



**Proposal to  
The Global Industry Group (GIG)  
And to Representatives of the Governments of  
Côte d'Ivoire and Ghana**

**Verification Program Road Map  
for the Cocoa Industry of Côte d'Ivoire and Ghana**

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## Background

The Global Industry Group (GIG) is an ad hoc coalition of North American and European chocolate companies and trade associations. The GIG, in partnership with the cocoa producing countries of Ghana and Côte d'Ivoire, is working to improve labor conditions in the cocoa industry with particular focus on the elimination of worst forms of child labor as outlined under the Harkin-Engel Protocol, that they signed in 2001. In alignment with its efforts to improve conditions for children and farmers in the country of origin, the GIG seeks to engage multiple stakeholders in the independent verification and evaluation of the survey methodology, the training requirements of the enumerators and the accuracy of the survey data collected by the governments of Côte d'Ivoire and Ghana. These governments have begun surveying labor activities within farming communities as part of the first phase of Protocol implementation. The GIG requested that Verité create an initial outline of the next steps required to design such a verification process.

It is important to note that for the purposes of this paper, we are referring only to the verification of the survey reports and any immediate remedial steps required should verification of the survey process identify instances of trafficked children or adults. Initial verification efforts will not evaluate the range of social programs taking place throughout Ghana and Côte d'Ivoire that are impacting labor practices in their respective cocoa sectors.

Based on Verité's extensive experience, we have consistently noted that the most successful verification programs are those that adopt a collaborative approach that stresses continuous improvement. This verification process is designed to create feedback mechanisms that help strengthen the surveys and, therefore, conditions on the ground.

## Introduction

This road map is stage one of what Verité considers to be a three stage process. In stage one we outline the questions that need answering before stage two - the design phase - can begin. It is during stage two that the verification system would actually be designed. Finally, in stage three the design will be implemented drawing on lessons learned during stages one and two.

Verité, an award-winning pioneer in the social audit, training, research and consulting field, has over a decade of experience working with multi-national corporations such as Starbucks, Mattel, Hewlett-Packard and The Gap. We were retained by the Global Industry Group (GIG) to create a "road map" that would outline the steps required to develop a robust verification regime for the survey process undertaken by the governments of Côte d'Ivoire and Ghana in partnership with the cocoa industry under the Harkin-Engel Protocol ("Protocol").

The process recommended below is based on Verité’s broad, first-hand experience designing and implementing multi-faceted, multi-stakeholder, multi-year and at times contentious programs (including, in the case of Saipan, programs that resulted from a lawsuit). The recommended actions and best practices gathered here reflect our direct experience with multiple certification regimes and verification efforts, as well as extensive desk research of leading stakeholder viewpoints (NGOs, unions, academics, etc.) on the issue of child labor in the cocoa industry.

Our experience has shown, and our recommendations are consistent with, the view that holistic approaches that look at the root causes of the worst forms of child labor (WFCL) are critical. Likewise, Verité has a long-standing track record of working with NGOs, workers, governments and unions that share our perspective regarding the necessity, and increased long-term sustainability, of efforts that focus on progressive improvement in workplaces and farms.

(For further information on Verité’s background and experience please see the attached Appendix I).

## **Section I**<sup>1</sup>

### **Context of the Verification Process**

The credibility of the survey methodology and data collected is affirmed through an independent verification process. The findings from the verification process will be used to strengthen the certification process and can be used to strengthen remediation activities. In our experience, independent verification of survey findings helps to surface the important efforts that went into the initial survey process.

In general, the verification process will serve to:

1. Build credibility and trust by documenting and ensuring that methodology is sound and findings are accurate.
2. Strengthen the survey and certification systems - creating a continuous feedback loop for progressive improvement of policies and procedures, including survey methodology.
3. Ensure that a multiplicity of views and expertise is represented by creating a multi-stakeholder governing body.
4. Communicate the findings of the Verification Process in a public and transparent manner.
5. Verify findings in a manner that is transparently and sustainably funded

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<sup>1</sup> This report is divided into two sections. The first section will provide the context that informs the recommendations that are found in the second section.

Given the ambitious goal of certifying a region that produces 50% of the cocoa in Côte d'Ivoire and Ghana by July 2008, it is important to draw on lessons learned from other certification and verification efforts so as to avoid investing precious time and energy on systems or approaches that are likely to fail. Much of the debate surrounding all monitoring, certification and verification efforts has been centered much more on *who* did the investigations, and how the process was governed, rather than *how* they actually did the verification.

In Verité's experience it is the implementation of an effective multi-stakeholder governance structure that is the key criteria for a credible verification effort.

## **Challenges to Protocol Implementation and Verification**

In order to move forward with a multi-stakeholder Verification process, industry and the governments of Côte d'Ivoire and Ghana will need to agree to work together to develop, if they have not done so already, answers to the most likely questions from the NGOs who will potentially serve on the VB and who will want to know your position on the issues listed below. For the purposes of clarity, these issues can be grouped as follows:

### Substantive Issues:

- Poverty and other drivers of WFCL
- Remediation Strategies
- Over-production
- Income vs. Price

### Technical Issues:

- Financial Transparency of the cocoa sector (cocoa boards, etc.)
- Farm selection (during the survey process)
- Establishing Authority of the GIG to convene the VB
- Mapping Cocoa Sector
- Verification Board Transparency

Proactively engaging interested stakeholders on the issues listed above (that are described more fully in Appendix B) is critical to the broad acceptability of the survey process, which is the centerpiece of the successful implementation of Cocoa Certification. .

## **Section II: Recommended Actions**

### **II. 1. Step One: Clarify Terminology: August 2007**

To ensure accurate understanding regarding the definitions and procedures of the certification process we recommend that industry and the producing country governments clarify and communicate publicly, definitions of the terms "certification," "certification reports," "survey," "survey report," "remediation," "remediation report," "verification," and "verification report". Likewise, it would be helpful to produce a step-by-step illustration (a flow chart might be best) of how

the certification process will unfold, how each step intersects and the corresponding timeline for each step. We further recommend that as a part of this process input is sought by industry from the governments of Côte d'Ivoire and Ghana.

## **II. 2. Step Two: Identify Convener for Verification Board**

Verité recommends that industry representatives reach out to stakeholders (see Step 3 below) to discuss your recent activities and that you introduce the concept of hiring an independent convener to organize and facilitate the Verification Board. We suggest that you seek their input and consent first about this concept and the process of selecting the convener second. The GIG should then retain a convener to establish the Verification Board. We recommend that the GIG consider the following criteria when selecting a convener:

- A person or group that is not from industry
- Depth of experience with numerous multi-stakeholder initiatives
- Strong reputation, globally, with civil society organizations, industry and government
- Established track record as a credible partner dedicated to continuous improvement rather than whistle-blowing

Highlights of the convener's activities include:

- Role as initial program manager
- Develop, with GIG, a budget for year one of the VB
- Achieve MOU with Government / Industry regarding verification process
- Convene Verification Board (VB) and facilitate initial meetings to effectiveness (serve as initial secretariat)
- Initiate interim Verification activities (e.g. shadow of survey activities)
- Lead training, along with VB, of selected verifiers

## **II. 3. Step Three: Build “buy - in” early on with US Government and select stakeholders: August - September, 2007**

Once this road map has been discussed and approved within the GIG, we think it would be beneficial to immediately update the US Department of Labor, Senator Harkin's office, Tulane University and a few key stakeholders (I.C.I., V.W.G., etc.) about the progress industry has made and how they intend to proceed. Once selected, the convener's first major task will be to help ensure that this is an effective process. It is our view that by taking an inclusive approach, you will build more goodwill. Further you will send the message that industry and the producer governments are committed to making headway on Protocol implementation, particularly with regard to the design and implementation of a credible and transparent Verification process.

#### **II. 4. Step Four: Create M.O.U.s with governments of Côte d'Ivoire and Ghana**

With support from the convener, the GIG will pursue the development and execution of M.O.U.s with the governments of Côte d'Ivoire and Ghana. The M.O.U.'s will outline expectations and activities of all parties with regard to the proposed verification regime. Verité further recommends that, to the extent possible, the convener and the GIG solicit feedback early on from the governments of Côte d'Ivoire and Ghana on the design of the verification regime. Ultimately, the actual verification process, to be credible, must take place independently of the governments. However, the governments are the architects of the survey process and they will have important perspectives on ways to strengthen the design of the verification process. They have expended considerable efforts to design and implement the surveys and as such they will have important insights to offer. This process respects these insights and the verification process will be developed in a manner that achieves the input of the producer country governments.

#### **II. 5. Step Five: Convener Constitutes a Verification Board ("VB"): October-December 2007**

##### **II.5.a. Verification Board Membership**

Drawing on the lessons from other industry multi-stakeholder initiatives, it is recommended that the governance of the VB be approximately 25% corporations, 25% NGOs, 25% government representatives (Ghana and Côte d'Ivoire) and 25% Unions/Academics.

We recommend that the convener you select considers this Board nomination process and composition:

- industry members nominate two company representatives
- NGOs with relevant cocoa experience are asked to nominate and select (by simple majority see Appendix H for details) one global NGO, one African NGO, a union representative
- A seat representing fundamental academic knowledge of the African rural sector labor and trafficking issues
- local governments nominate one representative from each country

##### **II.5.b. Multi-stakeholder Verification Board Responsibilities**

Decisions taken by the Verification Board will be based on a mutually agreed process taken by all members. Nomination of board members will come from the representing sectors to ensure fair representation. The convener will not have a vote - should it be determined that a vote is required for a decision making purpose.

The VB that is formed will be responsible for:

- clarifying, codifying and reaching agreement on the exact scope of the verification regime (details of what this entails are below in Step Three: Verification Board Initiates Design Phase)
- developing rules regarding voting, right of refusal of VB members (if any), and voting procedures for the VB (majority rule vs. consensus)
- meeting administrative, quality, governmental and global reporting standards
- communicating in a transparent manner (posting reports on the Web, quarterly VB reports to stakeholders, etc.)
- developing specific criteria and guidance by which to judge and accredit the qualifications of potential verifiers
- facilitating additional multi-stakeholder inputs (received through the Third Party Complaint Mechanism outlined below)
- continually identifying challenges and threats to program success
- determining exactly how the groups or individuals that have been accredited or otherwise qualified to verify are actually chosen and assigned to which verifying tasks, regions, etc.
- training and capacity building of verifiers
- accrediting and, as needed, revoking accreditation of verifiers
- developing the criteria required to define gap assessment tools and methodologies
- determining who pays verifiers, how, and how much
- establishing a system (and requisite resources) for challenging the findings of verifiers or raising other concerns about them.
- working with, and facilitating services between NGO's, governments, local companies or farmers, and multinational corporations

- data sharing and communication technologies

### II.5.c. Board Administration

In order to minimally have the ability to contract with verifiers the VB needs to be formed as a legal entity. The GIG needs to consider how to do this. Further, the matter of VB liability and anti-trust issues, if any, needs to be considered<sup>2</sup>. For this we recommend that the GIG engage legal counsel to assist the convener with the formation of the VB. The GIG will also need to discuss and outline guidelines pertaining to compensation of certain VB members (it is most common for corporate members to pay their own expenses, but other VB members will need their expenses covered and possibly a per diem).

The GIG will need to determine the initial fiscal structure of the VB (501c3, for example - according to US Law) because the Verification Board will need to function as a legal entity in order to, for example, compensate non-profit board attendees, provide funds for the verification activities, etc.. Once formed however, the VB will need to create an appropriate governance structure for itself.

We recommend that the GIG task the convener with speaking to at least two of the organizations listed below to better understand their operating structures. However, the list below does not represent the full list of groups that can be consulted. There are numerous multi-stakeholder organizations that carry out verification procedures and have various ways of implementing verification systems and accrediting qualified verifiers or assembling and training “in-house” verification staff. Some of the most salient examples include:

- The Fair Labor Association
- SAI (Social Accountability International)
- WRAP (Worldwide Responsible Apparel Production)
- The Fair Wear Foundation (Netherlands)
- The Forest Stewardship Council
- The Marine Stewardship Council
- The Kimberley Process for Diamond Certification
- WIETA
- Rugmark
- Soccer Ball Monitoring Program in Sialkot Pakistan.
- The Common Code of the Coffee Community (“4C”)

It is noted that there are at least two options relative to the legal / structural organization of the Verification Board. One option is that the VB is formed

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<sup>2</sup> The 4C initiative, as but one example, successfully structured their activities so as not to trigger anti-trust violations. They have a letter on file from the FTC to this effect.

as a completely “free-standing” organization with all resource requirements met by the organization. Another option is to have the VB formed as a legal entity and have it exist under the umbrella of another legal entity - sharing its services. This would be an efficient approach in meeting the obligations of its required secretariat function. It is recommended that the VB give these options full and complete consideration.

One of the leading experts on social compliance, Dara O’Rourke, produced a helpful comparative analysis of some of these systems in a table format that is included in Appendix D for your reference<sup>3</sup>. Once this review is complete, the convener, with support from the GIG, will need to design voting rules, board ascension and removal guidelines, meeting frequency, fiduciary responsibility, governing charter language and the like. Additional advice from outside counsel will also be required.

#### **II.5.d. Funding Recommendations**

The GIG will fund the initial development of the Road Map and initial operations of the VB. Ultimately, any funding mechanisms created for the VB must include measures to ensure sustainability and knowledge transfer/capacity building to producer governments and producing country community partners. This approach assures a strong role for local governments and NGOs and strengthens the civil society infrastructure of their countries.

There is a clear need to determine the funding mechanism for the VB so that its cost is not passed on to farmers. Regardless of the funding structure that is developed, the VB will need to create a transparent funding structure for itself.

#### **II.6. Step Six: Verification Board Initiates Design Phase: December 2007-January 2008**

While challenging at the outset, multi-stakeholder efforts are, over the longer term, mutually beneficial to all concerned, including instances when parties were previously on opposite sides of the issue.

There are no shortcuts, however, to building trust out of previously adversarial relationships. Credibility and trust must be earned, on all sides. Verité recommends that the corporate members of the GIG communicate publicly that they, together with the producer countries, are creating a verification regime whose governing body (the VB), when functioning, will:

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<sup>3</sup> “Outsourcing Regulation: Analyzing Nongovernmental Systems of Labor Standards and Monitoring” by Dara O’Rourke. In the Policy Studies Journal, Vol. 31, No. 1, 2003, page 12. Additional analyses of verification approaches were produced by the Fédération des Experts Comptables Européens, the Global Reporting Initiative and AccountAbility.

- **Clarify the Scope of Work for the Verification Effort so that:**
  - The inspection criteria, evidentiary standards and survey methodology are clarified and more widely communicated
  - A "verifier guidance handbook" would be developed and distributed to approved verifiers
  - Training and approval of verifiers (see below) can be conducted per the newly clarified scope of work.

- **Create a Third Party Feedback Mechanism to:**
  - Offer a parallel process for receiving feedback from external stakeholders (i.e. those individuals or groups not on the VB) on the verification regime
  - Provide an alternative channel for critical discussions so that the certification system does not serve as the vehicle by which critics of the sector's dynamics can get heard.
  - Pay particular attention to the difficulty inherent in collecting worker feedback regarding children, especially in instances of debt-bonded or trafficked child labor
  - Provide an opportunity for course corrections
  
- **Create a Mediation Mechanism to:**
  - Ensure that if the verification body cannot reach agreement on a particular issue, a mediation procedure is in place, with clearly defined consequences for failure to reach consensus.
  
- **Create a Credible Verifier Selection Process that:**
  - Respects and reflects the totality of the multi-stakeholder expertise, resources and perspectives available for participation in the verification process
  - Relies equally on the input from corporations, governments and NGOs/unions
  - Reflects the best practices of existing verifier selection processes.

In sum, the VB mandate<sup>4</sup> is to develop a model that satisfies the following requirements:

- Efficiency
- Transparency
- Quality
- Credibility
- Expertise

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<sup>4</sup> Just as independent, external verifiers were central to Chiquita's CSR efforts (where unions and NGOs were engaged to verify their farm audits), or independent quality control verifiers emerged from the creation of the ISO 9000 system, so must credible verifiers be identified for the Protocol implementation efforts. It is worth noting that the Kimberley Process received a great deal of criticism because governments were allowed to select the verifiers. Likewise, corporations like Nike (and countless others), received criticism for years for working with private sector monitors that had other business ties to the company that would prevent them from being objective.

## **II.7. Step Seven: Verification Board Selects and Trains Verifiers: Jan - Mar 2008**

Once the VB has decided on the verification model that they plan to use (see Appendix G), and they have selected verifiers, we recommend that these verifiers be trained by the VB (or an organization that the VB contracts). The VB will also need to develop and articulate the guidance procedures the VB will follow in accrediting verifiers and the qualities and expertise verifiers were expected to have (see Appendix A for a sample list of these qualifications).

## **II.8. Step Eight: Accredited Verifiers Begin Verification Audits: Feb - Sept 2008**

Throughout this process, the VB will need to continually ensure that:

- Verifiers respect Verification Guidance
- Governments are proceeding with their certification requirements (or revised certification steps as outlined in Step Three above)
- Verifiers' reports are posted on the Web in a timely manner
- The views of external stakeholders are being considered under the Third Party complaint mechanisms outlined above in Step Three
- Remediation remains, above all else, the focus of the survey, certification and verification activities
- VB conducts program assessments for verification activities (with support, as needed, from outside organizations including academics, etc.)
- Results from verification surveys are continuously integrated into all areas of program design.

## **II.9. Step Nine: Pilot of the Verification Process: (simultaneous with Step Five)**

Verité recommends that the VB consider a pilot verification audit that would take place in either Côte d'Ivoire or Ghana as part of the initial verification phase. This approach may be more efficient in terms of resource requirements and speed of learning. The VB will need to discuss this approach as part of the initial development of processes and learning.

## **Conclusion**

The rigor and transparency of the verification process, as well as the credibility those selected to be verifiers, are vital to the success of the certification process. While transparency and multi-stakeholder approaches are central to any effort to address issues like child labor, they are especially important in this instance because, unlike other initiatives, the producer governments are conducting the certification surveys.

### **List of Appendices**

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2. Appendix B: Additional Substantive and Technical Issues for the GIG's Consideration
3. Appendix C: Project Timeline Bar Graph (see attached excel chart)
4. Appendix D: Dara O'Rourke's Analysis of Certification Schemes (see attached .PDF)
5. Appendix E: ILO Conventions 29 and 182
6. Appendix F: Harkin-Engel Protocol
7. Appendix G: Summary of Verification Regimes
8. Appendix H: Recommended Election Procedure for NGO Verification Board Members
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## **Appendix A Summary of Qualifications for Verifiers**

While the verification body will need to conduct research and develop a mutually agreed upon process for accrediting “verifiers”, in our experience (and that of the many accrediting bodies whose work we are familiar with such as the Fair Labor Association, the Forest Stewardship Council and others) the verifiers should have:

- extensive and proven experience in accessing and gathering information from the most vulnerable working populations (through interviews, focus groups, etc.)
- theoretical and practical knowledge and experience related to social, participatory research methodologies
- legal experience to ensure that the survey process meets local, national and international law
- the ability to speak the local language without relying on interpreters
- the ability to speak and write well in English and any other European language necessary to interact with international partners
- familiarity, whenever possible, with the local customs and culture
- an appropriately diverse network and talent pool to be able to manage multi-faceted programs
- experience communicating in a transparent manner publicly (posting reports, etc.) and reporting to both internal and external stakeholders
- the ability to develop impact assessment tools and measurements as well as experience creating the effective feedback loops required for the continuous improvement of survey methodology
- ability to create a strong management systems approach
- local NGO and expertise partnerships that allow them to deliver the verification surveys
- documented ability to meet minimum/maximum standards
- systems in place to guarantee independence, ethical standards, conflict of interest policies, etc.

## Appendix B Additional Substantive and Technical Issues for Consideration by the GIG and representatives of Côte d'Ivoire and Ghana

As mentioned above, this appendix provides additional background on some of the substantive and technical issues that the GIG, or at least the corporations on the VB, together with the producer countries need to be prepared to address within the confines of the Verification Board. We encourage the full GIG and producer country representatives to consider answers to any questions that may arise on the issues noted below. Prospective NGOs will consider the position of Industry and Producer Governments on these important matters when weighing whether or not to join the VB.

### I. Substantive Issues

#### I.1. Remediation

From the perspective of international and community stakeholders, ensuring that remediation occurs is the primary reason for verifying the surveys.

**Recommendation:** We recommend that you be prepared to discuss who is accountable for remediation activities, how remediation will be verified and how the impact interventions will be measured.

Further, the GIG should elaborate publicly on how the survey process, and its verification and reporting, are designed to inform and strengthen the remediation process. This should include specifics regarding how industry works in partnership governments and local civil society organizations. While we recognize that industry's efforts to verify the accuracy of the survey process can act as a catalyst for creating greater synergy and economies of scale between the multiple NGOs remediating conditions on the ground, industry must go beyond this and clearly articulate what remediation they are, and are not, accountable for. Verification will provide better data by which to fine tune remediation, but industry efforts cannot be perceived to end with the mere verification of data.

#### I. 2. Poverty and Other Drivers of WFCL

While NGOs, academicians and African governments can often be on opposing sides of issues, they do often agree that poverty is a leading cause of child labor, particularly forced child labor. Both for practical and risk management reasons, implementation of the Protocol cannot rely solely on *reacting* to incidences of—rather than causes of—child labor. Rather, Protocol implementation will require companies to *proactively* examine the income farmers receive for cocoa.

We understand that there is no common industry view yet on this very complex issue. Further we are aware that the industry understands that WFCL is very complex and has many contributing factors.

**Recommendation:** Verité encourages the GIG and producer country representatives to consider that the disagreement may be less about poverty being a root cause of WFCL, than it is about *who bears responsibility* for such poverty. Verité urges the GIG and producer countries to refine their responses to inevitable questions about the root causes of WFCL and poverty because, at present, the industry view can be seen as being out of step with many governments, some NGOs and academics. Being essentially alone on this issue ensures that industry will continue to be the source of stakeholder frustration and concern on this issue. Further, were industry to acknowledge that poverty is *one* root cause of WFCL, but that responsibility for poverty is a shared one, it would help diffuse the NGO criticisms.

### I. 3. Incomes vs. Prices debate

NGOs tend to focus perhaps too exclusively on cocoa prices and industry too exclusively on income to farmers. While it is appropriate to look at farmer incomes, too much attention on this issue will backfire as NGOs will claim that not only do corporations not pay enough, they are helping farmers squeeze out ever higher yields as a way to disguise how little farmers are paid. As with any contentious issue, it is important to have a robust dialog with all stakeholders and be willing to concede some points raised by NGOs. We recommend that the GIG as well as producer countries discuss what steps they are collectively willing to take to address not just the issue of farmer income, but also the issue of fair farm-gate pricing for farmers. This is especially true at a time when cocoa prices are at a historic high, NGOs will expect to see a rise in prices paid to farmers that is at least somewhat commensurate with rising cocoa prices.

Economists refer to the “resource curse” that Africa suffers from: 34 of 40 of world’s most indebted countries on the International Monetary Fund’s Most Heavily Indebted Poor Country List are in Africa. Further, analysis of the history of civil wars indicates a correlation between the risk of civil war and whether or not a country is heavily reliant on commodity exports for a large proportion of GDP<sup>5</sup>. Considering that nearly 70% of the world’s cocoa production is also in Africa, a continent heavily reliant on commodity exports, common sense would dictate that there are real business benefits to supporting efforts to increase transparency regarding cocoa prices, levies and sales.

**Recommendation:** We recommend that the GIG conduct additional desk research, interview economists and meet with non-competing companies that have faced similar agricultural issues (Chiquita, Starbucks, etc.) in order to reach a consensus on industry’s position on the economics of cocoa (pricing, incomes, impact assessment on farmers, etc.) and the appropriate role industry can play.

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<sup>5</sup> See Page 9, “Hot Chocolate: How Cocoa Fuelled the Conflict in Côte d’Ivoire”, Global Witness, June 2007.

We think, based on our experience with the decade-long efforts in other industries like consumer goods and electronics, that it would be beneficial to also begin documenting how these remediation strategies are integral to bottom-line benefits, as appropriate to this industry (examples include, improved product quality, lower turnover, reputational improvement, risk reduction and higher morale and employee retention).

#### **I. 4. Over-production**

While few stakeholders working on the issue of cocoa and WFCL are trained economists, they are still justifiably concerned that over-production will lead (and has led, in past years, to a further lowering of the price of cocoa). Given that industry is eagerly working on the FFS programs in an effort to increase farmer incomes through higher crop yields, this is an issue that industry needs to have a robust response to.

**Recommendation:** We recommend that the GIG conduct additional desk research, interview economists and meet with non-competitor companies that have faced similar agricultural issues (Chiquita, Starbucks, etc.) in order to reach a rapid consensus on industry's position on the economics of cocoa (pricing, incomes, impact assessment on farmers, etc.).

### **II. Technical Issues**

#### **II. 1. Financial Transparency**

The VB needs to create a transparent funding structure for itself. Further, accuracy and transparency on wage issues are critically important to the success of any industry initiative and Protocol implementation will fail without it.

In so doing the corporations will play an invaluable role in imparting transparency and credibility to the Protocol processes while shoring up the rule of law in cocoa producing nations. It is a widely recognized business principle that the rule of law plays a vital role in increasing a company's return on investment (according to organizations like the World Economic Forum and Transparency International).

On a more macro level, the governments of Côte d'Ivoire and Ghana might wish to consider the following fact, based on Verité's experience with these institutional investors in the United States (CalPERS, NYCERS, etc.); they factor the rule of law and political stability into their investment criteria for emerging markets. The governments of Côte d'Ivoire and Ghana have an economic self-interest in reducing corruption as an incentive to attract greater foreign investment.

#### **II. 2. Selection Procedures for Survey Communities and Respondents**

In the early years of the social audit movement for the consumer goods industries, no issue posed more of an obstacle to corporate social compliance programs than stakeholders' requirement that unannounced inspections be part of a robust verification regime. The analogous issue for cocoa pertains to

selection of communities and individual respondents. Thus, this should be discussed more fully to ensure that the current process provides for unannounced verification visits. Further, it would be important for the GIG and the producer countries to further clarify publicly how these respondent selections are made.

**Recommendation:** We therefore recommend that the G.I.G and the producer countries discuss the creation of a community and farm / respondent selection mechanism that:

- Addresses differing views regarding farm selection (Some NGOs have recommended that once national governments opt in to the certification system, any farm can be inspected unannounced. Farms cannot choose whether to participate in the survey. We recommend that the Verification Board creates a system that allows for unannounced inspections)
- Represents a consensus on what assurances farmers will have that corporations will continue to purchase from them if problems are identified on their farms
- Internalizes the fact that, absent such assurances, farmers have no incentive to ameliorate conditions and the entire Protocol implementation effort is undermined.

### **II. 3. Establishing Authority**

Given the ambitious goal of implementing a certification process in a region that produces 50% of the cocoa in Côte d'Ivoire and Ghana by July, 2008, it is important to draw on lessons learned from other certification and verification efforts. Much of the debate surrounding all monitoring, certification and verification efforts was actually centered much more on *who* did the investigations, who convened the verifiers and how the process was governed, rather than *how* they actually did the verification. Multi-stakeholder governance structures are the key criteria for credible verification efforts<sup>6</sup>.

**Recommendation:** The GIG and producer countries need to publicly state that they have, under the Protocol, the establishing authority and duty to create the verification process, and that in order to achieve this, they initially had to select a convener to convene a multi-stakeholder verification board. (The goal here is to address potential concerns regarding who convenes the convener).

### **II. 4. Map the Cocoa Sector**

Given the highly concentrated nature of the cocoa industry, there is a greater need to understand issues relating to market stability.

**Recommendation:** We recommend that the GIG map the risks, challenges and opportunities for each country regarding internal conflict, economic resources,

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<sup>6</sup> The Fair Labor Association suffered many setbacks during its early years for a Board that was dominated by corporations. (At one point, corporations made up 70% of the Board).

infrastructure, incomes and levies so that challenges for farmers, governments and industry are fully understood.

## **II. 5. Verification Board Transparency**

The success of the verification process rests on increased transparency. The GIG, the convener, the governments of Côte d'Ivoire and Ghana need to internalize the importance of increasing the transparency of their efforts to implement the Protocol. In addition to public statements regarding all the items mentioned above, the VB, in particular, will need to develop guidelines, and communicate them publicly, that address:

- Application procedures for becoming an accredited verifier
- VB composition and selection
- Guidance procedures the VB will follow in accrediting verifiers
- Qualities and expertise verifiers are expected to have (see Appendix A for a sample list of these qualifications)
- Expectations regarding the transparency of the verifiers' reports (just as Ghana posted its report on the Web, it is a best practice for the verifier's report to be posted as well)
- Frequency of verifier re-accreditation process
- Verification Guidance Procedures
- Local vs. international verifiers (how do international groups vet the local partners that they use?)
- Training on Guidance Procedures

## Appendix E

### ILO Conventions 29 and 182

ILO Convention 29 obligates countries to suppress the use of forced or compulsory labor “in all its forms” with exceptions for military service, civic or emergency duties, and as the result of a court conviction (so long as the labor is supervised by a public authority and not hired out to private individuals or companies). Forced or compulsory labor is defined as work or service exacted from any person under the menace of penalty and for which the person has not volunteered.

ILO Convention 182 obligates countries to take effective steps towards eliminating the worst forms of child labor (slavery, debt bondage, work in the sex or drug trades, or any other physically or morally harmful work).

## APPENDIX G

### Summary of Verification Models

While some efforts to regulate the actions of multi-national corporations, such as the Organization of Economic Cooperation and Development (OECD) Guidelines began in the 1970's, most efforts to monitor the supply chains of consumer goods industries largely date back to 1995. That year, then Secretary of Labor, Robert Reich, created the "No Sweat" initiative in response to the discovery of forced labor at the El Monte factory in California. In the intervening 12 years, many different approaches have been tried. Dozens of initiatives have sprung up, each with their own strengths and challenges, but no ideal "model" has emerged.

There is consensus, however, that initiatives that involve multiple stakeholders are those that have the most credibility, and therefore, success. Likewise, there is agreement regarding what the hallmarks of a robust verification regime include (see Appendix A of the Verification Program Road Map for more details). Essentially all stakeholders, whether local or foreign, NGO or academic, require that verification regimes be:

- Credible
- Transparent
- Sustainable
- Financially independent
- Multi-stakeholder (local and international)

While no single model verification regime exists, there have emerged two basic trends among the various models:

1. **Centralized "Accreditation" Model**
2. **Multi-stakeholder Team Model**

#### 1. Centralized "Accreditation" Model

The Fair Labor Association (FLA) and SA8000 (Social Accountability International) are the leading organizations that employ this approach. Private auditing firms (examples include SGS, DNV, BVQI, etc.) and NGOs (COVERCO, Phulki, etc.) must apply to be accredited. In the case of SA8000, the fee required to become accredited has prohibited quite a few NGOs from becoming accredited.

One of the major drawbacks to this system is the inherent tension between private for-profit and NGO not-for-profit monitors. Verité chose, for example, not to participate in the FLA as a result of this "cookie-cutter" approach to accrediting monitors that did not, in our estimation, fully recognize the considerable differences in perspective, methodology, and experience between these two groups of monitors.

One important strength of the FLA is that it developed a third party complaint mechanism early on which allowed groups like the Worker Rights Consortium (WRC) to file complaints regarding certain factories. Over time this open dialog resulted in these two initially adversarial organizations, FLA and WRC, working in partnership on a major remediation program in Central America.

(See Appendix D in Program Road Map for a comparative table of some of the main organizations that use this model.)

## **2. Multi-stakeholder Team Model**

Under this model, a multi-stakeholder led organization, for example, the Wine Industry Ethical Trade Initiative, WIETA, appoints a group of individual monitors that work for WIETA on an independent, part-time, contractual basis. (Rugmark and the Sialkot Monitoring Program (soccer balls) use a similar approach.) It should be noted that WIETA, not the organization that does the verification, accredits the actual work site (farm, vineyard, etc.). This model also provides the opportunity for local NGOs, trade unions, and/or academics to accompany the monitors on their inspections.

In this model, the executive committee of WIETA (analogous to the “Verification Board” that we recommended you create) ensures that the appointed monitors have local expertise and cultural awareness, industry experience and knowledge of the appropriate laws and regulations.

### **Recommendation**

It is our recommendation that you develop a verification regime that is modeled along the lines of the WIETA initiative (with allowances made for the unique requirements of the cocoa industry). There are several reasons for this recommendation, including:

- The need to take ground quickly under the extension granted by the Harkin - Engel Protocol
- The need to re-build strong ties with stakeholders, in light of the contentious early relationships with various stakeholders
- The complexity of the cocoa sector that requires a strong local knowledge base
- The importance of creating a locally sustainable program that acknowledges the important efforts and investments of scarce resources that the governments of Côte d’Ivoire and Ghana have invested to date
- The existence of multiple efforts that are already underway (see Appendix B of the Program Road Map for a partial list) which ensures a ready supply of potential monitors
- The direct applicability of the WIETA model as it was designed for the African farm context

## APPENDIX H

### Recommended Selection Procedure for Non-industry and Non-producer country Verification Board Members

The most widely utilized means for identifying and nominating potential board members (non-profit, corporate, etc.) is peer recruitment. Just as industry and government have the opportunity to select the peers that they would like have as their representatives on the Verification Board, so to should NGOs have the same opportunity. Were this not to be the case, the work of the VB would likely stall as a debate would ensue over the undue influence exerted by industry and the producer governments.

The convener you select will need to use their judgment and experience when selecting the initial NGOs from whom they solicit names of potential NGO VB members. Verité recommends that the convener, with guidance from outside counsel, develops the voting procedure by which the NGO VB members are elected. This procedure could entail having these select NGOs nominate peers that they think should represent the NGO perspective on the VB. The convener would then pull together a slate of names and circulate it to this same pool of NGOs. The two VB members with the highest number of votes would be the ones to join the VB.

Verité recommends that the pool of NGOs selected to participate in this process has a majority of the following characteristics, while also ensuring an appropriate geographic balance (local NGOs and international NGOs):

- A “footprint” in Africa or programs on the ground
- Experience with the issues relating to WFCL
- Track record with progressively implemented remediation programs
- Experience with cross-sectoral initiatives (public/private)
- Willingness to work collaboratively (demonstrated examples of this will be required)
- Viewpoint, objectives of the NGO or other organization - demonstrating a constructive approach

It is worth noting that the individual who actually sits on the VB must be able to officially represent the views of his or her institution. VB members are serving in their professional, not personal, capacities. As such, the individual’s background will be considered alongside that of the institution.

Finally, should such a case arise, legal counsel for Industry and various NGOs will be required to review the legality and appropriateness of having an NGO serve on the VB should they have a lawsuit pending against a GIG member. Such an NGO (or NGOs) should however be engaged with as part of the NGO outreach activities outlined above.

## Appendix I: About Verité

Verité partners with hundreds of multinational brands, factories, nongovernmental organizations, institutional investors and governments to improve social and environmental performance of global supply chains. Verité currently operates in more than 60 countries in electronics, apparel, footwear, food and beverage, and agriculture industries, among others, with a growing network of staff and partners. By bringing practical auditing, training, capability building and research solutions to stakeholders of the global workplace, Verité improves the lives of workers. The organization has improved working conditions directly and indirectly for millions of workers around the world, delivered training to thousands of factories, improved legislation and policy, thereby providing protections for millions of workers.

Verité was awarded one of ten Skoll Awards for Social Entrepreneurship in 2007 and named a Social Capitalist Award winner by Fast Company magazine/Monitor Group.

Verité has worked with the governments of the United States (US DOL and State), Taiwan, Thailand, and the Philippines, among others, to improve national labor legislation. Verité's activities include:

- Labor trainings for government officials
- Policy improvements and recommendations regarding UN Convention ratification, national legislation, etc.
- Recommended bilateral agreements
- Development of incentive systems for private sector actors (such as labor brokers, export firms, etc.) that reward good labor practices.