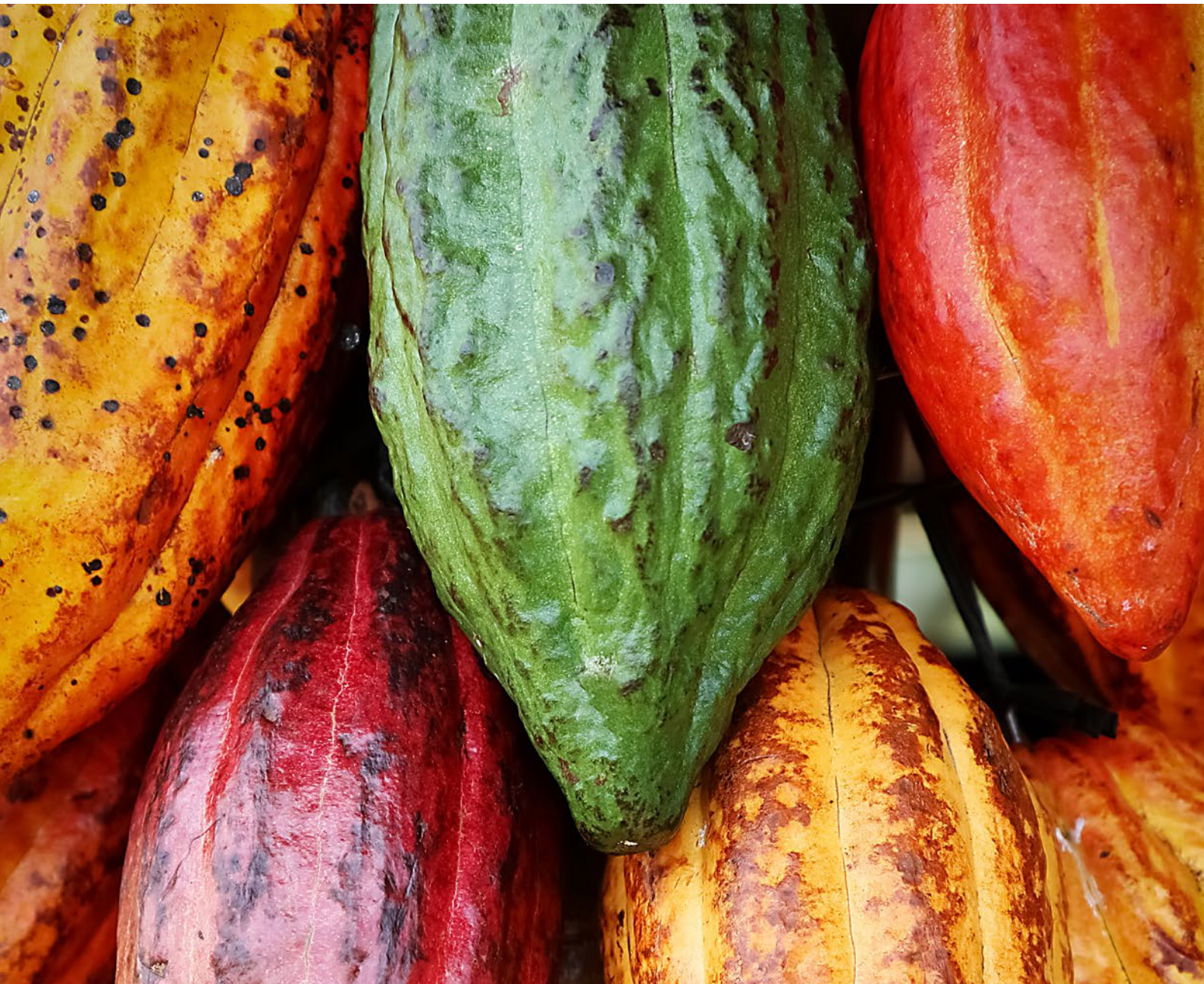




Forum Nachhaltiger Kakao
German Initiative on Sustainable Cocoa



The African Standard for Sustainable Cocoa

Sustainability and Standards in Global Agriculture
Value Chains



This study was conducted by Duncan Brack and commissioned by the German Initiative on Sustainable Cocoa (GISCO).

GISCO is a joint initiative of the Federal Government, represented by the German Ministry for Economic Cooperation and Development (BMZ) and the German Ministry of Food and Agriculture (BMEL), the German sweets and confectionery industry, the German retail grocery trade, and civil society.

A Steering Committee consisting of members of GISCO and experts accompanied the study and provided regular feedback.

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Executive summary

This paper analyses the new African Standard for Sustainable Cocoa (ARS standard) and the implementation guides issued by the countries introducing it, Côte d'Ivoire and Ghana, and explores the extent to which it may help to meet the main challenges facing the cocoa sector: the need to contribute to living incomes for cocoa farmers and to end deforestation and child labour, supported by robust systems of transparency and traceability.

The paper also compares the requirements of the ARS standard with the obligations of forthcoming EU legislation, and identifies what measures could be taken to strengthen the standard and support its implementation.

Section 1 provides a short introduction to the topic of sustainability standards for cocoa, and the emergence of the ARS standard and a brief outline of relevant EU legislation, including both the EU Deforestation Regulation (EUDR) and the proposed Corporate Sustainability Due Diligence Directive.

The ARS standard was finalised in 2021. The scheme is intended to become a mandatory requirement of cocoa farmers country-wide in Côte d'Ivoire and Ghana, following a pilot phase. While the basic principles of the ARS standard are clear, important details of implementation remain to be clarified, and should be included in the national implementation guides which are currently under development.

Section 2 compares the production criteria contained in four cocoa standards – the ARS standard, ISO 34101 (on which the ARS standard is largely based),

The ARS standard has the potential to play a valuable role in the risk assessment stage of the due diligence process set out in the EUDR, which acknowledges a possible role for certification schemes. It would be able to play a more comprehensive role if the following differences between the standard and the EUDR were resolved through amending the standard –

- The cut-off date in the ARS standard is June 2021; in the Regulation, the end of 2020.
- There is no distinction in the regulation between primary and secondary forests, so the fact that the ARS standard allows deforestation or degradation of secondary forest (under certain conditions) is not consistent.
- The phrase in the ARS standard allowing farming – and, therefore, potentially deforestation or forest degradation – where 'the national context allows it' is inherently unclear, and is inconsistent with the Regulation. This appears to be an issue for Côte d'Ivoire, though not for Ghana.
- There is no explicit reference in the ARS standard to compliance with national laws, apart from references to protected areas, although some of the categories of laws listed in the Regulation, including those covering child labour, labour rights and human rights, are referred to in the ARS standard.

Fairtrade and Rainforest Alliance – on seven topics: protection of forests, compliance with national laws in the countries of origin, land rights, child labour, other human rights, labour rights, and prices and premiums. (Annex 1 contains full details of the standards, and links.) All four standards are fairly similar, though the Fairtrade and Rainforest Alliance standards are more detailed and more ambitious.

It should be noted, however, that even if these inconsistencies are resolved, companies sourcing the cocoa would not be exempt from conducting due diligence; they would not be able to claim they were fulfilling their obligations simply by sourcing ARS-certified cocoa. But it would help.

Production standards by themselves are worthless unless they are accompanied by an implementation framework that guarantees that cocoa certified to the standard has been produced in compliance with the criteria. **Section 3** discusses the elements of implementation frameworks set out in the ARS standard. Much further detail should be included in the national implementation guides, which so far are only available in draft versions, so at this stage the analysis is only preliminary. The following elements are key:

Management systems: An important feature of the ARS scheme is the requirement for the establishment of Cocoa Farm Development Plans designed to guide cooperatives, or groups of farmers, in establishing the processes necessary to satisfy the criteria set out in the standard. The fact that the national agencies responsible for cocoa production and promotion – the Conseil du Café-Cacao (CCC) and Cocobod – are also intended to be the ARS scheme regulators may lead to a perception of conflicts of interest, which could damage the scheme's credibility. The design of the implementation guides so far has featured somewhat uneven stakeholder participation; this could be improved in the future.

Traceability: An effective traceability scheme is critical to the success of any standard. The establishment of national traceability systems is under way in both Côte d'Ivoire and Ghana. While both have some elements in place, neither yet enables verifiable tracking of cocoa beans to the farm of production. Unless full traceability systems can be put in place by the time the EU Deforestation Regulation is fully implemented, cocoa sourced indirectly, via local traders, will not be compliant; integrating local traders into the traceability system is a major challenge in both countries.

Certification: Both draft implementation guides set out in some detail procedures for developing, managing and reviewing the scheme; appointing certification and accreditation bodies and assessing their performance; types and frequencies of audits performed; procedures for non-compliance; and complaints processes. These procedures appear to be consistent with the ISO 9000 and 17000 standards, and comparable with the equivalent procedures of the Fairtrade and Rainforest Alliance certification systems, but a full assessment cannot be made until the ARS system actually starts to operate. The ability of the system to deal with critical questions such as independence of the certifiers from the regulator and the farms and cooperatives they are certifying, needs to be observed in action rather than on paper.

Monitoring, auditing, verification, oversight and complaints: These procedures are included in the ARS standard, but not in much detail, and the draft implementation guides add relatively little. Opportunities for external stakeholders to input their views on the functioning of the system will be important to its implementation, and could helpfully be elaborated.

Implementation country-wide: Applying the ARS standard nation-wide is an ambitious aim, but also a highly challenging one, involving, as well as the activities outlined above, programmes for training and providing support to farmers and cooperatives, including establishing farm management systems and providing appropriate guidance and equipment. The pilot projects intended to be run during 2023 should reveal shortcomings in these areas, and will be an essential step in delivering the national roll-out.

National schemes like the ARS standard possess, at least in principle, three main advantages compared to voluntary sustainability schemes like Fairtrade or Rainforest Alliance. First, they can generate more of a sense of ownership and buy-in than voluntary standards developed by stakeholders outside the country. Second, their production criteria have the potential to better reflect local needs and priorities than criteria developed externally. Third, as long as they are made mandatory, they are more likely to achieve transformative change at scale and help to avoid the problem of voluntary standards, which risk simply creating 'islands of excellence' rather than transforming the whole production landscape. This should also avoid the problem that the EU Deforestation Regulation (or similar legislation) may

simply lead to sustainably produced products being exported to the EU, while products not meeting those standards are diverted to other markets with lower, or no, requirements. If the national standard is made mandatory nationwide, all products it governs should be produced to the standard regardless of their final destination.

The development and implementation of the ARS standard country-wide in Côte d'Ivoire and Ghana, is, however, hugely challenging. Many of those interviewed for this study believed that the relevant authorities in each country were significantly underestimating the requirements and barriers, and suggested that implementation would need longer than two years from the completion of the implementation guides. Against this background, **Section 4** sets out conclusions and recommendations.

Recommendations for producer countries:

- In order to facilitate the export of cocoa from Côte d'Ivoire and Ghana to their main export market – the EU – the ARS standard will need to be amended to achieve better alignment with the EU Deforestation Regulation.

The standard also has to be credible – i.e. effective, transparent and trustworthy. This will require producer countries to:

- Finalise and make available comprehensive implementation guides.
- Set out measures to avoid the perception of conflicts of interest in the overall management of the scheme, and certification, monitoring, auditing, verification and oversight procedures.
- Complete the national cocoa traceability systems.
- Build capacity within the national authorities to effectively and efficiently implement the system.

In all these steps, greater interaction between the CCC and Cocobod and companies, certification organisations and civil society would be helpful.

Farmers and cooperatives (other than those already certified to other standards) are likely to need substantial levels of support to apply the ARS standard, so in turn this will require a clear national implementation programme, including awareness-raising, training and capacity-building for farmers and cooperatives, as outlined in Section 3.5. The producer countries should:

- Develop a national promotion programme for the ARS scheme, including communications and capacity development strategies as well as support measures, especially for farmers not associated with cooperatives.

- Publish proposals for the roll-out of pilot projects and evaluation and sharing of their results, and full national implementation of the ARS scheme nationwide, including timelines and resource needs.

External support will be essential in achieving these objectives; this is discussed below.



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Recommendations for GISCO, and other ISCOs, include the following options for consideration:

- A public statement of support for the national roll-out of the ARS standard in both countries.
- Encouragement and support for a broadly-based dialogue with stakeholders in each country over the details of the standard, the implementation guides and the national programme of pilots and capacity-building.
- Practical assistance (if requested by the CCC and/or Cocobod) with completing the implementation guides.
- Financial and technical support for building capacity within the CCC and Cocobod, for introducing and promoting uptake of the scheme, and for conducting pilot projects in specific regions, including with analysis and discussion of the outcomes.
- Financial and technical support for ISCO company participants' suppliers, helping them to meet the requirements of the ARS standard. This could be targeted on farmers and cooperatives with the least capacity, and farming in the highest-risk areas, aiming to avoid disengagement.
- Engaging in dialogue with the European Commission to explore the role that the ARS and other standards could play in assisting compliance with the Regulation.
- Input into any commodity-specific guidelines developed to accompany the Deforestation Regulation, clarifying the role of the ARS scheme.

A high priority for external support should be to assist in the creation of effective traceability systems, which will be necessary not only for the implementation of the ARS system but also for compliance with the EU Deforestation Regulation. The rest of the burden of compliance with the Regulation would be met by the cocoa and chocolate companies trading in and using the exported cocoa; this should include greater direct support to farmers and cooperatives. GISCO, and other ISCOs, can play their part in:

- Assisting producer-country governments to implement national traceability systems. This could include developing means of sharing the traceability data already captured by cocoa companies' existing traceability systems, to reinforce and verify the national system.
- Supporting the implementation of the Regulation by cocoa and chocolate companies.
- Fulfilling the roles identified for ISCOs in the Alliance on Sustainable Cocoa roadmap (see below).

Even with a fully operational national traceability system, however, cocoa will still need to be produced by farmers in compliance with the EU Deforestation Regulation's requirements, i.e. legal production and zero deforestation after 2020. Additional interventions will therefore be needed, and implementing the ARS standard is one way to achieve this.



Recommendations for the European Commission and EU member states:

The Commission is obviously well placed to provide assistance with helping closer alignment between the ARS standard and the Deforestation Regulation, and in clarifying the role of standards more broadly. The Commission and member states should:

- Consider supporting the process of amending the ARS standard to comply with the Deforestation Regulation (a role for the Commission), and in finalising implementation guides, if requested by the CCC and/or Cocobod.
- Engage in dialogue with the producer countries, ISCOs and other stakeholders to explore more fully the role that the ARS and other standards could play in assisting compliance with the Regulation, including in the benchmarking risk analysis process and in the preparation of commodity-specific guidelines.
- Provide financial and technical support for building capacity within the CCC and Cocobod, for introducing and promoting uptake of the scheme, and for conducting pilot projects in specific regions, including with analysis and discussion of the outcomes.
- As above, financial and technical support for ISCO company participants' suppliers, helping them to meet the requirements of the ARS standard. This could be targeted on farmers and cooperatives with the least capacity, and farming in the highest-risk areas, aiming to avoid disengagement.

Given the importance of smallholder farmers in the cocoa supply chain, it would be helpful if assessment of impacts could start before the five-year review mark set out in the Regulation. The Commission and member states should:

- Consider putting in place mechanisms to monitor the impact of the Regulation on smallholder farmers in the cocoa supply chain on an ongoing basis.

In relation to the cocoa sector more broadly, the Commission and member states should:

- Ensure that the activities set out in the Roadmap for the Alliance on Sustainable Cocoa, agreed between the EU, Côte d'Ivoire and Ghana in June 2022, are fully implemented, providing support where identified, and closely track implementation.
- Consider the inclusion in the Roadmap of a process of reviewing and reforming relevant laws in the producer countries, not simply surveying them.
- Pursue other routes for assistance outside the framework of the Alliance on Sustainable Cocoa, such as bilateral programmes.
- In particular, provide support to farmers and cooperatives to help introduce the ARS scheme; it is essential that farmers are not left to bear the costs of implementation.

These action points will also help to assist compliance with the EU Deforestation Regulation.

Finally, tackling endemic poverty is an essential measure to establish a sustainable cocoa sector, so the extent to which the ARS standard can help to deliver living incomes should be further debated. Steps must be taken to ensure that it is not cocoa farmers that bear the burden of implementing the standard; support must be provided through the measures discussed above. It also seems very likely that other measures aimed more directly at increasing prices and raising incomes – including, but not limited to, supply controls, diversification and alternative livelihoods – will be necessary to raise living incomes amongst cocoa farmers.



1. Introduction and background

The purpose of this paper is to analyse the new African Standard for Sustainable Cocoa (ARS standard) and the implementation guides issued by the countries introducing it (Côte d'Ivoire and Ghana), and in particular to explore the extent to which it may help to meet the main challenges facing the cocoa sector: the need to contribute to living incomes for cocoa farmers and to end deforestation and child labour, all supported by robust systems of traceability and transparency. The paper also compares the requirements of the ARS standard with the obligations of forthcoming EU legislation affecting companies in the cocoa and chocolate supply chain operating in the EU, and identifies what measures could be taken to strengthen the standard and support its implementation.

This section provides a short introduction to the topic of sustainability standards for cocoa, and the emergence of the ARS standard, and a brief outline of the EU legislation, including both the Deforestation Regulation (which entered into force in June 2023 and must be implemented in full, by most companies, by the end of 2024) and the proposed Corporate Sustainability Due Diligence Directive. Section 2 analyses the main relevant production criteria included in the ARS standard, and compares them with those in other cocoa sustainability standards (Annex 1 contains more detail). Section 3 reviews what is known about the systems for implementation in place or emerging in Côte d'Ivoire and Ghana. Both sections include comparisons with the EU Deforestation Regulation. Section 4 offers conclusions and recommendations aimed at GISCO (and other sustainable cocoa initiatives), the EU and its member states, and producer-country governments.

The study has been conducted partly through a document review of the ARS standard itself, which comprises three parts:

Part 1: Requirements for Cocoa Farmer as an Entity/Farmer Group/ Farmer Cooperative
— Management Systems and Performance (ARS 1000-1)

Part 2: Requirements for Cocoa Quality and Traceability (ARS 1000-2)

Part 3: Requirements for Cocoa Certification Schemes (ARS 1000-3)

These are to be accompanied by national implementation guides for each country in which the scheme is to be introduced. Preliminary drafts of each of the Côte d'Ivoire and Ghana implementation guides became available in 2022, and a slightly revised version in Ghana in 2023; final versions are expected in due course. The analysis in Section 3 draws on both preliminary guides.

The document reviews were supplemented by a series of in-depth interviews with experts from a range of backgrounds. The interviewees are listed in Annex 2.

1.1 Sustainability standards for cocoa

Negative impacts associated with cocoa production, including deforestation and child labour, are well recognised. One way in which these and similar problems can be addressed (for cocoa and for other commodities often associated with deforestation, such as timber or palm oil) is to establish production standards which ensure that these impacts are minimised or eliminated. Such standards can be set out in national regulations or in voluntary certification schemes, or be drawn from standards developed by international bodies. Standards may be applied as mandatory requirements, across an entire jurisdiction, or – more frequently – as a voluntary option, enabling consumers to choose, for example, deforestation-free products or those associated with higher prices for farmers.

In 2018, world-wide, an estimated 37 per cent of cocoa production was certified under one or more of three main schemes (a higher proportion than for many agricultural commodities). Cocoa produced to organic standards, which limit the extent of agrochemical use in crop production (for sales in the EU, the ‘organic’ designation is regulated by EU legislation), accounted for the smallest proportion. The remaining product was certified by the two main voluntary certification schemes, Fairtrade and Rainforest Alliance. Although the main focus of Fairtrade is to deliver fair prices to farmers, and Rainforest Alliance was established with the aim of protecting forests, in practice the requirements of the two schemes now overlap considerably. Each includes a comprehensive set of principles and criteria dealing with a wide range of economic, social and environmental issues applicable to farmers, farm organisations and traders, and detailed requirements for management systems, traceability, auditing, appointment of certification bodies, monitoring and assurance.

In recent years some of the large cocoa and chocolate companies have introduced their own sustainability programmes alongside, or in place of, these certification schemes. These generally include less complex sets of criteria, and are often less transparent than the certification schemes, though some incorporate elements of independently verification.

In 2019 the International Organisation for Standardisation (ISO) finished developing ISO 34101, a new standard for the process of producing sustainable and traceable cocoa; it was the first sustainability standard for an agricultural product adopted by ISO. The European Committee for Standardisation (CEN) also developed a standard for sustainable cocoa alongside it. No company or government has yet decided to apply ISO 34101, probably mainly because it offers no benefit to companies already applying other standards, or their own sustainability programmes, and also because of the decision by the main cocoa-producing countries to prefer their own standard – see below.¹ The ISO standard, however, in effect provided the first step in this national standard-setting process, and also influenced reviews of the Fairtrade and Rainforest Alliance standards. It is itself due for review in about two years’ time.

In March 2019, it was reported that the governments of Ghana and Côte d’Ivoire had decided not to introduce the ISO standard, mainly because of the fear of increased burdens on cocoa farmers.² Instead they would continue to develop their own cocoa standard. The African Standard for Sustainable Cocoa (ARS-1000), which had been under development by the African Organisation for Standardisation (ARSO) since 2014, was finalised in 2021. It borrows many elements from ISO 34101, but differs in some respects, featuring in particular a stronger focus on promoting farmer organisation.

¹ Oliver Nieburg, ‘Sustainable cocoa defined: what will be the impact of the ISO standard?’ ConfectioneryNews.com, 18 July 2019.

² ‘Ghana joins forces with Ivory Coast to kick against inimical ISO standard to cocoa farmers’, mynewsgh.com, 13 March 2019.



The scheme is intended to become a mandatory requirement of cocoa farmers country-wide in Côte d'Ivoire and Ghana. On 8 June 2022, the government of Côte d'Ivoire published a decree adopting the ARS standard as mandatory and setting out a timeline of 24 months for entry into force.³ This allows for a pilot phase lasting a year, and a further year for full countrywide roll-out. Cameroon is apparently considering introducing the standard on a voluntary basis.

While the basic principles of the ARS standard are clear, important details of implementation remain to be clarified, and should be included in the national implementation guides which are currently under development. As noted above, only draft versions of the guides were available in time for inclusion in this study. The analysis in Section 3 is therefore only preliminary. Sections 2 and 3 examine the main relevant elements of the ARS standard, and the draft implementation guides, and compare them to the ISO, Fairtrade and Rainforest Alliance standards. (The organic standard, which is much more limited in terms of production criteria, is not considered further.)

³ Décret No. 2022-393 du 8 Juin 2022 Réglementant la mise en oeuvre de la norme Africaine de la série ARS 1000 pour le cacao durable (Decree No. 2022-393 of 8 June 2022 Regulating the Implementation of the ARS 1000 Series African Standard for Sustainable Cocoa).

1.2 The EU Deforestation Regulation

In November 2021, the European Commission published a proposal for a regulation on deforestation-free products, and after debate in the European Parliament and Council, the final text was agreed in December 2022.⁴ After formal approval by the Parliament and the Council, it entered into force on 29 June 2023. Companies have 18 months, until 29 December 2024, before the regulation must be implemented, or 24 months for small companies and microenterprises, until 29 June 2025.

The regulation prohibits the placing on the EU market, or exporting from the EU, of a list of commodities and products – including cocoa and chocolate – produced from areas deforested after 2020 or in contravention of relevant laws of the producer country. (The definition of ‘forest’ in the regulation excludes agricultural plantations and agroforestry, so any loss of trees in such areas would not be covered.) Companies placing the products on the EU market are required to exercise due diligence to avoid placing non-compliant products, which involves three steps:

- Step 1** The collection of information about the products in order to demonstrate that they satisfy the deforestation and legality criteria, including geolocation data for their place of origin (as latitude and longitude coordinates, and for farms larger than 4 hectares, polygon maps of the perimeters).
- Step 2** An assessment of the risk that the products may not be compliant, including consideration of the risk level of the origin determined by the benchmarking process (see below), the presence of and consultation with indigenous peoples and any claims over land ownership they may have, the degree of reliability of the documentation on the products’ origins, the complexity of the supply chain, the risk of circumvention or mixing with products of unknown origin and any history of non-compliance by companies in the supply chain.
- Step 3** Measures to mitigate risk where the assessment shows a higher than negligible level of risk of non-compliance. This may include supporting the company’s suppliers, particularly smallholder farmers, through capacity building and investments.

Companies are obliged to submit a ‘due diligence statement’ before the products are placed on the EU market or exported from the EU, stating that the products meet the criteria, or at least that there is a negligible risk of them not doing so, and containing information about the source of the products, including geolocation coordinates.

⁴ Regulation (EU) 2023/1115 of the European Parliament and of the Council of 31 May 2023 on the making available on the Union market as well as export from the Union of certain commodities and products associated with deforestation and forest degradation and repealing Regulation (EU) No 995/2010. See https://environment.ec.europa.eu/topics/forests/deforestation/regulation-deforestation-free-products_en

The regulation includes a 'benchmarking system' placing producer countries, or parts of them, in three tiers of risk: high, standard and low. The initial allocation must be completed within 18 months of the regulation's entry into force – 29 December 2024 – and it will be subject to review thereafter. All countries are assumed to be standard risk to start with, and producer countries are to be informed of any change in their risk level and given a chance to respond in case the level is raised; in addition, the European Commission is to engage in dialogue with all high-risk or potentially high-risk countries to discuss means of reducing the risk level.

Companies sourcing products from low-risk countries, and where there is a negligible risk of mixing with products of other origins, will be subject to a simplified due diligence procedure, which includes only the information collection requirements of the due diligence procedure and not the risk analysis or mitigation steps. Companies sourcing products from high-risk countries will be subject to an increased frequency of checks by EU member states' enforcement agencies.

The level of risk, which will be determined by the Commission, will be based primarily on an assessment of the rate of deforestation and the rate of expansion of agricultural land and the production trends of relevant commodities and products. Additional factors that may be taken into account include the extent to which the country's Nationally Determined Contribution (NDC) to the Paris Agreement on climate change includes land-use emissions; the existence of any agreements between the country and the EU that address deforestation; the existence and effective enforcement of national laws covering deforestation and the protection of human rights, the rights of indigenous peoples, local communities and other customary tenure rights holders; and the existence of any UN or EU sanctions on imports or exports of the products covered by the regulation.

Various aspects of the Regulation may be subject to further clarifications; this may include, for example, elaboration of the types of laws in the countries of origin relevant to the legality criterion in the Regulation (the same process was followed in the EU Timber Regulation, in operation since 2013, from which the Deforestation Regulation drew several elements). The Regulation also specifies that the Commission, in collaboration with Member States, may also provide 'guidance to operators and competent authorities. Technical and other assistance and guidance shall take into account the situation of SMEs, microenterprises and natural persons, in order to facilitate compliance with the requirements of this Regulation ...'. Guidance may be issued for specific commodities, or sectors, or risks.

The regulation envisages a role for 'certification or other third-party-verified schemes' as a source of information for the risk assessment stage of the due diligence process, as long as they are able to supply the information requirements of the regulation. However, the preamble to the regulation makes it clear that companies must implement their full due diligence procedures and cannot rely simply on sourcing certified products as proof of compliance; the same approach as in the EU Timber Regulation.

The ARS standard could therefore play a role in helping companies fulfil the risk assessment stage of their due diligence requirements. However, this will require the definitions and implementation of the standard to be aligned with the requirements of the regulation, and this is not currently the case for a number of production criteria – see Section 2.

Whatever role certification schemes are to play in the final regulation, the Commission is likely to develop a procedure to determine whether any individual scheme is adequate.⁵ In the case of the EU Timber Regulation, an Implementing Regulation set out conditions that certification or other third-party verified schemes had to meet to be able to be taken into account in the risk assessment procedure:

- a) 'they have established and made available for third-party use a publicly available system of requirements, which system shall at the least include all relevant requirements of the applicable legislation;
- b) they specify that appropriate checks, including field-visits, are made by a third party at regular intervals no longer than 12 months to verify that the applicable legislation is complied with;
- c) they include means, verified by a third party, to trace timber harvested in accordance with applicable legislation, and timber products derived from such timber, at any point in the supply chain before such timber or timber products are placed on the market;
- d) they include controls, verified by a third party, to ensure that timber or timber products of unknown origin, or timber or timber products which have not been harvested in accordance with applicable legislation, do not enter the supply chain.⁶

It is possible that similar – or possibly more detailed – criteria will be established for certification schemes of relevance to the Deforestation Regulation. The ARS standard should in principle be able to meet these criteria, though several details remain to be clarified through the implementation guides currently in preparation. See further in Section 3.

Many producer-country governments reacted negatively to the initial proposal for a regulation. In July 2022 a letter signed by 14 producer-country ambassadors to the EU, including those of Côte d'Ivoire and Ghana, expressed 'serious concerns' over the fact that the EU had chosen unilateral legislation instead of international engagement, drew attention to the costs and burdens of compliance and argued that: 'trade restrictions or the threat thereof cannot be a preferential means to achieve environmental ends'. It concluded by declaring that: 'a better approach can be reached through cooperative means' and called for further dialogue. Other stakeholders in producer countries, however, including civil society and smallholder farmers, have been more supportive.⁷

Many stakeholders have argued that demand-side measures such as the Deforestation Regulation will have greater impact if they are accompanied by partnership approaches aimed directly at addressing conditions on the ground.⁸ In June 2022, the EU, Côte d'Ivoire and Ghana launched the Alliance on Sustainable Cocoa, 'an ambitious roadmap to improve the economic, social and environmental sustainability of cocoa production and trade', aimed at creating that broader framework.⁹ The Deforestation Regulation itself includes a commitment to develop a 'comprehensive EU strategic framework' for such engagement.

5 Schemes recognised under the provisions of the 2018 Renewable Energy Directive are explicitly referenced in the final regulation text, but none of these are relevant to cocoa.

6 Commission Implementing Regulation (EU) No 607/2012 of 6 July 2012 on the detailed rules concerning the due diligence system and the frequency and nature of the checks on monitoring organisations as provided for in Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market (L177/16), Article 4.

7 See, for example, Civil Society Position Statement on the proposed EU regulation on deforestation-free products (Fern, 3 February 2022); Anthony Myers, 'African cocoa farmers warn EC over industry pressure on deforestation' Confectionery.news, 7 March 2022.

8 As argued in, for example, Tropical Forest Alliance, 'Collective position paper on EU action to protect and restore the world's forests: Proposal for a 'smart mix' of measures' (December 2020); and Cocoa Coalition, 'Joint position paper on the EU's policy and regulatory approach to cocoa: Partnership agreements' (June 2021), available at <https://voicenetwork.cc/wp-content/uploads/2021/12/Partnership-agreements-final.pdf>.

9 European Commission press release, 'EU, Côte d'Ivoire, Ghana and the cocoa sector endorse an Alliance on Sustainable Cocoa', 28 June 2022.



1.3 The proposed EU Corporate Sustainability Due Diligence Directive

The proposed Corporate Sustainability Due Diligence Directive, published by the European Commission in February 2022, is also relevant, though less directly so, as it places general obligations on companies, not linked to defined commodities or products or to placing commodities on the EU market.¹⁰

The Directive will require companies to put in place systems of due diligence to identify, prevent, mitigate and bring to an end human rights abuses and environmental harms in their operations and supply chains. The human rights criteria underlying the due diligence obligation include specific references to deforestation, child labour and human rights. At the time of writing, the proposed Directive is progressing through the EU's legislative procedures; it is hoped that it will be adopted before the end of the current Parliamentary term in June 2024.

¹⁰ The text of the proposed Directive is available at https://eur-lex.europa.eu/resource.html?uri=cellar:bc4dcea4-9584-11ec-b4e4-01aa75ed71a1.0001.02/DOC_1&format=PDF

2



2. Production criteria

Compared to several other agricultural commodities, cocoa is relatively well penetrated by voluntary sustainability standards (an estimated 37 per cent of global production in 2019, compared to 33 per cent for coffee, 10 per cent for bananas and 2 per cent for soy)¹¹. The ARS standard is not necessarily intended to compete with Fairtrade and Rainforest Alliance, the main voluntary standards; in Côte d'Ivoire and Ghana, at least, it is intended to raise the standard of cocoa production across the entire country, reassuring buyers that cocoa from each of those countries meets minimum criteria, with regard to, for example, deforestation or child labour. Nevertheless, purchasing companies concerned about providing sustainable cocoa and chocolate to their customers are likely to want to know the differences between the standards; and, as discussed in Section 1, the extent to which the ARS standard varies from the criteria included in the EU Deforestation Regulation will affect its usefulness as part of the risk assessment process set out there.

This section therefore compares the criteria related to the production of cocoa included in the ARS standard, compared to the other three main standards – ISO 34101, Fairtrade and Rainforest Alliance – across seven key elements. Each sub-section contains a summary of the main elements; Annex 1 includes selected extracts from the standards' texts. Each sub-section also notes any differences between the ARS standard and the EU Deforestation Regulation. Relevant references in the proposed EU Corporate Sustainability Due Diligence Directive are also noted.

The details of the four main standards and certification schemes between them occupy many hundreds of pages, and a full comparison of every element would be just as long. This section therefore includes a comparison of what, for the purposes of this paper, are considered to be the key elements of sustainable cocoa production in the latest versions of the standards (the ISO, Fairtrade and Rainforest Alliance standards are subject to regular revisions, and it is to be expected that the ARS standards will be too).

2.1 Protection of forests

The protection of forests is a key element of all these standards; along with poverty and child labour, it is the negative impact most strongly associated with cocoa production. The expansion of cocoa farms has been the major driver of deforestation in Côte d'Ivoire and an important contributor in Ghana. In 2017 the Cocoa and Forests Initiative saw the governments of both countries, joined in 2018 by Colombia, agreeing Frameworks for Action with chocolate and cocoa companies, aiming to end deforestation and restore forest areas.

11 International Trade Centre, The State of Sustainable Markets 2021.

The EU's Deforestation Regulation will require defined forest risk commodities placed on its market, including cocoa and chocolate, to have been produced without deforestation after the end of 2020, and for companies to exercise due diligence to avoid them doing so.

The main criteria in the four standards are:	
ISO	No deforestation or degradation of primary forests after 1 January 2018; no deforestation or degradation of secondary forest unless legal land title, landowner permission and/or customary land rights, and government permits, are available; no farming in protected areas, including 'national parks, wildlife refuges, forestry reserves and other public or private conservation areas'.
ARS	Identical except that the threshold date is the date of the first release of the standard (June 2021) and the addition of the caveat that farming in protected areas 'may be allowed if the national context allows it' (though the draft Ghanaian Implementation Guide adds the comment: '(Not allowed in Ghana)'). Also adds encouragement for agroforestry
Fairtrade	No deforestation or degradation in primary or secondary forests, protected areas and areas of High Conservation Value or High Carbon Storage converted into agricultural production area since 31st December 2018.
Rainforest Alliance	No conversion of natural forests and other natural ecosystems to agricultural production or other land uses after 1 January 2014; targets for shade tree cover.

Comparison with EU legislation

This is the main area where there are important differences between the ARS standard and the Deforestation Regulation:

- The cut-off date in the ARS standard is June 2021; in the regulation, the end of 2020.
- There is no distinction in the regulation between primary and secondary forests, so the fact that the ARS standard allows deforestation or degradation of secondary forest (under certain conditions) is not consistent.¹² Secondary forest is highly important in Côte d'Ivoire in particular, where little primary forest remains.
- The phrase in the ARS standard allowing farming – and, therefore, potentially deforestation or forest degradation – where 'the national context allows it' is inherently unclear, and is inconsistent with the Regulation. (As noted above, the draft Ghanaian Implementation Guide notes that this is not allowed in Ghana. In Côte d'Ivoire this may be relevant to the category of 'classified forest' (forêt classée), where clearance for agriculture is possible under certain circumstances and where authorised by the authorities.)

In addition, the draft Ghanaian implementation guide specifies that the year of application of the ecosystem protection criteria, which includes forest protection, is year 10 after the introduction of the standard, which is far later than the likely date of the implementation of the Regulation (see further in Section 3). This also affects the legality requirement in the regulation (see below, Section 2.2), since that covers the prohibition on farming in protected areas, and this is also relevant to land rights (see below, Section 2.3).

¹² The Regulation does include a definition of 'primary forest', but this is only relevant in the context of forest degradation associated with the production of wood products.

(As noted in Section 1.2, the Regulation excludes agroforestry from its definition of ‘forest’, so any loss of trees in agroforestry areas would not be covered. This is not consistent with domestic law in Côte d’Ivoire, where tree cover in agroforestry areas must be maintained, but in this case it is national law that is stricter than the Regulation.)

The proposed EU Corporate Sustainability Due Diligence Directive contains two references to deforestation in its annex listing the human rights criteria underlying the due diligence obligation:

- ‘(16) Violation of the prohibition of causing any measurable environmental degradation, such as harmful soil change, water or air pollution, harmful emissions or excessive water consumption or other impact on natural resources, that ... (e) affects ecological integrity, such as deforestation;
- (17) Violation of the prohibition to unlawfully evict or take land, forests and waters when acquiring, developing or otherwise use land, forests and waters, including by deforestation, the use of which secures the livelihood of a person in accordance with Article 11 of the International Covenant on Economic, Social and Cultural Rights;’

2.2 Compliance with national laws

The legality of production of forest risk commodities – i.e. the extent to which the production process complies with national legislation in the country of origin – is a key issue. Successive studies have shown the extent to which illegal clearance of forests for agriculture is a major driver of global deforestation. The latest study estimated that almost three-quarters (69 per cent) of the conversion of tropical forests for agriculture that took place between 2013 and 2019 was conducted in violation of national laws and regulations; for cocoa the figure was 93 per cent.¹³ Alongside no deforestation after 2020, the legality of production is the other key criterion on which the due diligence and market prohibition provisions of the EU Deforestation Regulation are based.

The main criteria in the four standards are:	
ISO	No farming in protected areas, including ‘national parks, wildlife refuges, forestry reserves and other public or private conservation areas’.
ARS	dential to ISO apart from the addition of the caveat: ‘unless the national context allows it’. (As above, the draft Ghanaian Implementation Guide adds the comment: ‘(Not allowed in Ghana)’.
Fairtrade	‘There are no indications that you or your members violate national legislation on the topics covered by this Standard.’ Specific references to protected areas, agricultural land use, labour and environmental laws.
Rainforest Alliance	Management complies with applicable laws and collective bargaining agreements.’ Specific references to land rights, labour and environmental laws.

¹³ Cassie Dummett and Arthur Blundell, *Illicit Harvest, Complicit Goods: The State of Illegal Deforestation for Agriculture* (Forest Trends, 2021).

Comparison with EU legislation

The definition of the laws relevant to the legality criterion in the EU Deforestation Regulation is: ‘the laws applicable in the country of production concerning the legal status of the area of production in terms of: land use rights, environmental protection, forest-related regulations including forest management and biodiversity conservation, where directly related to wood harvesting, third parties’ rights, labour rights, human rights protected under international law, the principle of free, prior and informed consent, including as set out in the United Nations Declaration on the Rights of Indigenous Peoples, tax, anti-corruption, trade and customs regulations’ (Article 2(28)).

The ARS standard does not explicitly reference compliance with national legislation except in the context of farming in protected areas, considered above in Section 2.1. Land rights, human rights and labour rights are looked at in more detail below.

2.3 Land rights

In general, the protection of land rights is an important element in sustainable agricultural production. Among 39 large-scale agribusiness investments analysed by the World Bank and United Nations Conference on Trade and Development (UNCTAD), land tenure was identified as the most common cause of grievances for affected communities.¹⁴ Studies also show that tropical forests occupied by indigenous peoples and traditional communities see deforestation rates significantly lower than in other government-controlled lands, highlighting the importance of establishing and protecting land tenure rights.¹⁵ Having said that, however, in neither Côte d’Ivoire nor Ghana is any proof of land use rights required to cultivate cocoa (or other commodities); it is only illegal to do so in protected areas, or in classified forests unless authorised by the government.

The main criteria in the four standards are:	
ISO	No deforestation or degradation of secondary forest unless a legal land title, landowner permission and/or customary land rights are available, and government permits are available (if applicable).
ARS	Same as ISO.
Fairtrade	Any conflicts over legal and legitimate right to land, water use and land tenure must be resolved responsibly and transparently before certification granted.
Rainforest Alliance	Respect for legal and customary rights of indigenous peoples and local communities; land or resource use rights may only be diminished after free, prior and informed consent (FPIC). Producer must have legal and legitimate right to use the land.

14 OECD – FAO Guidance for Responsible Agricultural Supply Chains (OECD, 2016).

15 A Global Baseline of Carbon Storage in Collective Lands: Indigenous and local community contributions to climate change mitigation (Rights and Resources Initiative, September 2018).

Comparison with EU legislation

As noted above, the definition of the laws relevant to the legality criterion in the Deforestation Regulation includes: 'the laws applicable in the country of production concerning the legal status of the area of production in terms of land use rights ... the principle of free, prior and informed consent, including as set out in the United Nations Declaration on the Rights of Indigenous Peoples'.

National laws do not require the proof of land use rights in Côte d'Ivoire or Ghana, and the ARS standard only refers to requirements for 'legal land title, landowner permission and/or customary land rights' in connection to secondary forests. In many countries land use rights are not always clearly defined, and there may be a risk of conflict between the holders of customary rights (which are rarely recognised when protected areas and forest reserves are established) and the current occupants of forest reserves, who are often immigrants from other areas.

Similarly, national laws do not require the application of FPIC in either Côte d'Ivoire or Ghana. In 2007 Ghana voted in favour of the adoption of the UN Declaration on the Rights of Indigenous Peoples, which is specifically referenced in the Regulation (Côte d'Ivoire abstained), but this may not be relevant in the absence of domestic legislation. It is possible that the European Commission will publish further guidance on the legality definition once the Regulation enters into force (as they did for the EU Timber Regulation, which contains similar criteria).

2.4 Child labour

The cocoa poverty trap, coupled with failures of law enforcement, has led to the widespread use of child labour. A 2020 report estimated that during 2018/19 790,000 children in Côte d'Ivoire and 770,000 children in Ghana had worked in child labour in cocoa production; this represented 38 per cent of children living in agricultural households in cocoa-growing areas in Côte d'Ivoire, and 55 per cent of those in Ghana. Over 90 per cent of them had been exposed to at least one component of hazardous work, such as carrying heavy loads, using hazardous chemicals or working with dangerous implements such as machetes.¹⁶

Many voluntary initiatives have been put in place since the Harkin-Engel Protocol in 2001, and research has suggested that they may be having a positive impact: no increase in hazardous child labour, or child labour in general, had taken place in cocoa production areas between 2013/14 and 2018/19, despite an increase in total production of cocoa.¹⁷ A further study concluded that hazardous child labour had been reduced by one third in communities where child protection programmes had been under way for three years or more, though the coverage of cocoa-growing communities by these interventions remained small.¹⁸

All the standards include the definitions of child labour and hazardous child labour set out in ILO Conventions 138 (Minimum Age Convention) and 182 (Worst Forms of Child Labour Convention). Both have been ratified by both Côte d'Ivoire and Ghana, and both countries have national laws implementing them.

16 NORC Final Report: Assessing Progress in Reducing Child Labor in Cocoa Production in Cocoa Growing Areas of Côte d'Ivoire and Ghana (University of Chicago, 2020).

17 Ibid.

18 NORC Final Report: Assessment of Effectiveness of Cocoa Industry Interventions in Reducing Child Labor in Cocoa Growing Areas of Côte d'Ivoire and Ghana (University of Chicago, 2020).

The main criteria in the four standards are:	
ISO	Requirements for clear commitment against child labour; awareness; risk inventory, mitigation, remediation, monitoring; immediate reporting of suspected cases of unconditional worst forms of child labour; identification and remediation of conditional worst forms.
ARS	Requirement to 'comply with the regulator's policy on child labour including a clear commitment against child labour'. Otherwise, similar to ISO.
Fairtrade	Conduct a human rights and environmental risk assessment at least every three years, which should include child labour where risk is high; and implement a monitoring and remediation system to regularly check for and respond to cases of child labour (mandatory in Côte d'Ivoire and Ghana, elsewhere if risk of child labour). No employment of children under 15 (or higher age if local law), help on family farms only under strict conditions; no unconditional worst forms of child labour; if child labour identified as risk, must implement policies and procedures. For Côte d'Ivoire and Ghana, promote the school attendance of all children.
Rainforest Alliance	Commitment to assess and address child labour, including prevention, monitoring, mitigation, reporting and remediation. Mandatory improvement requirements where medium/high risk of child labour

Comparison with EU legislation

Deforestation Regulation includes labour rights under its legality criterion (see below, Section 2.6), though there is no specific reference to child labour.

The human rights criteria underlying the due diligence obligations listed in the proposed Corporate Sustainability Due Diligence Directive includes specific references to child labour, including the provisions of the Convention of the Rights of the Child, and the two ILO conventions mentioned above, 138 and 182.

2.5 Other human rights

As well as child labour, other human rights abuses can occur in the production of agricultural commodities such as cocoa, and all the standards contain criteria relating to them.

The main criteria in the four standards are:	
ISO	No adverse human rights impacts to be caused or contributed to by the organisation's activities (including in business relationships) – requirements for awareness, risk inventory, mitigation, due diligence.
ARS	Similar to ISO, but six years until human rights due diligence process fully implemented, no mention of business relationships.
Fairtrade	Written signed commitment to respect human rights and environmental sustainability, and policies and procedures to mitigate, prevent and remediate the three most serious human rights and environmental risks or challenges identified in risk assessment.
Rainforest Alliance	Commitments to all fundamental human rights; 'assess-and-address' model ('goes much further than a simple prohibition approach in its ability to drive change') – risk assessment, monitoring, mitigation, remediation.

Comparison with EU legislation

The Deforestation Regulation includes 'human rights protected under international law' under its legality criterion. The ARS standard appears to be aligned with this requirement, though the definition may need further clarification from the European Commission. A potential source for such a clarification could be the proposed Corporate Sustainability Due Diligence Directive which, as noted, includes in its annex a long list of human rights obligations, derived from UN human rights instruments and ILO conventions, underlying the due diligence obligation.

2.6 Labour rights

Abuses of labour rights can also occur in the production of agricultural commodities; this includes the use of forced or bonded labour and a failure to provide basic rights of non-discrimination and freedom of association, and decent working conditions. While an estimated 90 per cent of cocoa produced in West Africa is grown by smallholder farmers mainly reliant on family labour, hired labour is sometimes used (more commonly in Ghana than Cote d'Ivoire) for heavy and laborious tasks such as land clearing and weeding, and for the spray application of fertilisers and pesticides.¹⁹ An estimated 0.4 per cent of adults working in cocoa in Côte d'Ivoire between 2013 and 2017 – about 10,000 people – were working as forced labour.²⁰

19 R. Bymolt, A. Laven and M. Tyszler, *Demystifying the Cocoa Sector in Ghana and Côte d'Ivoire* (Royal Tropical Institute, 2018).

20 Global Slavery Index, 'Cocoa'; <https://www.globalslaveryindex.org/2018/findings/importing-risk/cocoa/>.

The main criteria in the four standards are:	
ISO	Eradication of forced labour, commitments to non-discrimination, freedom of association; due diligence process to assess risk of trafficking and forced labour.
ARS	Eradication of forced labour, commitments to non-discrimination, freedom of association. No specific reference to due diligence process for trafficking / forced labour.
Fairtrade	Conduct a human rights and environmental risk assessment at least every three years, which should include forced labour where risk is high; and implement a monitoring and remediation system to regularly check for and respond to cases of forced labour (mandatory in Côte d'Ivoire and Ghana, elsewhere if risk of forced labour). Requirements of no forced labour (remediation if found), non-discrimination, freedom of association, compliance with local labour laws.
Rainforest Alliance	Commitments to all fundamental human rights; 'assess-and-address' model ('goes much further than a simple prohibition approach in its ability to drive change') – risk assessment, monitoring, mitigation, remediation; references to forced labour, discrimination; commitment to freedom of association; mandatory improvement requirements where medium/high risk of forced labour.

Comparison with EU legislation

The Deforestation Regulation includes labour rights under its legality criterion; as with other of the definitions, what exactly is meant by this may be subject to further clarification by the Commission.

As with human rights, a potential source for such a clarification could be the proposed Corporate Sustainability Due Diligence Directive, which includes in its annex a number of labour rights obligations, derived from UN human rights instruments and ILO conventions, including provisions relating to child labour (see Section 2.4), forced labour and unequal treatment in employment.

2.7 Prices and premiums

Many cocoa growers live in poverty. In 2018 True Price and Fairtrade International calculated that on average, cocoa farmer households earned only 37 per cent of the minimum living income in rural Côte d'Ivoire:²¹ US\$0.78 per person per day compared to an estimated minimum living income level of \$2.51 per person per day.²² (For comparison, the World's Bank extreme poverty line in 2018 (adjusted for purchasing power parity) was US\$0.78 per person per day, and the poverty line US\$1.27 per person per day.²³) Among other things, this drives the widespread use of child labour.

21 Cocoa Farmer Income: The household income of cocoa farmers in Côte d'Ivoire and strategies for improvement (True Price and Fairtrade International, April 2018).

22 Ivorian Center for Socio Economic Research (CIRES), Living Income Report: Rural Côte d'Ivoire Cocoa-growing areas (ISEAL Alliance, Sustainable Food Lab and GIZ, 2018).

23 Cocoa Farmer Income, p. 15.

Most cocoa farms are very small: farmers in West Africa typically work plots of 2–5 hectares, often growing cocoa alongside food crops; cocoa provides the family's main cash income. In general, however, this income is too low to allow farmers to generate enough capital to invest in improvements in productivity or more sustainable practices. As a result, as cocoa trees' productivity declines over time, farmers are often forced to maintain production by enlarging the total planted area, contributing to deforestation.

Tackling endemic poverty is therefore essential to establish a fully sustainable cocoa sector. Raising the price farmers receive for their cocoa beans can contribute to this objective (though in the absence of accompanying measures such as supply controls, this may simply encourage higher production, contributing to further deforestation and child labour, and driving down prices). Provisions for paying farmers price premiums are included in all four standards, though only the Fairtrade and Rainforest Alliance standards require premium payments as part of the standard; the other two simply set out procedures to follow in negotiating and transferring the premium.

The main criteria in the four standards are:	
ISO	Definition of premium for sustainably produced cocoa, procedure for negotiating and paying premiums and recording and verifying; requirement to monitor incomes of farmers and workers against living income / wage benchmarks if available.
ARS	Almost the same definition and procedures as in ISO, but includes the provisions that the premium is to 'compensate the farmer for effort made to be in compliance with ARSO standards' and also that the 'recognised entity' (which could be a group of farmers or a cooperative) should benefit from the premium as well as the individual farmer. No requirement for monitoring incomes.
Fairtrade	Standard includes requirement to pay Fairtrade fixed minimum price and fixed premium (additional premium for organic), with mandatory distribution to producer organisations.
Rainforest Alliance	Standard includes requirement to pay sustainability differential (with set minimum level) and make sustainability investments based on investment plans.

Comparison with EU legislation

The Deforestation Regulation contains no references to prices or premiums other than in one of the recitals (introductory text without legal force) which states that: 'When sourcing products, reasonable efforts should be undertaken to ensure that a fair price is paid to producers, in particular smallholders, so as to enable a living income and effectively address poverty as a root cause of deforestation'.

The proposed Corporate Sustainability Due Diligence Directive similarly contains no references to prices or premiums in the list of criteria underlying its due diligence obligations, though there are references to violations of the rights to enjoy 'just and favourable conditions of work including a fair wage ... in accordance with Article 7 of the International Covenant on Economic, Social and Cultural Rights'. One of the obligations under the provisions for integrating due diligence into companies' policies includes the establishment of a 'code of conduct describing rules and principles to be followed by the company's employees and subsidiaries'. One of the recitals states that the code should apply to 'all relevant corporate functions and operations, including procurement and purchasing decisions', which could affect prices paid to cocoa farmers.

2.8 Conclusions

As can be seen from comparison of the production criteria contained in the four cocoa standards analysed here, all four standards are fairly similar, though the Fairtrade and Rainforest Alliance standards are more detailed and more ambitious than the ISO and ARS standards. For the purposes of this paper, the key differences between them and the ARS standard are the same as the differences between the ARS standard and the EU Deforestation Regulation:

- The cut-off date in the ARS standard is June 2021; in the Regulation, the end of 2020.
- There is no distinction in the regulation between primary and secondary forests, so the fact that the ARS standard allows deforestation or degradation of secondary forest (under certain conditions) is not consistent.
- The phrase in the ARS standard allowing farming – and, therefore, potentially deforestation or forest degradation – where ‘the national context allows it’ is inherently unclear, and is inconsistent with the Regulation. This appears to be an issue for Côte d’Ivoire, though not for Ghana.
- There is no explicit reference in the ARS standard to compliance with national laws, apart from references to protected areas, although some of the categories of laws listed in the Regulation, including those covering child labour, labour rights and human rights, are referred to in the ARS standard. The legality criterion in the Regulation may be subject to further clarification by the European Commission, in particular with reference to land rights, especially customary rights, and human rights protected under international law.

Accordingly, the ARS standard has the potential to play a role in the risk assessment stage of the due diligence process set out in the Deforestation Regulation, which acknowledges a possible role for certification schemes. It would be able to play a more comprehensive role if the differences noted above were resolved through amending the standard. As noted, however, even if the standard was amended accordingly, companies sourcing the cocoa would not be exempt from conducting due diligence; they would not be able to claim they were fulfilling their obligations simply by sourcing ARS-certified cocoa.



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3. Systems for implementation

Production standards by themselves are worthless unless they are accompanied by implementation guidelines that operationalise the production criteria – i.e. guarantee that cocoa certified to the standard has actually been produced in compliance with the criteria. This is regular practice for both voluntary and compulsory certification schemes.

The necessary elements of these implementation guidelines include:

- Management systems, including responsibilities for overall oversight and decision-making, and provisions for consultation with stakeholders and reviews of the scheme.
- Guidelines for the operators to follow in implementing the standard; these can vary by product, and type of operator, e.g. smallholder farmer, farmer organisation or cooperative, or company.
- Frameworks for continuous improvement. All the schemes analysed here set different levels of compliance with production standards through which farmers and farmer organisations can progress. The ARS standard includes ‘bronze’, ‘silver’ and ‘gold’ levels of certification, which relate mainly to the extent to which the cooperative or farmer group has established Cocoa Farm Development Plans for its farmers (see further below, Section 3.1).
- Description of the traceability requirements, which enable the tracking of products through the all or part of the supply chain, including ensuring that unmonitored mixing with non-certified products does not take place.
- Monitoring, auditing, verification and oversight procedures to check compliance, including procedures for the appointment and assurance of certification bodies, for regular reviews of the quality of implementation and impact assessments, and for complaints. Many of these procedures are set out in ISO standards 9000 (Quality Management Systems) and 17000 (Conformity Assessment), both of which are referred to in the ARS standard’s lists of definitions.

All the four standards assessed here possess all these elements, set out in varying levels of detail. The two standards currently in operation, Fairtrade and Rainforest Alliance, both possess very extensive procedures for ensuring the provision of these elements.

Another important factor in introducing any standard is the provision of capacity-building and technical assistance. While not forming part of the standard itself, or the implementation guidelines, there must be mechanisms to ensure that cocoa farmers and cooperatives possess the minimum levels of organisational and technical capacity needed to monitor and report on conditions on their farms. This is important for all standards, but particularly where there are plans to roll it out country-wide, as with the ARS standard.

National implementation guides

For the ARS standard, many of these details are expected to be included in the implementation guides. As noted above, preliminary drafts of Côte d'Ivoire's and Ghana's implementation guides were published during 2022, and a slightly revised version in Ghana in 2023; the final versions are expected in due course.

The draft Ivorian implementation guide (version 1.0) contains two main sections:

Module A: Operational framework. This reproduces and expands on many of the terms and criteria included in Part 1 and Part 2 of the ARS standard documents ('Requirements for cocoa farmers – management systems and performance' (ARS 1000-1) and 'Requirements for cocoa quality and traceability' (ARS 1000-2)).

Module B: Certification management, which mostly expands on Part 3 of the ARS standard ('Requirements for cocoa certification schemes' (ARS 1000-3)).

The draft Ghanaian implementation guide comprises three documents, mirroring the three parts of the standard. In comparison with the Ivorian guide, it is more comprehensive, at least in Part 1 and Part 3, systematically adding guidance details to almost every element in the ARS standard, including defining the year of application for each step (there are fewer guidance additions in Part 2). In Part 1 it adds a risk assessment tool designed to assist farmers and cooperatives to assess the risks of their cocoa beans not meeting the production criteria.

In several cases in Part 1 the year of application seems to be very late; for occupational health and safety standards, the protection of water bodies, and ecosystem protection, for example, application is only required by year 10. This is important for alignment with the EU Deforestation Regulation, since the ecosystem protection criteria (section 13 in ARS 1000-1) contains the production criteria relevant to forest protection and deforestation (see Section 2.1) and legality and land rights (see Sections 2.2 and 2.3). For most elements, such as child labour, application is much faster, often within the first 12 months or by year 1; for others, application is by year 5.

Since the final implementation guides are not yet available, the analysis in this section is preliminary. In any case, there are limits to documentary analysis; in practice it will not be possible to fully analyse the performance of the ARS scheme until it is operating on the ground.

Other initiatives under way in Côte d'Ivoire and Ghana interact with these issues and the implementation of the ARS standard – primarily the development of national farmer registration and traceability schemes, which are essential elements. This is considered further below.

3.1 Management systems

In each country an ARS scheme regulator is appointed to be in overall charge of rolling out the standard nationally, including appointing certification bodies to certify whether cocoa is being produced in accordance with the standard. These are, in Côte d'Ivoire, the Conseil du Café-Cacao (CCC), and in Ghana, the Ghana Cocoa Board (Cocobod). Each country's ISO member organisations, CODINORM (Côte d'Ivoire Normalisation) and the Ghana Standards Authority (GSA), have worked with the regulators to develop the implementation guide (in Ghana the GSA took the lead).

This is an important difference from the ISO standard (on which the ARS standard is largely based), where the regulator is not necessarily a government body. While it is not unusual for a national mandatory scheme to be regulated by the government, the fact that in each country the regulator is the same body as that responsible for managing national cocoa production and promoting exports may lead to a perception of conflicts of interest, which could damage the scheme's credibility.

Another major difference from the ISO standard is the requirement in the ARS scheme for the establishment of Cocoa Farm Development Plans. This is designed to guide cooperatives, or groups of farmers, in establishing the processes necessary to satisfy the criteria set out elsewhere in the standard. Part 1 of the standard contains an annex explaining the steps that need to be taken, and these are explained in more detail in each national implementation guide. This is likely to prove an essential element of the ARS scheme, helping to organise farmers into cooperatives or similar groups through which support to individual farmers can be practically delivered. For those cooperatives and farmers already certified to Fairtrade or Rainforest Alliance standards, the process is unlikely to add much, but most farmers in each country are not so certified.

Stakeholder participation in the design of the implementation guides so far appears to have been somewhat uneven. Interviews suggested that consultation with the private sector, particularly large cocoa trading and exporting companies, has been fairly good, but consultation has been less extensive with civil society and the voluntary certification schemes, Fairtrade and Rainforest Alliance (a valuable source of experience), though there has been some dialogue and interaction. In Côte d'Ivoire the ARS mirror committee (the national body responsible for developing the national application of the ARS standard) is open to participation to any interested stakeholder (at least in principle; information on participation is not always easily available), while in Ghana participation is by invitation only.

A greater level of participation in the future development of the implementation guides would prove helpful. It should be noted, however, that civil society in both countries, and particularly in Côte d'Ivoire, lacks capacity and coordination, and would benefit considerably from capacity-building assistance to enable it to participate more effectively in consultations. The European Commission is currently providing some.

The implementation guides should set out procedures for consultation with cocoa-sector stakeholders once the scheme is up and running. The Ivorian draft guide, however, only contains references within the section on the review of activities of the regulator (see below, Section 3.5). The Ghanaian draft guide includes a commitment to review the implementation of the standard periodically, at least every two years, 'through stakeholder engagements, such as consultations, interviews, surveys, etc. ... The Regulator should at all times work with stakeholders to take a decision on these requirements. Stakeholders together with the Regulator should be convinced that such a review would be beneficial to the existence of the scheme.'²⁴

²⁴ Ghana draft implementation guide, Part 3, para 5.14.

3.2 Traceability

An effective traceability scheme is critical to the success of the ARS standard. As well as guaranteeing that the cocoa supplied to end users has been produced to the production criteria set out in the standard, traceability enables effective supply chain monitoring and management by businesses and public authorities. Traceability throughout the supply chain, from the original plot of land of production to entry to the EU will also be required for compliance with the EU Deforestation Regulation.

Requirements for traceability in the ARS standard are set out in Part 2, 'Requirements for Cocoa Quality and Traceability'. They are not particularly detailed. The system is to be: 'verifiable, applied consistently and equitably, implementable, effective and result oriented, and balanced, technical feasible and economical viable'.²⁵ The regulator and other supply chain actors (farmers or cooperatives, and traders) are to: 'demonstrate their commitment to the implementation of a traceability system for sustainably produced cocoa by:

- a) assigning a management representative with the overall responsibility for ensuring that the cocoa supply chain actor, inclusive of all operational units, fulfil the requirements of this Standard;
- b) defining and assigning tasks and responsibilities for the effective implementation and operation of the traceability system;
- c) providing resources necessary for the effective implementation and operation of the traceability system.'²⁶

Both countries' draft implementation guides largely repeat this text without adding any further detail.

These requirements are similar, though a little less detailed, than those in the ISO standard; one important difference is that the ARS scheme applies only up to point of export (rather than final use), the last stage which the national authority can control. The ISO standard and the Fairtrade and Rainforest Alliance schemes are designed to cover the entire supply chain, and the Fairtrade and Rainforest Alliance schemes possess considerably more detail on traceability requirements.

Another difference from the other three cocoa certification schemes is that the ARS standard does not contain any provision for supply-chain models for identity-preserved cocoa (where the cocoa can be traced back to specific farms), or for mass balance systems (where certified and uncertified beans are mixed and percentage claims can be made based on the relative proportions). The ARS standard only contains provisions for segregated cocoa (where certified cocoa is separated from uncertified cocoa). The EU Deforestation Regulation, which includes the requirement to collect geolocation data for the origin of the commodities and products it regulates, rules out the use of mass balance systems, which is a major change for many certification systems, but will not be an issue for the ARS standard.

The Ivorian draft implementation guide contains a number of references to the need for geolocation data to be collected – in the form of a polygon plot of the farm boundaries – as part of the environmental management plan that each cocoa farm is to establish. This is presented primarily to ensure that the farm area does not encroach on protected areas. There does not appear to be any reference to the need for geolocation data to be attached to the cocoa beans produced, but this may be implicit in the traceability requirements. The Ghanaian draft guide contains no detail on these issues other than the text contained in the standard. As noted in Section 1.2, the EU Deforestation Regulation will require companies first placing cocoa or chocolate products on the EU market to accompany them with geolocation data on their origins, as latitude and longitude coordinates, and for farms larger than 4 hectares, polygon maps of the perimeters.

²⁵ ARS 1000-2, para 13.1.2, 'Requirements of Traceability system'.

²⁶ ARS 1000-2, para 13.2, 'Organizational requirements'.

Since both Côte d'Ivoire and Ghana intend to make the ARS scheme mandatory country-wide, each country will require a national traceability system. A commitment to establish such a system is part of the Frameworks for Action agreed by both governments under the Cocoa and Forests Initiative, and implementation is under way in both countries.

A comprehensive feasibility study for a national traceability system in Côte d'Ivoire was completed in December 2020.²⁷ The system is not yet complete, although some mandatory elements are in place. Every cooperative and buying centre reports to the CCC, registering every sale of cocoa beans in traceability software called SYDORE.²⁸ This system allows tracking of cocoa beans from the first buyer (local trader or cooperative), but not yet to the first producer. CCC completed a survey of cocoa farmers in 2020 and is now rolling out the distribution of farmer IDs that would allow farmer data and plot geolocation information to be registered at first purchase. Farmers' registration in Côte d'Ivoire nevertheless comes with significant challenges, linked to the complexity of the supply chain (and leakage risks) and lack of civil registry. A first data comparison between farmers registered by the CCC and those registered by cocoa companies showed only a 6 per cent match.

Ghana has a national traceability system that can trace cocoa from the registered Licence Buying Companies (LBCs) to the exporter. Cocobod is currently implementing an improved traceability system, the Cocoa Management System (CMS), with the aim of providing 100 per cent first-mile traceability from the farm to the LBC. Some elements of this are already in place. All cocoa farmers possess passbooks containing information on the farmer and the farm, as well as cocoa sales records; however, the data is hardly ever verified and there are few controls on the issuance of booklets, meaning that illegally farmed cocoa could be entered in a passbook without detection. A new survey of farmers is currently under way, and by July 2022 was 85 per cent complete.

A major challenge both countries face is the integration of local traders (pisteurs in Côte d'Ivoire) into the traceability system; an estimated 50–60 per cent of cocoa produced is traded in this way. Often pisteurs, and in Ghana the purchasing clerks of the LBCs, purchase directly from farmers, sidestepping the cooperatives, or where cooperatives are absent or not functioning properly. The ARS model relies heavily on cooperatives, and it is not clear how local traders are intended to be integrated, but full traceability will require them to be (apparently the production of a new part of the ARS standard, covering requirements for local traders, has been suggested by the CCC, but no details are available).

Any cocoa certified to the Fairtrade or Rainforest Alliance schemes (other than through the mass balance model) should meet traceability requirements. The same is probably true of company traceability systems for direct sourcing from farms or cooperatives, but, as noted, in both countries most of the large companies source significant quantities indirectly via local traders. Unless full traceability systems can be put in place by the time the EU Deforestation Regulation is fully implemented, cocoa sourced in this way will not be compliant.

27 Mont Horeb, Feasibility Study for the Establishment of a Unified Traceability System for Cocoa of Côte D'Ivoire Origin (CCC, December 2020).

28 P. Stoop, N. Ramanan, H. Geens, A. Lambrecht and S. Dekeister, Technical Brief on Cocoa Traceability in West and Central Africa (IDH, GISCO, C-lever.org, 2021); Traceability and transparency of cocoa supply chains in Côte d'Ivoire and Ghana (Nitidae and EFI, 2021).

3.3 Certification

Procedures for the appointment and assurance of certification bodies are key to any certification system. Part 3 of the ARS standard sets out requirements for certification in some detail. They include the processes for developing, managing and reviewing the scheme; appointing certification bodies and accreditation bodies (that accredit the certifiers) and assessing their performance; types and frequencies of audits performed, including methodology, sampling requirements and frequency of assessment; procedures for dealing with non-compliance; and complaints processes.

The Ivorian draft implementation guide repeats some of this language, and adds considerable further detail on the rules for certification bodies and procedures for monitoring their performance (Module B – Certification Management). The Ghanaian draft guide reproduces the text of the standard, and annotates each element, sometimes with lengthy additional detail.

In outline these procedures appear to be consistent with the ISO 9000 and 17000 standards, and comparable with the equivalent procedures of the Fairtrade and Rainforest Alliance certification systems, but a full assessment cannot be made until the ARS system actually starts to operate. The ability of the system to deal with critical questions such as independence of the certifiers from the regulator and the farms and cooperatives they are certifying, needs to be observed in action rather than on paper.

One element largely missing from both draft implementation guides is the subject of coherence between the ARS and Fairtrade and Rainforest Alliance schemes. (The Ghana guide, however, does contain a commitment for the regulator to ‘come up with policy, procedures and rules governing claims and third party marks of conformity’.²⁹) The overall vision expressed in the interviews conducted for this study was for the ARS standard to set a bar that farmers are welcome to go above, for example by certification to other standards. This, however, leaves open the question of whether cocoa certified to other standards would be automatically treated as compliant with the ARS standard. If it is not, farmers certified to these other standards could face the requirement for double or triple certification.

3.4 Monitoring, auditing, verification, oversight and complaints

These elements are essential to the credibility of the ARS scheme. Unless buyers are satisfied that the scheme is working to deliver cocoa that actually meets the criteria set out in the standard, it will be of no value in external markets.

Procedures for monitoring and reviewing the effectiveness and impact of the ARS scheme are included in the ARS documentation, covering farmers and cooperatives (ARS 1000-1, section 9.3), the traceability system (ARS 1000-2, section 16) and certification bodies (ARS 1000-3, Annex D). None of these are particularly detailed. No further details are included in the Ivorian draft implementation guide; the Ghanaian draft guide contains some, though relatively little, further guidance.

Both draft guides do, however, include sections setting out procedures for reviewing the activities of the regulator (the CCC or Cocobod), including the establishment of an independent supervisory council or board, as required under the ARS standard (ARS 1000-3, paras 4.4 – 4.6)³⁰.

²⁹ Ghana draft implementation guide, Part 3, para 9.

³⁰ Côte d'Ivoire draft implementation guide, Module B4 (there are actually two modules numbered B4; this is the first one).

This section of the Ivorian guide is very limited, and contains no detail on how the board is appointed (the standard specifies that it must be appointed by the government) or its composition, or much on its functions, apart from to review the functioning of the system on an annual basis, and to deal with any appeals against the regulator's decisions on certification bodies (though the standard itself includes a list of responsibilities). The Ghanaian guide contains more detail, specifying that the government should appoint members of the supervisory council with 'fair representation of stakeholder groups in the cocoa sector including farmers, LBCs, Scheme Owners, CBs [certification bodies], Cocobod, Private sector, CSOs [civil society organisations]', and three government ministries.³¹ (It is not entirely clear who the 'Scheme Owners' are, other than Cocobod.) Its functions are those listed in the standard.

Well-functioning certification systems should provide opportunities for external stakeholders to input their views on the functioning of the system. The Ivorian draft implementation guide contains in the section on review of activities a paragraph on 'Annual meeting of stakeholders of the sustainable cocoa system' (Module B4, section 5.4), but the draft is incomplete; the description of the purpose of the annual meetings simply ends in a blank. As noted above (Section 3.1), the Ghanaian draft guide does contain details on stakeholder consultation.

Procedures for complaints processes against clients, certification bodies or the regulator are set out in detail in the ARS standard, and both draft guides largely reproduce them, with some added guidance, particularly in the Ivorian draft guide.

3.5 Implementation country-wide

Applying the ARS standard across an entire country is an ambitious aim, but also a highly challenging one, involving, as well as the activities outlined above:

- A programme of educating farmers and cooperatives on the need for the standard, and training them on achieving it.
- Support for farmers and cooperatives in applying the standard, including establishing farm management systems and providing appropriate guidance and equipment.
- Programmes for training trainers.
- Measures to ensure that farmers and cooperatives can provide evidence of land tenure rights (required under the standard's provisions relating to deforestation); these are only rarely documented reliably.
- Measures to integrate local traders into the ARS system (see above, Section 3.2).
- Capacity-building for the national authority, which will need well trained and well managed staff, and adequate digital and transport equipment.

Each country is planning to run pilot projects during 2023, which will be an essential step in delivering the national roll-out.

The national plans for carrying out these measures would not be expected to be included in the standard or implementation guide themselves, though in fact the Ghanaian guide does include in Part 1 a long list of the training needed to be carried out by farmers or cooperatives; in some cases the need for support from the regulator is acknowledged. Nevertheless, it would be helpful for directing external support if more information could be available on the planned roll-out.

³¹ Ghana draft implementation guide, Part 3, para 4.4.



4

4. Challenges and conclusions

Compared to other agricultural commodities whose production may be associated with environmental harms and human rights abuses, cocoa is relatively well covered by voluntary standards and their certification schemes (Fairtrade, Rainforest Alliance and organic) and company sustainability programmes. What, then, is the value of an additional standard and certification scheme?

National schemes like the ARS standard possess, at least in principle, three main advantages compared to voluntary sustainability schemes. First, they can generate more of a sense of ownership and buy-in (at least for regulators, even if not farmers) than voluntary standards developed by stakeholders outside the country in which they are applied, which are often seen as Western and/or NGO-dominated. Second, their production criteria have the potential to better reflect local needs and priorities than criteria developed externally – as seen, for example, in the greater emphasis on farmer organisation and development in the ARS scheme compared to ISO 34101, on which it was largely based.

Third, they are more likely to achieve transformative change at scale, as long as they are made mandatory country-wide, and they help to underpin sustainability criteria with national laws, avoiding the problem of voluntary standards, which risk simply creating ‘islands of excellence’ rather than transforming the whole production landscape. Similarly, this helps to avoid one of the problems with external demand-side regulation like the EU Deforestation Regulation: the danger that sustainably produced products will be exported to the market demanding high standards (in this case, the EU), while products not meeting those standards will simply be diverted to other markets with lower, or no, requirements. If the national standard is made mandatory nationwide, all products it governs should be produced to the standard regardless of their final destination.

There is little point in the ARS standard unless it is made mandatory country-wide; if introduced on a voluntary basis, it would simply be another scheme competing with the much better recognised Fairtrade and Rainforest Alliance schemes. When introduced country-wide, it can act as a delivery vehicle for, and reinforce, connected objectives, such as child labour monitoring and remediation systems. It helps to bring transparency to a sector where it has historically often been lacking.

The development and implementation of the ARS standard country-wide in Côte d'Ivoire and Ghana, is, however, hugely challenging. Many of those interviewed for this study believed that the relevant authorities in each country were significantly underestimating the requirements and barriers, and suggested that implementation would need longer than two years from the completion of the implementation guides (which themselves have been delayed from their original publication date of December 2021).

Against this background, this section sets out conclusions and recommendations.

4.1 Recommendations for producer countries

In terms of production criteria, as discussed in Section 2, the ARS standard differs in only a few respects – though important ones – from those in the Fairtrade and Rainforest Alliance standards. More importantly, it also differs from the provisions of the EU Deforestation Regulation, which will be implemented in both countries' main cocoa export markets by the of 2024. Although, as discussed in Section 2, ARS certification by itself will not offer a 'green lane' to imports to the EU, any lack of alignment between the ARS standard and the Deforestation Regulation will reduce the value of the standard in accessing EU markets.

The ARS standard will therefore need to be amended to achieve better alignment with the EU Deforestation Regulation (for details, see Section 2.8).

The standard also has to be credible – i.e. effective, transparent and trustworthy. This requires the challenges outlined in Section 3 to be met, including guaranteeing the independence of the scheme regulator and establishing robust national traceability systems, and effective and independent – and therefore credible – certification, monitoring, auditing, verification and oversight procedures. Some of these issues are touched on in the draft implementation guides, but details are still lacking (particularly in the Ivorian guide), particularly on measures on traceability, the inclusion of local traders and procedures for monitoring and reviewing the effectiveness and impact of the ARS scheme.

The producer countries therefore need to:

- Finalise and make available comprehensive implementation guides.
- Set out measures to avoid the perception of conflicts of interest in the overall management of the ARS scheme, and certification, monitoring, auditing, verification and oversight procedures.
- Complete the national cocoa traceability systems.
- Build capacity within the national authorities to effectively and efficiently implement the system.

In all these steps, greater interaction between the CCC and Cocobod and companies, certification organisations and civil society would be helpful.

Farmers and cooperatives (other than those already certified to other standards) are likely to need substantial levels of support to apply the ARS standard, so in turn this will require a clear national implementation programme, including awareness-raising, training and capacity-building for farmers and cooperatives, as outlined in Section 3.5.

The producer countries should:

- Develop a national promotion programme for the ARS scheme, including communications and capacity development strategies as well as support measures, especially for farmers not associated with cooperatives.
- Publish proposals for the roll-out of pilot projects and evaluation and sharing of their results, and full national implementation of the ARS scheme nationwide, including timelines and resource needs.

External support will be essential in achieving these objectives; this is discussed below in Sections 4.2 and 4.3.

4.2 Recommendations for GISCO and other ISCOs

GISCO, and other ISCOs, can play an important part in supporting the implementation of the ARS scheme in Côte d'Ivoire and Ghana.

Options for consideration include:

- A public statement of support for the national roll-out of the ARS standard in both countries.
- Encouragement and support for a broadly-based dialogue with stakeholders in each country over the details of the standard, the implementation guides and the national programme of pilots and capacity-building.
- Practical assistance (if requested by the CCC and/or Cocobod) with completing the implementation guides.
- Financial and technical support for building capacity within the CCC and Cocobod, for introducing and promoting uptake of the scheme, and for conducting pilot projects in specific regions, including with analysis and discussion of the outcomes.
- Financial and technical support for ISCO company participants' suppliers, helping them to meet the requirements of the ARS standard. This could be targeted on farmers and cooperatives with the least capacity, and farming in the highest-risk areas, aiming to avoid disengagement. (The possibility of companies simply abandoning high-risk suppliers, or entire regions, is always a concern when applying due diligence requirements and prohibitions such as those included in the Deforestation Regulation.)
- Engaging in dialogue with the European Commission to explore the role that the ARS and other standards could play in assisting compliance with the Regulation.
- Input into any commodity-specific guidelines developed to accompany the Deforestation Regulation, clarifying the role of the ARS scheme. (As well as the provision in the Regulation for the Commission to issue guidance, the Alliance on Sustainable Cocoa Roadmap envisages producing guidelines on 'deforestation and human rights (including child and labour rights) and environmental due diligence (HREDD) in the cocoa sector' (see below, Section 4.3).)

Even with support, however, the process will take time, and it is not realistic to expect the ARS standard to be in place (other than possibly in pilot areas) by the time the EU Deforestation Regulation will be implemented. Given that, some interviewees for this study expressed the view that, given limited resources, support for implementation of the standard should not be regarded as a priority – particularly given that the main burden of implementation seems likely to fall on farmers and cooperatives, those least likely to be able to meet these challenges without significant additional support. In their view, the top priority for additional external support should be to create effective traceability systems in both countries (see Section 3.2) – an essential step in complying with the EU regulation in the short term and also with the ARS standard in due course.

In this view, the rest of the burden of compliance with the Deforestation Regulation should be met by the cocoa and chocolate companies trading in and using the exported cocoa, which have far greater resources than cocoa farmers; this should include providing direct support to farmers and cooperatives. In fact, as pointed out in Section 1, companies subject to the Regulation cannot simply rely on sourcing certified cocoa, and must carry out their full due diligence obligations regardless. If this analysis is correct GISCO, and other ISCOs, can most usefully play their part in:

- Assisting producer-country governments to implement national traceability systems. This could include developing means of sharing the traceability data already captured by cocoa companies' existing traceability systems, to reinforce and verify the national system.
- Supporting the implementation of the Regulation by cocoa and chocolate companies.

- Fulfilling the roles identified for ISCOs in the Alliance on Sustainable Cocoa roadmap (see below, Section 4.3).

Even with a fully operational national traceability system, however, cocoa still needs to be produced by farmers in compliance with the Deforestation Regulation's requirements, i.e. legal production and zero deforestation after the cut-off date. The traceability system should ensure that cocoa produced in this way is able to be exported to the EU, but additional interventions will be needed to ensure that it is produced in compliance in the first place. Implementing the ARS standard is one way to help achieve this – and to contribute to the transformation of the cocoa sector more broadly – so there is still a case for GISCO and other ISCOs to support its implementation in the longer run.

4.3 Recommendations for the European Commission and EU member states

The EU and its member states (some member-state governments are also members of the sustainable cocoa initiatives considered above) are clearly well placed to provide assistance to the governments of Côte

d'Ivoire and Ghana, and farmers and cooperatives, in achieving the objectives set out above.

In particular, the Commission is obviously well placed to provide assistance with helping closer alignment between the ARS standard and the Deforestation Regulation, and in clarifying the role of standards more broadly.

The Commission and member states should:

- Consider supporting the process of amending the ARS standard to comply with the Deforestation Regulation (a role for the Commission), and in finalising implementation guides, if requested by the CCC and/or Cocobod.
- Engaging in dialogue with the producer countries, ISCOs and other stakeholders to explore more fully the role that the ARS and other standards could play in assisting compliance with the Regulation, including in the benchmarking risk analysis process and in the preparation of commodity-specific guidelines.
- Financial and technical support for building capacity within the CCC and Cocobod, for introducing and promoting uptake of the scheme, and for conducting pilot projects in specific regions, including with analysis and discussion of the outcomes.
- As above, financial and technical support for ISCO company participants' suppliers, helping them to meet the requirements of the ARS standard. This could be targeted on farmers and cooperatives with the least capacity, and farming in the highest-risk areas, aiming to avoid disengagement.

The text of the Regulation also contains an obligation on the Commission to review its impact five years after its entry into force, including in particular on 'smallholders, indigenous peoples and local communities, and the possible need for additional support for the transition towards sustainable supply chains and for smallholders to meet the requirements of this Regulation'. Given the importance of smallholder farmers in the cocoa supply chain, it would be helpful if assessment of impacts could start before the five-year mark.

The Commission and member states should:

- Consider putting in place mechanisms to monitor the impact of the Regulation on smallholder farmers in the cocoa supply chain on an ongoing basis.

In relation to the cocoa sector more broadly, the Alliance on Sustainable Cocoa was agreed between the EU, Côte d'Ivoire and Ghana in June 2022 with the aim of improving the economic, social and environmental sustainability of cocoa production and trade.³² A Roadmap containing a total of 20 action points has been agreed, grouped under seven thematic areas:³³

- 1. Prices and markets:** discussions on mechanisms to improve transparency and deliver living incomes; producer countries to put in place supply management systems.
- 2. Standards:** strengthen relevant standards, including the ARS standard.
- 3. Traceability, transparency and accountability:** create national traceability systems, child labour monitoring systems, baseline forest and land use maps and deforestation monitoring systems.
- 4. Regulation:** develop sectoral guidelines for compliance with EU legislation (both the Deforestation Regulation and the proposed Corporate Sustainability Due Diligence Directive), support compliance by smallholder farmers and cooperatives, survey relevant legislation in producer countries.
- 5. Sustainable cocoa production:** scale up agro-ecological solutions, identify incentives, support farmer entrepreneurship.
- 6. Development cooperation and finance:** identify development partners and sources of funding to implement the action points.
- 7. Consumers:** conduct research on consumer willingness to pay higher prices, on the price elasticity of chocolate products, and on the differences in behaviour between consumers in different EU countries, reinforce coordination with retailers.

Roles for ISCOs are suggested in three areas:

1. The Association of Chocolate, Biscuit and Confectionery Industries of Europe (CAOBISCO) together with ISCOs, are partners on the joint technical working group established to make recommendations on market mechanisms and government policies to help increase farmer incomes.
2. European ISCOs are a leading partner in developing recommendations to support the ARS scheme.
3. Links to the ISCO Working Groups on Traceability, Child Labour and Deforestation are explored to promote the creation of national traceability systems.

(These are consistent with the recommendations included in Section 4.2 above.)

³² See https://policy.trade.ec.europa.eu/news/eu-cote-divoire-ghana-and-cocoa-sector-endorse-alliance-sustainable-cocoa-2022-06-28_en.

³³ Available at <https://circabc.europa.eu/ui/group/8a31feb6-d901-421f-a607-ebbdd7d59ca0/library/6aca5c6a-ee26-426a-b9f5-8aacd19e4679/details>

The Roadmap represents an ambitious set of aims, and if completed would help with the delivery of many of the activities discussed above. Specific roles for the European Commission and EU member states are identified throughout, mainly in the form of providing development assistance for various activities which require financial and technical support: creating national traceability systems, supporting national child labour monitoring and remediation systems, establishing baseline forest and land use maps, supporting smallholders and cooperatives to comply with EU due diligence rules, conducting a survey of the legal framework in the producer countries, scaling up agro-ecological solutions, identifying incentives for sustainable production and supporting farmer organisation.

Progress with the roadmap is not yet clear, however (the Alliance itself is very new), and the situation has been complicated by the proposal by the governments of Côte d'Ivoire and Ghana, in March 2022, for an 'Economic Pact for Sustainable Cocoa' designed in particular to raise cocoa farmers' incomes.³⁴ Discussions on some of the issues covered in the Alliance roadmap have already begun, including industry stakeholders, under the aegis of the Cote d'Ivoire-Ghana Cocoa Initiative, a regional organisation established in 2021. The inter-relationship between the Alliance and the Pact is not clear.

The Commission and member states should:

- Ensure that the activities set out in the Alliance on Sustainable Cocoa Roadmap are fully implemented, providing support where identified.
- Closely track implementation of the Roadmap (indicative timescales are given for the action points, though some are quite vague, e.g. '2022–26') – a role for the Commission.
- Consider the inclusion in Area 4 of a process of reviewing and reforming relevant laws, not simply surveying them (as was found necessary under the Voluntary Partnership Agreements between the EU and timber-exporting developing countries under the EU's Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan).

As noted, the Alliance on Sustainable Cocoa is very new, and its future development is somewhat uncertain.

Therefore, the Commission and member states should:

- Pursue other routes for assistance outside the framework of the Alliance on Sustainable Cocoa; a number of bilateral programmes are already under way, through the Commission and EU member states – for example, providing support for the national traceability systems, or broader budget support.
- In particular, provide support to farmers and cooperatives to help introduce the ARS scheme; it is essential that farmers are not left to bear the costs of implementation.

These action points will also help to assist compliance with the EU Deforestation Regulation.

³⁴ See Anthony Myers, 'MEPs write to the European Commission to beef up Cocoa Talks with an Economic Pact across the value chain', Confectionery News.com, 22 May 2022.

4.4 Cocoa prices and living incomes

One final point is worth making. As noted in Section 2.7, poverty lies at the root of most of the problems of the cocoa sector, helping to drive, among other things, deforestation and child labour. Tackling endemic poverty is therefore an essential measure to establish a fully sustainable cocoa sector, and while cocoa prices are not the only factor in the delivery of living incomes, they are an important one. The payment of premiums – as allowed for in all four standards analysed in Section 2, although only required by the Fairtrade and Rainforest Alliance standards – is helpful, but seems unlikely to achieve the levels necessary to deliver living incomes to cocoa farmers.

The role of standards in helping to deliver living incomes is therefore an important part of the debate. In the immediate term, steps must be taken to ensure that it is not cocoa farmers that bear the burden of implementing the ARS standard; support must be provided through the measures discussed above.

Considering the issue of living incomes more broadly, interviewees for this study expressed contrasting views. On the one hand, some argued for the principle of a 'deal' between producer countries and the EU: producer countries would improve the sustainability of cocoa production – through implementing the ARS standard, among other measures – and in return the EU market would deliver higher prices for the cocoa exported.

However, there is no obvious mechanism to ensure that even cocoa produced to a high standard is able to command higher prices in final consumer markets. The EU Deforestation Regulation aims to exclude cocoa produced illegally or with deforestation from the EU market – which would at least ensure that cheaper cocoa produced unsustainably cannot undercut compliant cocoa – but it does not follow that consumers will be prepared to pay higher prices for chocolate products, however they are produced.

In addition, if cocoa beans command higher prices, this will increase the incentive for farmers to produce more, thereby driving the price down again. Supply controls are therefore a necessary part of a strategy designed to deliver living incomes, including issues such as diversification and alternative livelihoods. These measures should therefore be pursued as a high priority, alongside the other measures outlined above, to achieve long term-sustainability in the cocoa sector with a holistic approach.

Annex 1

Detailed comparison of production criteria

This annex complements the analysis in Section 2 with extracted text from the four standards, across seven key topics. The documents analysed are as follows:

ISO: International Standard for Sustainable and Traceable Cocoa (published 2018)³⁵ –

- Part 1, Requirements for sustainability management systems (ISO 34101-1)
- Part 2, Requirements for performance (related to economic, social and environmental aspects) (ISO 34101-2)
- Part 3, Requirements for traceability (ISO 34101-3)
- Part 4, Requirements for certification schemes (ISO 34101-4)

[Abbreviated in this paper as 1, 2, 3, 4]

ARS: African Standard for Sustainable Cocoa (published 2021)³⁶ –

- Part 1, Requirements for Cocoa Farmer as an Entity/Farmer Group/ Farmer Cooperative – Management Systems and Performance (ARS 1000-1)
- Part 2, Requirements for Cocoa Quality and Traceability (ARS 1000-2)
- Part 3, Requirements for Cocoa Certification Schemes (ARS 1000-3)

[Abbreviated in this paper as 1, 2, 3]

Fairtrade –

- Fairtrade Standard for Cocoa (27.09.2023_v.2.2)³⁷ [abbreviated in this paper as Cocoa] (some of the requirements listed below apply from January 2024)
- Fairtrade Standard for Small-Scale Producer Organisations (03.04.2019_v2.5)³⁸ [abbreviated as SPO]
- Fairtrade Trader Standard (01.03.2015 v1.6)³⁹ [abbreviated as TR]
- Explanatory, guidance and interpretation notes accompanying the standards documents

Rainforest Alliance (all documents published 2021) –

- Policy for Farm and Chain of Custody Certification in Cocoa (V1.4)⁴⁰ [abbreviated as FR]
- Rainforest Alliance Sustainable Agriculture Standard: Introduction⁴¹
- Rainforest Alliance Sustainable Agriculture Standard: Farm Requirements (SA-S-SD-1-V1.1)⁴²
- Rainforest Alliance Sustainable Agriculture Standard: Supply Chain Requirements (SA-S-SD-2-V1.1)⁴³
- 2020 Rules for Certification Bodies (SA-R-GA-2-V1.1)⁴⁴
- 2020 Certification and Auditing Rules (SA-R-GA-1-V1.1)⁴⁵

35 <https://www.iso.org/standard/64765.html>.

36 Not available publicly; see https://www.arso-oran.org/?page_id=52.

37 https://files.fairtrade.net/Cocoa_SPO_EN.pdf.

38 <https://www.fairtrade.net/standard/spo>

39 <https://www.fairtrade.net/standard/trader>

40 <https://www.rainforest-alliance.org/resource-item/policy-for-farm-and-supply-chain-certification-in-cocoa/>

41 <https://www.rainforest-alliance.org/resource-item/rainforest-alliance-sustainable-agriculture-standard-introduction/>

42 <https://www.rainforest-alliance.org/resource-item/2020-sustainable-agriculture-standard-farm-requirements/>

43 <https://www.rainforest-alliance.org/resource-item/2020-sustainable-agriculture-standard-supply-chain-requirements/>

44 <https://www.rainforest-alliance.org/resourceitem/2020ruler-for-sourceitem/2020rules-for-certification-bodies/>

45 <https://www.rainforest-alliance.org/resource-item/2020-certification-and-auditing-rules/>

Table A1.1 Criteria related to the protection of forests

Scheme	Text	Source
ISO	<p>Definitions: Primary forest: forest that has never been logged or cut and has developed following natural disturbances and under natural processes, regardless of its age Secondary forest: forest that has been logged and has recovered naturally or artificially.</p> <p>NOTE: It also includes degraded forest that has lost its nature (the structure, function, species composition or productivity normally associated with a natural forest) through human activities.</p>	2 / 3.17, 3.21
ISO	<ol style="list-style-type: none"> 1) The organization shall ensure there shall be no farming in protected areas, such as national parks, wildlife refuges, forestry reserves and other public or private conservation areas. 2) The organization shall ensure no deforestation or degradation of secondary forest occurs, unless a legal land title, landowner permission and/or customary land rights (whichever are applicable) are available, and government permits are available (if applicable). 3) The organization shall reduce water and wind erosion by taking adequate measures, including ensuring that a vegetation or mulch cover is kept on the cocoa farmlands in order to avoid bare soil. 4) The organization shall ensure that no large native trees that existed prior to the establishment of the farm are felled or burned in existing farms or when establishing new farms. 5) The organization shall ensure that no land is cleared by burning the vegetation. The organization may use light machines and/or simple tools, such as machetes (cutlasses), hoes, axes, to clear land. 9) The organization shall, in accordance with forestry authorities, ensure mapping (or drawing) of existing large native trees with the aim to provide clarity over ownership of the trees, if applicable. 10) The organization shall establish vegetation zones by growing timber trees and other vegetation on the banks of water bodies and between cocoa farms, where allowed. 11) The organization shall promote planting of forest tree species, fruit trees and shrubs on the farm(s), by use of diverse and native tree species, if applicable in the national context. 	2 / 7.4
ARS	<p>Definitions: Primary forest: as ISO Secondary forest: as ISO Deforestation: conversion of forest to other land uses regardless of whether it is man-made (3.51) or not. Forest degradation: reduction in tree biomass density due to natural or human-induced causes such as logging, forest fires, windfalls and other events.</p>	1 / 3.59 3.70 3.24 3.39
ARS	The requirements for environmental aspects aim to: d) prevent deforestation and combat climate change.	1 / 13.1

Scheme	Text	Source
ARS	<p>a) The Regulator shall provide guidelines for Agroforestry and the number of multipurpose trees to be planted per hectare.</p> <p>b) The Recognized Entity shall support efforts to combat climate change and its effects by promoting agroforestry through the planting of forest tree species, fruit trees and shrubs on the farm(s), by use of diverse and native tree species, if applicable in the national context.</p> <p>c) The Recognized Entity shall ensure there shall be no farming in protected areas, such as national parks, wildlife refuges, forestry reserves and other public or private conservation areas, unless the national context allows it. [The draft Ghana Implementation Guide adds the caveat: '(Not allowed in Ghana).']</p> <p>d) The Recognized Entity shall ensure that no deforestation or degradation of primary forests has occurred as at the date of first release of this African Standard series 1000.</p> <p>e) The Recognized Entity shall ensure no deforestation or degradation of secondary forest occurs, unless a legal land title, landowner permission and/or customary land rights (whichever are applicable) are available, and government permits are available.</p> <p>f) The Recognized Entity shall ensure that no large native trees, that existed prior to the establishment of the farm, are removed on existing farms or when establishing new farms, except when these pose hazards to people, to infrastructure or to the health of the cocoa farm by hosting specific diseases, and where the removal of these specific trees is allowed or recommended by national authorities.</p> <p>g) The Recognized Entity shall ensure that no land is cleared by burning the vegetation. The Farmer Group/Cooperative may use light machines and/or simple tools, such as machetes (cutlasses), hoes, axes, to clear land.</p> <p>h) The Recognized Entity shall, in accordance with forestry authorities, ensure mapping (or drawing) of existing large native trees with the aim to provide clarity over ownership of the trees, if applicable.</p>	1 / 13.4
FT	<p>Your members did not cause deforestation or degradation in primary or secondary forests, protected areas and areas of High Conservation Value or High Carbon Storage to convert land into agricultural production area since 31st December 2018. Production does not occur in officially designated buffer zones, except where it complies with applicable law. [Deforestation is the conversion of forest to other land use or the permanent reduction of the tree canopy cover below the minimum 10 percent threshold. Additional guidance includes that when a tree crop is replaced with another (e.g. cocoa), it is not considered deforestation.]</p>	Cocoa 3.4.1
FT	<p>You assess and monitor the risk of deforestation, and degradation in primary or secondary forests, protected areas and areas of High Conservation Value or High Carbon Storage, when conducting your human rights and environmental risk assessment.</p>	Cocoa 3.4.2

Scheme	Text	Source
FT	<p>You use the results of your human rights/environmental risk assessment and your risk monitoring of deforestation, to create a plan to prevent and mitigate any deforestation and degradation of forest, in order to conserve and restore forest and vegetation. The plan entails:</p> <ul style="list-style-type: none"> • Raising awareness amongst members on identified risk areas and activities or production practices that have negative impacts. • Promoting the implementation of production practices that have a positive impact. 	Cocoa 3.4.3
RA	From January 1st 2014 onward, natural forests and other natural ecosystems have not been converted into agricultural production or other land uses.	FR 6.1.1
RA	Production or processing does not occur in protected areas or their officially designated buffer zones, except where it complies with applicable law.	FR 6.1.2
RA	Management includes the mitigation measures from the Risk Assessment Tool in 1.3.1 with regard to High Conservation Values in the management plan (1.3.2). Management implements these measures.	FR 6.1.3
RA	Management develops and implements a plan to conserve natural ecosystems. The plan is based on the map required in 1.2.10 and the natural ecosystems section of the Risk Assessment Tool in 1.3.1 and is updated annually	FR 6.2.1
RA	Farms maintain all remnant forest trees, except when these pose hazards to people or infrastructure. Other native trees on the farm and their harvesting are sustainably managed in a way that the same quantity and quality of trees is maintained on the farm.	FR 6.2.2

Table A1.2 Criteria related to compliance with national laws

Scheme	Text	Source
ISO	The organization shall ensure there shall be no farming in protected areas, such as national parks, wildlife refuges, forestry and other public or private conservation areas. NOTE: National legislation can apply regarding ecosystem protection.	2 / 7.4
ARS	c) The Recognised Entity shall ensure there shall be no farming in protected areas, such as national parks, wildlife refuges, forestry reserves and other public or private conservation areas, unless the national context allows it. [The draft Ghana Implementation Guide adds the caveat: '(Not allowed in Ghana)'.]	1 / 13.4
FT	<i>[See references to no deforestation in protected areas in Table A1.1.]</i>	
FT	There are no indications that you or your members violate national legislation on the topics covered by this Standard. If your country has developed additional regulations for the operation of Fairtrade as a certification scheme, you and your members are also required to comply with them.	SPO 1.1.6
FT	Your members avoid negative impacts on protected areas and in areas with high conservation value within or outside the farm or production areas. The areas that are used or converted to production of the Fairtrade crop comply with national legislation in relation to agricultural land use.	SPO 3.2.30
FT	You are aware of the applicable labour laws in your country and of the fundamental ILO conventions and there are no indications that you violate any of them.	TR 3.1.1
FT	You are aware of the applicable environmental laws in your country and there are no indications that you violate any of them.	TR 3.2.1
RA	Management complies with applicable laws and collective bargaining agreements (CBA) within the scope of the Rainforest Alliance Sustainable Agriculture Standard.	FR 1.2.1

Table A1.3 Criteria related to land rights

Scheme	Text	Source
ISO	The organization shall ensure no deforestation or degradation of secondary forest occurs, unless a legal land title, landowner permission and/or customary land rights (whichever are applicable) are available, and government permits are available (if applicable).	2 / 7.4
ARS	e) The Recognized Entity shall ensure no deforestation or degradation of secondary forest occurs, unless a legal land title, landowner permission and/or customary land rights (whichever are applicable) are available, and government permits are available.	1 / 13.4
FT	If there are indications of conflicts of your members' legal and legitimate right to land, water use and land tenure, they are resolved responsibly and transparently before certification can be granted. In cases where land claims and disputes are on-going, there is evidence that a legal resolution process is active and is carried out by legal authorities in your country.	SPO 1.1.7
RA	Management respects legal and customary rights of indigenous peoples and local communities. Activities diminishing the land or resource use rights or collective interests of indigenous peoples and local communities, including High Conservation Values (HCVs) 5 or 6, are conducted only after having received free, prior and informed consent (FPIC) following the Rainforest Alliance FPIC annex.	FR 5.8.1
RA	The producer has legal and legitimate right to use the land. Upon request, this right is substantiated by ownership, leasehold, or other legal documents or by documentation of traditional or customary use rights. In the event that indigenous peoples and local communities, current or former local residents, or other stakeholders validly dispute the right to use the land – including in relation to past dispossession, forced abandonment, or illegal action – legitimate right may be demonstrated if a conflict resolution and remediation process has been documented, implemented and accepted by the affected parties, including relevant authorities in the case of past illegal action. If the dispute involves indigenous peoples and local communities, large farms and individually certified farms follow an FPIC process in accordance with the Rainforest Alliance FPIC Annex to attain the required conflict resolution and remediation.	FR 5.8.2

Table A1.4 Criteria related to child labour

Scheme	Text	Source
ISO	<p>Definition – child labour (3.5) that involves:</p> <ul style="list-style-type: none"> a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children (3.4), debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict; b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties; d) work, which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children <p>NOTE 1 to entry: The worst forms of child labour are described in ILO Convention 182[16]. [Also see conditional and unconditional worst forms of child labour – 3.26, 3.27]</p>	2 / 3.25
ISO	<ul style="list-style-type: none"> 1) The organization shall publicly display a list of applicable hazardous activities and disseminate information about the prohibition of hazardous work for children within the organization and among agricultural workers and their children. 2) The organization shall immediately report suspected cases of unconditional worst forms of child labour (including child trafficking, bonded labour and slave labour) to the relevant authorities. 3) The organization shall develop a child labour policy, including a clear commitment against child labour. It shall communicate this policy within the organization and among agricultural workers and make it publicly available. 4) The organization shall undertake a risk inventory to identify the possible risks related to child labour in the organization and in the communities where its agricultural workers live. 5) Based on the risk inventory, the organization shall undertake actions to prevent, identify, monitor and remediate child labour and the worst forms of child labour related to the activities of the organization, its registered farmers and its agricultural workers. <p>The frequency of monitoring shall be based on the risk inventory (see requirement 4 in Table 17), as specified in the child labour policy (see requirement 5 in Table 16), and shall, at least, take place at household and farm level, using best practice approaches.</p> <ul style="list-style-type: none"> 6) The organization shall ensure agricultural workers are knowledgeable on child labour issues. 	2 / 6.4

Scheme	Text	Source
ISO	<p>7) The organization shall, within its powers, undertake necessary efforts so that children of agricultural workers have birth certificates or other or other official identity documentation, and shall encourage that children of agricultural workers are registered at birth.</p> <p>8) The organization shall ensure that suspected cases of conditional worst forms of child labour (hazardous work) are identified and that a remediation plan is developed and implemented.</p> <p>NOTE: Child/light work, child labour, and the worst forms of child labour are different terms</p>	2 / 6.4
ARS	[Children's right: details on risk inventory, awareness, abuse, exploitation, safety, education, training]	1 / 12.5
ARS	<p>a) The Recognized Entity should comply with the regulator's policy on child labour including a clear commitment against child labour. It should communicate this policy within the Recognized Entity and among agricultural workers and make it publicly available.</p> <p>b) The Recognized Entity shall publicly display a list of applicable hazardous activities and disseminate information about the prohibition of hazardous work for children within the Farmer Group/Farmer Cooperative and among hired workers/registered farmers and their children.</p> <p>c) The Recognized Entity must immediately report suspected cases of unconditional worst forms of child labour (that is child trafficking, bonded labour and slave labour) to the responsible authorities.</p> <p>d) The Recognized Entity shall undertake a risk inventory to identify, the possible risks related to child labour on farms and among the Farmer Group/Farmer Cooperative and in the communities where its hired workers/registered farmers live.</p> <p>e) Based on the risk inventory, the Recognized Entity shall undertake actions to prevent, identify monitor and remediate child labour and the worst forms of child labour related to the activities on the farms and among the Farmer Group/Farmer Cooperative, its registered farmers and its hired workers.</p>	1 / 12.6
FT	You conduct a human rights and environmental risk assessment at least every 3 years. ... Include child labour and forced labour in your priorities if Fairtrade or another reliable source has indicated these as a risk in your country and areas of production.	Cocoa 3.2.3
FT	[Applies to SPOs in Côte d'Ivoire and Ghana.] You implement a monitoring and remediation system to regularly check for and respond to cases of child labour and forced labour. You facilitate and support the remediation of any case found. [Plus details.]	Cocoa 3.3.1
FT	You implement a monitoring and remediation system to regularly check for and respond to cases of child labour and forced labour if Fairtrade or your risk assessment has indicated these as a high risk in your country and area of production. You facilitate and support the remediation of any case found. [Plus details.]	Cocoa 3.3.2

Scheme	Text	Source
FT	<i>[Applies to SPOs in Côte d'Ivoire and Ghana.]</i> You promote the school attendance of all children, including the children of staff, members, farm operators and workers. You assess the root causes of lack of school attendance amongst these children and select at least one activity annually to mitigate these obstacles.	Cocoa 3.3.5
FT	You and your members do not employ children below the age of 15 or under the age defined by local law, whichever is higher.	SPO 3.3.8
FT	Your members' children below 15 years of age are allowed to help your members on their farms under strict conditions: you ensure that they only work after school or during holidays, the work they do is appropriate for their age and physical condition, they do not work long hours and/or under dangerous or exploitative conditions and their parents or guardians supervise and guide them.	SPO 3.3.9
FT	You and your members do not submit workers of less than 18 years of age to the unconditional worst forms of child labour or to any type of work which, by its nature or the circumstances under which it is carried out, is likely to jeopardize their health, safety, morals or their school attendance.	SPO 3.3.10
FT	If in the past you or your members have employed children under 15 for any type of work, or children under 18 for dangerous and exploitative work, you ensure that those children do not enter or are not at risk of entering into even worse forms of labour including hazardous work, slave-like practices, recruitment into armed conflict, sex work, trafficking for labour purposes and/or illicit activities.	SPO 3.3.11
FT	If you have identified child labour as a risk in your organization (see requirement 3.1.2) you and your members implement relevant policies and procedures to prevent children below the age of 15 from being employed for any work and children below the age of 18 from being employed in dangerous or exploitative work.	SPO 3.3.12
RA	[Definitions: based on ILO Conventions]	FR p. 57
RA	<p>Management commits to assess-and-address child labor, forced labor, discrimination, and workplace violence and harassment by:</p> <ul style="list-style-type: none"> • Appointing a management representative who is accountable for the assess-and-address system • For large farms, individually certified farms and supply chain certificate holders: giving a mandate to a committee comprised of the appointed management representative and workers representative(s) to manage the assess-and-address system. The worker representative(s) is/are selected by workers. • For group management: giving a mandate to a committee comprised of the appointed management representative and a group member representative to manage the assess-and-address system. Group management can choose to appoint a management representative only instead of a committee. 	FR 5.1.1

Scheme	Text	Source
RA	[Risk assessment, monitoring, remediation – assess-and-address approach]	FR 5.1.2–4
RA	[Mandatory improvement requirements for case of medium/high risk for child labor and/or forced labor.]	FR 5.1.5–8

Table A1.5 Criteria related to human rights

Scheme	Text	Source
ISO	<p>Definitions – human rights: set of equal and inalienable rights of all members of the human family</p> <p>NOTE: Human rights are specified in the Universal Declaration of Human Rights (1948), the International Convention on Economic Social and Cultural Rights (1966), as well as other conventions, treaties and national laws.</p>	1 / 3.29
ISO	<ol style="list-style-type: none"> 1) The organization shall ensure that a risk inventory is made of human rights issues. 2) The organization shall ensure that agricultural workers are aware of human rights. 3) The organization shall ensure that no adverse human rights impacts shall be caused by the organization’s activities. The organization shall ensure that any such impacts that occur will be addressed. 4) The organization shall ensure that no adverse human rights impacts shall be contributed to by the organization’s activities. The organization shall ensure that any such impacts that occur will be addressed. 5) The organization shall establish, implement and maintain a human rights policy, appropriate to the context of the organization, taking into account the applicable requirements in Tables 14 to 24. <p>This policy shall include a human rights due diligence process to identify, prevent, mitigate and account for how the organization addresses its impacts on human rights, and on processes enabling the remediation of any adverse human rights impacts caused by the organization or to which it contributes.</p> <p>This policy shall aim to avoid adverse human rights impacts directly linked to its operations, products or services, and prevent or mitigate any adverse human rights impacts in its business relationships, even if the organization has not contributed to those impacts.</p>	2 / 6.1
ARS	[Definitions – identical to ISO.]	1 / 3.47
ARS	Top management shall establish, implement and maintain a management policy that meet the recognised entity’s responsibility to respect and protect human rights and the environment.	1 / 5.2.1

Scheme	Text	Source
ARS	<p>The requirements for social aspects aim to:</p> <p>a) respect human rights, avoid infringement of the human rights of others and address adverse human rights impacts where necessary;</p>	1 / 12.1
ARS	<p>[a-c: almost identical to ISO 2 / 6.1 1-4 (c incorporates both 3 and 4)]</p> <p>d) The Recognized Entity shall establish, implement and maintain a human rights policy adapted to the context of the Recognized Entity. The human rights policy should include human rights due diligence process to identify, prevent, mitigate and report on how the Recognized Entity addresses its human rights impacts and processes to remedy any negative impacts of the Recognized Entity or its contribution to them. [to be implemented six years after first date of conformance]</p> <p>e) The Producer as an Entity/Group of Producers/Cooperative must promote human rights among its employees and registered producers.</p>	1 / 12.2
FT	<p>You produce a written signed commitment to respect Human Rights and Environmental Sustainability which:</p> <ul style="list-style-type: none"> • Stipulates that your organization avoids causing or contributing to adverse human rights and environmental impacts, whilst also ensuring that if any such impacts occur, they will be addressed. • References the ILO conventions as mentioned in the SPO standard chapter 3.3 and the United Nations Guiding Principles (UNGP) on Business and Human Rights. <p>You inform and educate your key stakeholders to raise awareness of human rights, environmental sustainability and your organization's commitment. You start with your members, staff, management and board members, then gradually expand your scope to include other stakeholders.</p>	Cocoa 3.2.2
FT	<p>You develop and implement policies and procedures to mitigate, prevent and remediate the three most serious human rights and environmental risks or challenges you have identified through your risk assessment.</p> <p>You communicate the policies and procedures to your management, staff, members, farm operators and workers, buyers, suppliers and any job brokers and contractors you use.</p> <p>You review and revise the policies and procedures as often as required, but at a minimum every six years.</p>	Cocoa 3.2.5
FT	<p>Labour conditions: Requirements will only be audited within this scope. Nevertheless, Fairtrade International expects that all your operations unrelated to Fairtrade are also conducted in a way that upholds national legislation, including international human rights treaties ratified by your government. Therefore, if Fairtrade International identifies or receives information on any violation of rights of children or vulnerable adults, this will trigger Fairtrade's internal protection procedures that include reporting to relevant national protection bodies.</p>	SPO 3.3
FT	<p>[Reference to Universal Declaration of Human Rights in section on non-discrimination.]</p>	SPO 4.3

RA	<p>To support sustainable livelihoods, the Rainforest Alliance Sustainable Agriculture Standard establishes requirements related to all fundamental human and labor rights, living wage, health and safety, and decent living and working conditions. Farms and groups are required to respect legal and customary rights of indigenous peoples. These requirements align with the UN Guiding Principles on Business and Human Rights (UNGPs), relevant ILO conventions, and other multi-stakeholder concepts such as living wage, developed in coordination with the Global Living Wage Coalition.</p> <p>There is no place in Rainforest Alliance Certified farms for human rights violations such as child labor, forced labor, discrimination or workplace violence and harassment. For these four types of violations, our certification system will adopt an 'Assess-and-Address' model, which goes much further than a simple prohibition approach in its ability to drive change. Given the high risk of such violations in some agricultural supply chains, we will require farms and groups to put a rigorous system in place, that includes doing a risk assessment and implementing related mitigation measures, conducting regular self-monitoring, and remediating any known cases of such violations. Severe cases, if not remediated, and/or violations of applicable law, will lead to a negative certification decision, suspension or cancellation of the certificate. This approach is further detailed in 5.1 and related annexes.</p>	FR p. 55
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Table A1.6 Criteria related to labour rights

Scheme	Text	Source
ISO	<p>Definition – forced labour: work that is performed involuntarily and under the menace of any penalty</p> <p>NOTE: Forced labour refers to situations in which persons are coerced to work through the use of violence or intimidation or by subtler means such as manipulated debt, retention of identity papers or threats of denunciation to immigration authorities.</p>	1 / 3.27
ISO	<ol style="list-style-type: none"> 1) The organization shall ensure that a risk inventory is made of gender-related issues. 2) The organization shall ensure that a gender action plan has been developed based on the output of the gender-related issues inventory. 3) The organization shall implement the gender action plan. <p>[Further details set out in paras 4–7]</p>	2 / 6.2
ISO	<ol style="list-style-type: none"> 1) The organization shall ensure that each registered farmer prepares an inventory of all agricultural workers on his/her farm, including seasonal, subcontracted, migrant and family labour, and regular hired workers. The gender and age of workers should be recorded. 2) The organization shall ensure that no one working at household, farm or organization level is employed by force or compulsion. 3) The organization shall ensure that no identity documents are withheld from agricultural workers nor from employees of the organization. 	2 / 6.5

Scheme	Text	Source
ISO	<p>4) The organization shall ensure that, in the case of wage workers, wages shall be paid on a regular basis. The frequency and level of wage payments shall be clearly communicated at the beginning of employment. –</p> <p>5) The organization shall have a due diligence process to assess the risk of trafficking and forced labour in any form of recruitment by the organization or registered farmers.</p> <p>6) The organization shall ensure that maternity leave for regular hired workers is granted, within the organization and at farm level.</p> <p>7) The organization shall ensure that regular hired workers are provided with written contracts, specifying labour conditions and payment arrangements, in a language and format they can understand, within the organization and at farm level.</p> <p>8) The organization shall ensure that temporary hired workers shall receive the working conditions and workers’ rights equivalent of regular hired workers, and their contractual agreements shall be respected, within the organization and at farm level.</p> <p>9) The organization shall ensure that registered farmers provide regular hired workers, sharecroppers, caretakers and temporary hired workers with written contracts specifying labour conditions and payment arrangements, in a language and format they can understand.</p>	2 / 6.5
ISO	<p>1) The organization shall ensure that an inventory of the hours worked at the farm(s) per week per agricultural worker (on an annual weekly average) has been made.</p> <p>2) The organization shall ensure that an acceptable standard for working hours has been identified as not exceeding 48 hours per person per week on an annual average.</p> <p>NOTE: ILO Convention 1[7] describes working hours, stating that the maximum amount of hours per week for workers is 48 (8 hours a day for 6 days a week).</p>	2 / 6.6
ISO	<p>Requirements for freedom of association and collective bargaining</p> <p>1) The organization shall ensure that agricultural workers and employees of the organization have the right to freely organize into associations</p> <p>2) The organization shall ensure that there is no obstruction to the right of agricultural workers and employees of the organization to voluntarily negotiate by means of collective agreements with employers, employers’ organizations, buyers, and other institutions or associations. These negotiations shall include the definitions of terms and conditions of employment and/or other financial and non-financial benefits.</p> <p>3) The organization shall ensure agricultural workers within the organization and/or at farm level are aware of their right to the freedom of association.</p> <p>4) The organization shall ensure that agricultural workers within the organization and/or at farm level have access to training to make use of their right to freedom of association.</p> <p>NOTE: ILO Convention 87,[9] ILO Convention 98[10] and ILO Convention 141[15] describe the freedom of association and the right to collective bargaining.</p>	2 / 6.7

Scheme	Text	Source
ISO	<p>1) The organization shall ensure that the principle of non-discrimination and the rights of the individual shall be respected and that initiatives are taken to contribute to the elimination of discrimination if observed, including, but not limited to, discrimination on the basis of race, colour, gender, personal relationships, disability, health, marital status, age, HIV/AIDS status, religion, political opinion, language, property, nationality, ethnicity or social origin.</p> <p>2) The organization shall ensure that no agricultural worker shall be subjected to corporal punishment, mental or physical coercion, or verbal abuse.</p> <p>3) The organization shall work towards ensuring that women and men receive equal opportunities and equal remuneration for equal work.</p> <p>4) The organization shall discuss with its employees and agricultural workers what constitutes harassment and abuse, and explain that these practices are not acceptable. All employees and agricultural workers shall be informed about the laws protecting individuals against discrimination, harassment and abuse.</p> <p>5) The organization shall draft and implement an action plan to eradicate all forms of harassment and abuse, including a gender sensitive grievance procedure with equal access for women and men. Within the grievance procedure there shall be no retribution or punishment for reporting an injustice.</p> <p>6) The organization shall ensure that meetings take place among its employees, registered farmers and their spouses at least once a year to evaluate activities to prevent harassment and abuse. Meetings, participants and main results shall be documented and shared.:</p> <p>7) The organization shall actively promote the social inclusion of disadvantaged/ minority groups within its activities.</p> <p>NOTE ILO Convention 100[11] describes the principle of equal remuneration and ILO Convention 111[13] describes the principle of employment and occupational discrimination.</p>	2 / 6.9
ARS	Definition – forced labour: identical to ISO.	1 / 3.38
ARS	<p>The requirements for social aspects aim to:</p> <p>b) support the eradication of forced labour, child labour and the worst forms of child labour;</p> <p>c) support improved standards of living, social conditions and working and labour conditions, including health and safety of populations engaged in the cocoa sector.</p>	1 / 12.1
ARS	The Recognized Entity shall ensure that the principle of non-discrimination and the rights of the individual shall be respected and that initiatives are taken to contribute to the elimination of discrimination if observed, including, but not limited to, discrimination on the basis of race, colour, gender, personal relationships, disability, health, marital status, age, HIV/AIDS status, religion, political opinion, language, property, ethnicity or social origin. [details set out in paras a – e]	1 / 12.3

Scheme	Text	Source
ARS	Gender equality and women and youth empowerment: similar to ISO 1 / 6.2, but including youth as well as gender.	1 / 12.4
ARS	Employment and contractual relations: similar to ISO 1 / 6.5 but omitting the clauses on a due diligence process for the risk of trafficking and forced labour, and on maternity leave.	1 / 12.7
ARS	a) The workers of the Farmer as an Entity/ Farmer Group/Cooperative may freely join and establish workers' organisations, both internal (such as workers' representations) and external (such as labour unions), as well as participate in collective bargaining agreements on working conditions. [details b – d]	1 / 12.10
FT	<i>[Applies to SPOs in Côte d'Ivoire and Ghana.]</i> You implement a monitoring and remediation system to regularly check for and respond to cases of child labour and forced labour. You facilitate and support the remediation of any case found. [Plus details.]	Cocoa 3.3.1
FT	You implement a monitoring and remediation system to regularly check for and respond to cases of child labour and forced labour if Fairtrade or your risk assessment has indicated these as a high risk in your country and area of production. You facilitate and support the remediation of any case found. [Plus details.]	Cocoa 3.3.2
FT	You implement a monitoring and remediation system to regularly check for and respond to cases of child labour and forced labour. You facilitate and support the remediation of any case found.	Cocoa
FT	You and your members do not discriminate or tolerate discrimination on the basis of race, colour, gender, sexual orientation, disability, marital status, age, HIV/AIDS status, religion, political opinion, membership of unions or other workers' representative bodies, national extraction or social origin in recruitment, promotion, access to training, remuneration, allocation of work, termination of employment, retirement or other activities.	SPO 3.3.1
FT	You and your members do not directly or indirectly engage in forced labour, including slave, bonded or involuntary prison labour. You explain this to all workers.	SPO 3.3.5
FT	If you have identified cases of forced adult labour in your organization (see requirement 3.1.2), you and your members remediate to ensure prolonged safety and implement relevant policies and procedures to prevent vulnerable adults above the age of 18 years from being employed in abusive, exploitative and unacceptable work conditions as defined by ILO Conventions 29 and 105.	SPO 3.3.6
FT	You and your members ensure that all workers are free to join a workers' organization of their own choosing, and that workers are free to participate in group negotiations regarding their working conditions. You do not deny these rights in practice. You have not opposed these rights in the last two years.	SPO 3.3.13
FT	You are aware of the applicable labour laws in your country and of the fundamental ILO conventions and there are no indications that you violate any of them.	TR 3.1.1

RA	Gender equality	FR 1.6
RA	Definitions of forced labour, discrimination, and violence/harassment: based on ILO standards	FR p. 57
RA	<p>Management commits to assess-and-address child labor, forced labor, discrimination, and workplace violence and harassment by:</p> <ul style="list-style-type: none"> • Appointing a management representative who is accountable for the assess-and-address system • For large farms, individually certified farms and supply chain certificate holders: giving a mandate to a committee comprised of the appointed management representative and workers representative(s) to manage the assess-and-address system. The worker representative(s) is/are selected by workers. • For group management: giving a mandate to a committee comprised of the appointed management representative and a group member representative to manage the assess-and-address system. Group management can choose to appoint a management representative only instead of a committee. 	FR 5.1.1
RA	[Details on risk assessment, monitoring, remediation]	FR 5.1.2–4
RA	[Details on mandatory improvement requirements for case of medium/high risk for child labor and/or forced labor.]	FR 5.1.5–8
RA	Workers have the right to form and join a union or workers' organization of their own choice and to take part in collective bargaining, without prior authorization from the employer, and in accordance with applicable law. Workers' representatives are elected democratically among workers in regular, free elections.	FR 5.2.1
RA	Workers are not subject to discrimination or retaliation for reasons of past or present workers' organization or union membership or activities. Management does not punish, bribe or otherwise influence union members or workers' representatives. Records are kept of terminations of employment, including the reason for termination and workers affiliation with a union or workers' organization. Management does not interfere in the internal affairs of workers' organizations and/or unions, nor in elections or duties related to membership of such organizations.	FR 5.2.2

Table A1.7 Criteria related to prices and premiums

(The details of the procedures for making premium payments in the Fairtrade and Rainforest Alliance standards are extensive; only references are included in the table below.)

Scheme	Text	Source
ISO	<p>Definition of farmer premium: cash transfer of funds from the organization (3.38) to a registered farmer (3.45) for sustainably produced cocoa (3.53) in addition to the price for equivalent conventional cocoa</p> <p>Note 1 to entry: Premiums are provided to a registered farmer (3.45) to reward and/or incentivize registered farmers (3.45) to reach all requirements (3.46) of this document and ISO 34101-2.</p>	1 / 3.26
ISO	<p>Additional requirements for the CFDP – high level – The organization shall monitor incomes of registered farmers and hired workers against agreed living income/living wage benchmarks if these are available.</p>	2 / 5.1
ISO	<p>The scheme owner shall have a procedure and monitor implementation of that procedure for negotiation on farmer premium, cost recovery mechanisms and the right of first refusal between:</p> <p>a) the first buyer and the organization;</p> <p>b) the organization and registered farmers.</p> <p>The procedure shall provide that the outcome of the negotiations is documented and confirmed by both parties, and that the payment of cost recovery mechanisms and farmer premiums are recorded and verified. If a premium is paid in kind the first buyer shall demonstrate the cash equivalent.</p>	4 / 5.9
ARS	<p>Definitions – farmer premium: funds payment to a registered farmer for sustainably produced cocoa in addition to the actual price for equivalent cocoa.</p> <p>Note 1: Farmer premium is paid in cash or bank transfer or any legal accepted form of payment.</p> <p>Note 2: Farmer premium is additional money paid by the first buyer of a certified sustainable cocoa product to compensate the farmer for effort made to be in compliance with ARSO standards.</p> <p>Note 3: The Recognized Entities also benefit from this farmer premium.</p>	3 / 3.16
ARS	<p>The Regulator /Legal Entity shall have a procedure/ legal document for negotiation of farmer premiums, cost recovery mechanisms and the right of refusal between:</p> <p>a) the first buyer and the Farmer group producing cocoa bean;</p> <p>b) the cocoa bean producing farmer group and registered farmers.</p> <p>The procedure shall provide that the outcome of the negotiations is documented and confirmed by both parties, and that the payments of cost recovery mechanisms and farmer premiums are recorded and verified.</p> <p>The premium shall be paid in cash or bank transfer or any legal accepted form of payment.</p>	3 / 5.12

Scheme	Text	Source
ARS	In the development of the above procedures or legal document for negotiation of farmer premiums, cost recovery mechanisms and the right of refusal, the Regulator/Legal Entity shall estimate and consider the costs of implementing ARS series 1000.	3 / 5.12
FT	[Details on pricing and premiums.]	Cocoa 4.2, 4.6
FT	[Compliance with standard implies payment of FT premium. See 4.1 for integrating premium into business plan.]	SPO 4.1
FT	[Guidance on which market reference price to use. (Note also Fairtrade organic price.)]	Cocoa 4.2
FT	[Contracts payers – producers must include FT premium.]	TR 4.1, 4.2, esp 4.2.7–8
RA	[Group management transfers the full amount of the Rainforest Alliance Sustainability Differential in cash or other monetary payment to group members.]	FR 3.2.1
RA	[Farm management spends the Rainforest Alliance Sustainability Differential for the benefit of workers in the following categories: wages, working conditions, health and safety, housing. Farm management consults with a representation of workers on priorities and the allocation of the Sustainability Differential.]	FR 3.2.2
RA	[Mandatory improvement provisions.]	FR 3.3.2–3
RA	[Management at least annually defines the investments needed to improve sustainability using the Rainforest Alliance Sustainability Investment plan template.]	FR 3.3.1
RA	[See Intro document for LI/LW commitments]	Intro p. 8

Annex 2

Interviewees

The following individuals were interviewed in connection with this paper:

- Client Earth, Ghana: Clement Akapame
- Conseil du Café-Cacao, Côte d'Ivoire
- Côte d'Ivoire – Ghana Cocoa Initiative: Tawiah Agyarko-Kwarteng, Alex Assanvo
- European Cocoa Association: Matthijs de Meer
- European Commission (DG International Partnerships): Zoe Druilhe, Regis Meritan
- European Forest Institute: Adeline Dontenville, Valérie Reboud, Romuald Vaudry
- EU Delegation to Côte d'Ivoire: Gaspard de Bousies
- Ghana Standards Authority: Macmillan Prentice
- International Cocoa Initiative: Sarah Dekkiche, Matthias Lange
- ISO: Jack Steijn (chair of technical committee for cocoa standard)
- Mighty Earth, Côte d'Ivoire: Amourlaye Toure
- Rainforest Alliance: Nanga Kone (Côte d'Ivoire), Kwame Osei (Ghana)
- VOICE Network: Antonie Fountain, Friedel Huetz-Adams

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