009/NA3019789.jsp</a>
  - Mars, Inc. on purchase of first UTZ certified beans: http://www.mars.com/global/News+and+media/Global+Press+Releases/MARS+INCOR

     PORATED+achieves+milestone.htm
- Barry Callebaut joins UTZ Certified cocoa program (Announced: October 28, 2009).
  - UTZ Certified press release: <u>http://www.utzcertified.org/index.php?pageID=104&switchlanguage=EN</u>

#### Other

- Nestlé announces new "Cocoa Plan" (Announced: October 2009)
  - Nestlé press release: <a href="http://www.nestle.com/MediaCenter/NewsandFeatures/AllNewsFeatures/Nestle\_launch">http://www.nestle.com/MediaCenter/NewsandFeatures/AllNewsFeatures/Nestle\_launch</a>
     es The Cocoa Plan sustainability initiative.htm
  - O Nestlé Cocoa Plan website: <a href="http://www.thecocoaplan.com">http://www.thecocoaplan.com</a>

## Other Updates:

- ILRF and campaign allies organize the third annual "Reverse Trick-or-Treating" action where thousands of young people across the US and Canada deliver Fair Trade chocolate and information about labor rights abuses in the cocoa industry to the houses where they go trick-or-treating on Halloween. This year, a quarter of a million households were reached through this action (Announced: October 31, 2009).
  - o Reverse Trick-or-Treating website: <a href="www.ReverseTrickOrTreating.org">www.ReverseTrickOrTreating.org</a>
- Tulane University's Payson Center for International Development releases it's third annual report as part of a contract from the US Department of Labor to provide oversight of public and private initiatives to eliminate the worst forms of

child labor in the cocoa sector in Cote d'Ivoire and Ghana (Announced: October 2009).

- o Tulane University report: <a href="http://childlabor-payson.org/">http://childlabor-payson.org/</a>
- The formation of a "Joint Working Group on Labor in Cocoa Farming (JWG)" including the chocolate industry, representatives of the governments of Ghana and Cote d'Ivoire and several civil society representatives is announced. Verité currently services as the secretariat for the JWG (Announced: October 6, 2009).
  - National Confectioners Association press release: <a href="http://www.candyusa.com/News/PRdetail.cfm?ltemNumber=1932">http://www.candyusa.com/News/PRdetail.cfm?ltemNumber=1932</a>
  - Verité JWG page: <a href="http://www.verite.org/node/174">http://www.verite.org/node/174</a>
- US Department of Labor lists cocoa from Cameroon, Cote d'Ivoire, Ghana, Guinea and Nigeria as produced by child labor and cocoa from Cote d'Ivoire and Nigeria as also produced by forced labor as part of it's "List of Goods Produced by Child Labor and Forced Labor" as required by the Trafficking Victims Protection Reauthorization Acts of 2005 and 2008 (Announced September 10, 2009).
  - o US DOL List: <a href="http://www.dol.gov/ilab/programs/ocft/PDF/2009TVPRA.pdf">http://www.dol.gov/ilab/programs/ocft/PDF/2009TVPRA.pdf</a>
  - o US DOL press release: <a href="http://www.dol.gov/opa/media/press/ilab/ILAB20090946.htm">http://www.dol.gov/opa/media/press/ilab/ILAB20090946.htm</a>
  - o ILRF press release: <a href="http://www.laborrights.org/stop-child-forced-labor/news/12102">http://www.laborrights.org/stop-child-forced-labor/news/12102</a>
  - National Confectioners Association press release: <a href="http://www.candyusa.com/News/PRdetail.cfm?ItemNumber=1797">http://www.candyusa.com/News/PRdetail.cfm?ItemNumber=1797</a>
- US Department of Labor also recommends that cocoa from Cote d'Ivoire and Nigeria be included on a list of products produced by forced or indentured child labor that are prohibited from government procurement as part of Executive Order 13126 of 1999 (Announced: September 10, 2009).
  - O US DOL notice: http://www.dol.gov/federalregister/HtmlDisplay.aspx?DocId=23 | | | &Month=9&Year= 2009
  - US DOL background information on EO 13126: http://www.dol.gov/ILAB/regs/eo13126/main.htm
  - National Confectioners Association press release: http://www.candyusa.com/News/PRdetail.cfm?ItemNumber=1798
- ILRF and campaign partners launch a Fair Trade S'mores summer action where people across the country make s'mores using Fair Trade chocolate and sign petitions to Hershey (Announced: Summer 2009).
  - We Want More from our S'mores: <a href="http://www.laborrights.org/stop-child-labor/cocoa-campaign/we-want-more-from-our-smores">http://www.globalexchange.org/campaigns/fairtrade/cocoa/smoresproject.html</a>
- ILRF and campaign partners launch a campaign targeting Hershey with a national call-in day. Hershey was chosen as a campaign target due to the fact that they have not agreed to any of the additional certification programs (Announced: June 23, 2009).

- Call-in day announcement: <a href="http://www.unionvoice.org/laborrights/notice-description.tcl?newsletter\_id=26410742">http://www.unionvoice.org/laborrights/notice-description.tcl?newsletter\_id=26410742</a>
- The International Cocoa Verification Board meets in Ghana to review the verification reports for Cote d'Ivoire and Ghana (Announced: Meetings took place in March 2009; Resolutions release April 24, 2009).
  - ICVB Board Meeting Resolutions: http://www.cocoaverification.net/Docs/ICVB\_RESOLUTIONS.pdf
- Gates Foundation pledges \$90 million to cocoa and cashew farmers -- \$23 million to the World Cocoa Foundation and \$25 million to the German development organization GTZ (Announced: February 29, 2009).
  - o Gates Foundation press release: <a href="http://www.gatesfoundation.org/press-releases/Pages/african-cocoa-and-cashew-farmers-090218.aspx">http://www.gatesfoundation.org/press-releases/Pages/african-cocoa-and-cashew-farmers-090218.aspx</a>
  - o WCF press release: <a href="http://www.worldcocoafoundation.org/what-we-do/current-programs/CocoaLivelihoodsProgram\_summary.asp">http://www.worldcocoafoundation.org/what-we-do/current-programs/CocoaLivelihoodsProgram\_summary.asp</a>
- ILRF releases 2009 Chocolate Company Scorecard which ranks chocolate companies based on their commitment to ending child labor and ensuring transparency in their cocoa supply chains (Announced: February 12, 2009).
  - o ILRF 2009 Chocolate Company Scorecard: <a href="http://www.laborrights.org/stop-child-labor/cocoa-campaign/resources/10796">http://www.laborrights.org/stop-child-labor/cocoa-campaign/resources/10796</a>
- ILRF releases analysis of the implementation of the Harkin-Engel Protocol timed with the July 1, 2008 deadline (Announced: June 30, 2008).
  - "Cocoa Protocol: Success or Failure?": <a href="http://www.laborrights.org/stop-child-labor/cocoa-campaign/resources/10719">http://www.laborrights.org/stop-child-labor/cocoa-campaign/resources/10719</a>

# APPENDIX B

June 17, 2008

Senator Tom Harkin 731 Hart Senate Office Building Washington, DC 20510

Dear Senator Harkin,

We would like to commend your efforts to end the worst forms of child labor in the cocoa industry and your commitment to establishing monitoring and certification systems to improve labor conditions around the world and in particular to ensure that children are not exploited in the production of goods for US consumers.

While we respect the tremendous efforts your office has undertaken since 2001, we are concerned that the "certification concept" put forth by the cocoa industry in relation to cocoa production is neither a process certification nor a product certification, and offers no assurance to consumers that the corporations profiting from chocolate sales in the US have taken steps to eliminate child labor within their supply chains. Rather, industry has put forth a model that merely identifies at a national and regional level, the work that governments are doing to survey the types and forms of labor abuses that occur.

Certification systems share at least four common elements.<sup>24</sup> First, a certification system requires the development of a set of standards that must be met in order to achieve certification. Second, certification must provide a process for verifying that a product, service or person has met those standards. Third, a "certification mark" identifies that the standard and verification have been fulfilled. Finally, certification requires a system for auditing to ensure that the "certification mark" is being applied in a manner consistent with the standards over time.

In its work to establish a public certification system as part of the Harkin Engel Protocol, the cocoa industry has not established clear standards within a multi-stakeholder setting. The industry's proposed model suggests that certification simply means verifying the results of a census. In the case of cocoa, what the industry apparently is certifying are the Child Labor Monitoring Systems (CLMS) developed by the national governments with the assistance of the ILO as representing a statistically valid and replicable process for identifying the incidence and causes of child labor. However, this certification "concept" will not provide assurances "that cocoa beans and their derivative products have been grown and/or processed without any of the worst forms of child labor (WFCL)," as was the stated intent behind the Harkin-Engel Protocol. To the contrary, considering the widespread incidence of the WFCL in cocoa production, the likely outcome of the industry's proposed cocoa "certification" will be to simply confirm that child labor is used in the production and processing of cocoa.

<sup>&</sup>lt;sup>24</sup> See Conroy, Michael. *Branded!*. 2007.

While we believe that the government CLMS programs are vital for developing a full understanding of the causes of child labor that will guide national governmental efforts to eliminate child and forced labor, these monitoring systems are not designed to serve as certification. As described by the ILO, the Child Labor Monitoring System is intended to provide national governments the necessary tools for identifying the incidence and causes of child labor within a sector in order to design remediation programs.

In the case of the cocoa sector, the "certification program" that is being established by the cocoa industry appears to be an attempt to broaden the commonly understood definition of a certification system, a fact recognized by the industry itself as it seeks to develop an entirely new "concept" of certification without the benefit of a genuine participatory multi-stakeholder process with clear rules of decision-making that will ensure an outcome acceptable to all stakeholders.

At this time, the "certification concept" put forth by the cocoa industry does not involve the necessary industry-side components that would ensure a valid certification program. There is no commitment to increasing transparency measures within supply chains. Significantly, the model developed by industry does not include any binding commitments or a plan of action for remediation, as would be required under a certification program.

We hope that you will work with industry to raise these concerns about an appropriate definition of certification.

Sincerely,
Americans for Informed Democracy
Co-op America
Dominican Sisters of Springfield, IL
Equal Exchange
Global Exchange
Kopali Organics
International Labor Rights Forum
Ithaca Fine Chocolates
New York State Labor-Religion Coalition
Oasis USA
Organic Consumers Association
Stop the Traffik
Unitarian Universalist Service Committee