

COCOBOD's Unrealised Potential

Promoting Human Rights, Welfare, and the Environment in
Ghana's Cocoa-Growing Communities

Northwestern Pritzker School of Law Center for International Human Rights
University of Ghana School of Law
Corporate Accountability Lab
SEND Ghana
Barima Akwasi Amankwaah
Glen Asomaning



COCOBOD's Unrealised Potential:
Promoting Human Rights, Welfare, and the Environment in Ghana's
Cocoa-Growing Communities

ISBN: 978-1-7352336-2-8

© Northwestern Pritzker School of Law Center for International Human Rights,
University of Ghana School of Law, Corporate Accountability Lab & SEND Ghana

All rights reserved.

June 2021

Suggested Citation:

Barima Akwasi Amankwaah, Glen Asomaning, Raymond A. Atuguba, Emmanuel Ayifah, Allie Brudney, Brian Citro, Charity Ryerson, Sandra Kwabea Sarkwah & Alexandra Tarzikhan, *COCOBOD's Unrealised Potential: Promoting Human Rights, Welfare, and the Environment in Ghana's Cocoa-Growing Communities*, Northwestern Pritzker School of Law Center for International Human Rights, University of Ghana School of Law, Corporate Accountability Lab & SEND Ghana (June 2021).

Design by Tree Havener.

Table of Contents

| | |
|--|-----|
| ACKNOWLEDGEMENTS | i |
| GLOSSARY | iii |
| EXECUTIVE SUMMARY | 1 |
| RECOMMENDATIONS | 7 |
| METHODOLOGY | 10 |
| I. INTRODUCTION | 13 |
| II. HUMAN RIGHTS, WELFARE & THE ENVIRONMENT IN GHANA'S COCOA INDUSTRY | 15 |
| A. Farmer and Worker Poverty | 15 |
| B. Children Working in Cocoa | 18 |
| C. Cocoa's Impact on the Environment | 20 |
| III. COCOBOD: THE GHANA COCOA BOARD | 22 |
| A. COCOBOD's Operations & Objectives | 22 |
| B. COCOBOD's Financing | 26 |
| C. COCOBOD's Political Power & Lack of Transparency | 27 |
| IV. COCOBOD'S ENVIRONMENTAL AND SOCIAL MANAGEMENT SYSTEM & GRIEVANCE AND REDRESS MECHANISM | 30 |
| A. African Development Bank USD 600 Million Syndicated Loan | 30 |
| B. Environmental and Social Management System | 33 |
| C. Grievance and Redress Mechanism | 35 |
| V. THE PEER PRINCIPLES: AN EVALUATION OF COCOBOD'S GRIEVANCE AND REDRESS MECHANISM | 39 |
| A. Principles for Effective and Efficient Redress: The PEER Principles | 39 |
| B. PEER Principles Evaluation of COCOBOD's Grievance and Redress Mechanism | 42 |
| C. The PEER Principles Overall Evaluation and Score | 52 |
| VI. CONCLUSION | 53 |
| APPENDIX | 54 |
| The PEER Principles—Principles for Effective and Efficient Redress | 54 |
| Grievance and Redress Mechanism Complaint Form | 57 |
| In-Depth Interviews Questionnaires | 58 |

Acknowledgements

This report is the product of a collaboration between the Northwestern Pritzker School of Law's Center for International Human Rights, the University of Ghana School of Law, Corporate Accountability Lab, SEND Ghana, Barima Akwasi Amankwaah of the Ghana NGO Coalition on the Rights of the Child (GNCRC), and Glen Asomaning of Nature and Development Foundation (NDF).

Project Director

Brian Citro, Human Rights Lawyer & Independent Researcher, (former) Assistant Clinical Professor of Law, Northwestern Pritzker School of Law

Faculty and Senior Researchers and Authors:

Barima Akwasi Amankwaah, National Coordinator, Ghana NGO Coalition on the Rights of the Child (GNCRC)

Glen Asomaning, Operations Director, Nature and Development Foundation (NDF)

Raymond A. Atuguba, Dean, University of Ghana School of Law

Dr. Emmanuel Ayifah, Deputy Country Director, SEND Ghana

Allie Brudney, Staff Attorney, Corporate Accountability Lab

Brian Citro, Human Rights Lawyer & Independent Researcher, (former) Assistant Clinical Professor of Law, Northwestern Pritzker School of Law

Charity Ryerson, Executive Director, Corporate Accountability Lab

Sandra Kwabea Sarkwah, Project Officer, SEND Ghana.

Alexandra Tarzikhan, Schuette Clinical Fellow in Health and Human Rights, Northwestern Pritzker School of Law

Northwestern Pritzker School of Law Student Researchers and Authors:

Brianna Campbell (2021)

Chloe (Jaehee) Kim (2020)

Meredith Heim (2021)

Additional Corporate Accountability Lab Contributors:

Daniel Kiefus, Office Coordinator, Corporate Accountability Lab

Special Thanks to Katherine McDonnell (formerly at Corporate Accountability Lab) for her initiative and guidance in the early stages of this project and to all the interviewees who were gracious enough to speak with us and answer our many questions—we cannot thank you enough for taking time out of your busy schedules to share your experiences and expertise. We also thank Sena Dei-Tutu and Mawuse Oliver Vormawor at the University of Ghana School of Law for their invaluable support in coordinating the project partnership and the report publication and launch.

Glossary

| | |
|---|---|
| African Development Bank | A multilateral development finance institution founded in 1964 whose beneficiaries consist of nationals of, and entities or organizations incorporated within, the continent of Africa. |
| Environmental and Social Management Plan | A framework for implementing COCOBOD's Environmental and Social Management System and Productivity Enhancement Programs developed in accordance with African Development Bank requirements for a syndicated loan agreement. |
| Environmental and Social Management System | A set of policies and procedures created by COCOBOD in 2018 in anticipation of a syndicated loan agreement to mitigate social and environmental risks associated with COCOBOD's operations. |
| Farm Gate Price | The price for a tonne of cocoa set by governments in countries that produce cocoa, such as Ghana and Cote d'Ivoire. |
| Floor Price | The minimum price paid for cocoa in Ghana set by COCOBOD. |
| Grievance and Redress Mechanism | A key component of COCOBOD's Stakeholder Engagement Plan aimed at providing redress for environmental and social harms caused by COCOBOD's operations. |
| Integrated Safeguards System | A set of policies established by the African Development Bank aimed at minimising the risk of environmental or social harms caused by projects funded by the Bank. |

**Licensed Buying
Companies (LBCs)**

Companies licensed by COCOBOD charged with managing the internal marketing of cocoa in Ghana. LBCs hire purchasing clerks to purchase cocoa from smallholder farms, provide storage facilities, and perform other tasks related to the internal marketing of cocoa.

**Non-Judicial Grievance
Mechanism**

Any non-judicial process through which individuals or organizations can raise grievances and obtain remedies. COCOBOD's grievance and redress mechanism is an example of a non-judicial grievance mechanism.

**Productivity Enhancement
Program**

Programs funded by a 2019 syndicated loan agreement between COCOBOD, the African Development Bank, and other private lenders aimed at increasing cocoa production in Ghana.

**Stakeholder Engagement
Plan**

A component of COCOBOD's Environmental and Social Management System in which the grievance and redress mechanism is located aimed at increasing transparency and communication between stakeholders throughout Ghana's cocoa supply chain.



Executive Summary

In 2019, Ghana received a USD 600 million syndicated loan from the African Development Bank and other private lenders to maximize cocoa production and improve farmers' livelihoods. As a prerequisite for obtaining the loan, the government agency that runs Ghana's cocoa industry, COCOBOD, established an Environmental and Social Management System (ESMS) with a grievance and redress mechanism. The ESMS aims to identify and manage environmental and social risks and opportunities to protect the environment and improve the livelihoods of cocoa farmers and others in Ghana's cocoa sector.

This report examines COCOBOD's ESMS and its component grievance and redress mechanism. The report finds that the grievance and redress mechanism could be a powerful tool for cocoa farmers, workers, and their communities. However, to date, the ESMS and its grievance and redress mechanism remain unfulfilled promises. To fulfil its commitments and begin realising its potential, COCOBOD must fully implement the ESMS and its grievance and redress mechanism to promote human rights, welfare, and the environment in Ghana's cocoa-growing communities.

Human Rights, Welfare & the Environment in Ghana's Cocoa Industry

Ghana is the second-largest producer of cocoa in the world. Together with Cote d'Ivoire, Ghana produces about 60 per cent of the cocoa that sustains the USD 130 billion global chocolate industry. Ghana is home to about 800,000 small cocoa farmers, comprising approximately 60 per cent of its agricultural workers.

Despite the vast wealth created by the global chocolate industry and cocoa's essential role in the Ghanaian economy, poverty is pervasive among people living and working in Ghana's cocoa-growing communities. According to the 2020 *Cocoa Barometer*—a global industry overview published by a consortium of civil society organisations—only about 9 per cent of cocoa farming households in Ghana earn a living income. Another recent survey of cocoa farmer households in Ghana found that the average annual income for an individual selling cocoa beans was USD 983.

Cocoa farming is labour intensive work. It is difficult, if not impossible, for a family living on USD 1 to 3 a day to hire the necessary labour to work on their farms. Consequently, some families in Ghana engage their children in work on cocoa farms. The involvement of children in the production of cocoa in Ghana is a complicated phenomenon. A broad spectrum of experiences exists, from the culturally enriching exposure of children to longstanding farming traditions to the harmful forced labour of young children who do not otherwise

attend school. In October 2020, the United States Department of Labor released a study that found that 770,000 children were engaged in cocoa production in Ghana, 92 per cent of whom were exposed to at least one form of hazardous child labour. The elimination of harmful forms of child labour is critical to ensuring the human rights and welfare of people living and working in Ghana's cocoa-growing communities.

Cocoa production in Ghana also contributes to environmental degradation and harms from pesticide use. Ghana has lost 80 to 95 per cent of its forest since 1955. Between 2001 and 2014, cocoa production caused one-quarter of the deforestation in Ghana. Cocoa farming also causes the loss of forest plant species and strips the land of its nutrients. The use of pesticides in cocoa farming can harm waterways, lead to pest resistance, and harm individuals who spray the chemicals if they are not adequately protected.



COCOBOD: The Ghana Cocoa Board

The Ghana Cocoa Board, known as COCOBOD, has existed in various forms since 1940 when the British government established the West African Cocoa Control Board. COCOBOD now exerts almost absolute control over the cocoa industry in Ghana. It acts as the sole regulator, purchaser, and seller of Ghanaian cocoa. COCOBOD sets the floor price paid to farmers for their cocoa and regulates who can buy cocoa, solely on its behalf. Through its subsidiaries, the Cocoa Research Institute of Ghana, the Seed Production Division, and the Cocoa Health and Extension Division, COCOBOD is the primary provider of inputs, such as seedlings and pesticides, and technical training for cocoa farmers.

Considering its dominant position—and the entrenched poverty, child labour, and environmental harm in the cocoa sector—COCOBOD has a unique and unrealised potential to protect the environment and promote the human rights and welfare of cocoa-growing communities. Despite this immense promise, COCOBOD has a reputation as a secretive political institution with contradictory objectives. Its role as an export monopoly marketing board for cocoa provides it with vast political power and wealth. During in-depth interviews conducted by the authors, stakeholders described COCOBOD as “untouchable” and “one of the country’s most powerful institutions.” One interviewee alleged that COCOBOD uses cocoa profits to “reward political support, mobilize political power, and fund political parties.” Members of non-governmental organizations explained how difficult it is to obtain information from COCOBOD about its operations or programs. They pointed out that COCOBOD’s roles as the sole buyer, seller, and regulator of cocoa are directly at odds. These interviewees further questioned the institution’s ability to maximise profits from buying and selling cocoa while at the same time raising the wages and enhancing the overall welfare of cocoa farmers and workers.

COCOBOD’s Environmental and Social Management System & Grievance and Redress Mechanism

In anticipation of a USD 600 million syndicated loan agreement with the African Development Bank and private lenders, COCOBOD created the Environmental and Social Management System (ESMS) in 2018. The ESMS is a collection of aspirational policies and procedures designed to “identify and manage environmental and social risks and opportunities” in COCOBOD’s operations. Through the ESMS, COCOBOD’s Chairman and Chief Executive have declared that COCOBOD’s ultimate mission is to promote a sustainable cocoa economy—an economy that promotes the welfare of cocoa farmers and their communities. To this end, among other things, the ESMS aims to improve the livelihoods of cocoa farmers and other stakeholders and address child labour, cocoa price volatility, and threats from unresolved grievances among cocoa-growing communities.

As noted above, COCOBOD has established a grievance and redress mechanism as part of the ESMS. The grievance and redress mechanism is a non-judicial grievance mechanism that is the product of policies and procedures for sustainable project management required under the African Development Bank's Integrated Safeguards System. The mechanism is a part of the Stakeholder Engagement Plan under the ESMS, which aims to increase COCOBOD's transparency by promoting engagement among all stakeholders in the cocoa sector.

Any stakeholder in Ghana's cocoa sector may file a complaint by telephone, post, or email using the grievance and redress mechanism to trigger a formal review and response. There are four levels to the grievance and redress mechanism complaint process: (1) society, (2) district, (3) regional, and (4) national. COCOBOD is to convene a grievance redress team consisting of diverse stakeholders at each level, including Chief Farmers and representatives from government agencies and non-governmental organizations. A complainant begins the process by filing a grievance at the society level to the COCOBOD receiving officer. If the complaint is eligible, the grievance redress team investigates it. If the grievance remains unresolved, the grievance redress team should forward the complaint to the district level where the review process repeats, and so forth on to the regional and then the national level.

Although COCOBOD created the ESMS and grievance and redress mechanism and their implementation framework—the Environmental and Social Management Plan—in 2018, the authors' research for this report indicates that COCOBOD has not yet fully implemented these programs. During interviews with farmers, farmer cooperatives, non-governmental organizations, environmental advocates, legal and human rights experts, the African Development Bank, and others, very few stakeholders were aware of the ESMS or the grievance and redress mechanism. Those who were aware of the programs asserted that COCOBOD had not yet implemented them on the ground.

The PEER Principles—Principles for Effective and Efficient Redress

To evaluate COCOBOD’s grievance and redress mechanism, the authors synthesized the essential components of global standards and best practices to create the PEER Principles—Principles for Effective and Efficient Redress. The PEER Principles include three levels of evaluation: Good, Moderate, or Poor. These evaluators represent the extent to which COCOBOD’s grievance and redress mechanism meets each of 10 PEER Principles’ component criteria, and they provide the overall evaluation of the mechanism. The authors scored the grievance and redress mechanism on a 100-point scale, with each principle providing up to 10 points for a “Good” evaluation. The authors present the results of this evaluation in the PEER Principles Report Card (the details and justifications for this evaluation are provided below in **Section V**):

| PEER PRINCIPLES REPORT CARD: COCOBOD’s Grievance and Redress Mechanism | | |
|---|---------------------------------------|--|
| Principle | | Evaluation / Score (100% / 100 points) |
| 1 | Human Rights Compatibility | Moderate 50% / 5 points |
| 2 | Accessibility & Awareness | Poor 33% / 3.3 points |
| 3 | Transparency & Predictability | Poor 33% / 3.3 points |
| 4 | Legitimacy & Accountability | Moderate 50% / 5 points |
| 5 | Monitoring & Evaluation | Poor 33% / 3.3 points |
| 6 | Inclusivity & Equitable Participation | Moderate 50% / 5 points |
| 7 | Comprehensibility & Manageability | Poor 33% / 3.3 points |
| 8 | Scope & Flexibility | Poor 20% / 2 points |
| 9 | Sustainability & Self-Improvement | Poor 25% / 2.5 points |
| 10 | Procedural Efficiency | Poor 0% / 0 points |
| OVERALL EVALUATION & SCORE | | Poor 33% / 33 points |

The PEER Principles’ overall evaluation and score of COCOBOD’s grievance and redress mechanism are “Poor” with 33 points. Among other things, this demonstrates again that COCOBOD has not yet effectively implemented the mechanism.

Conclusion

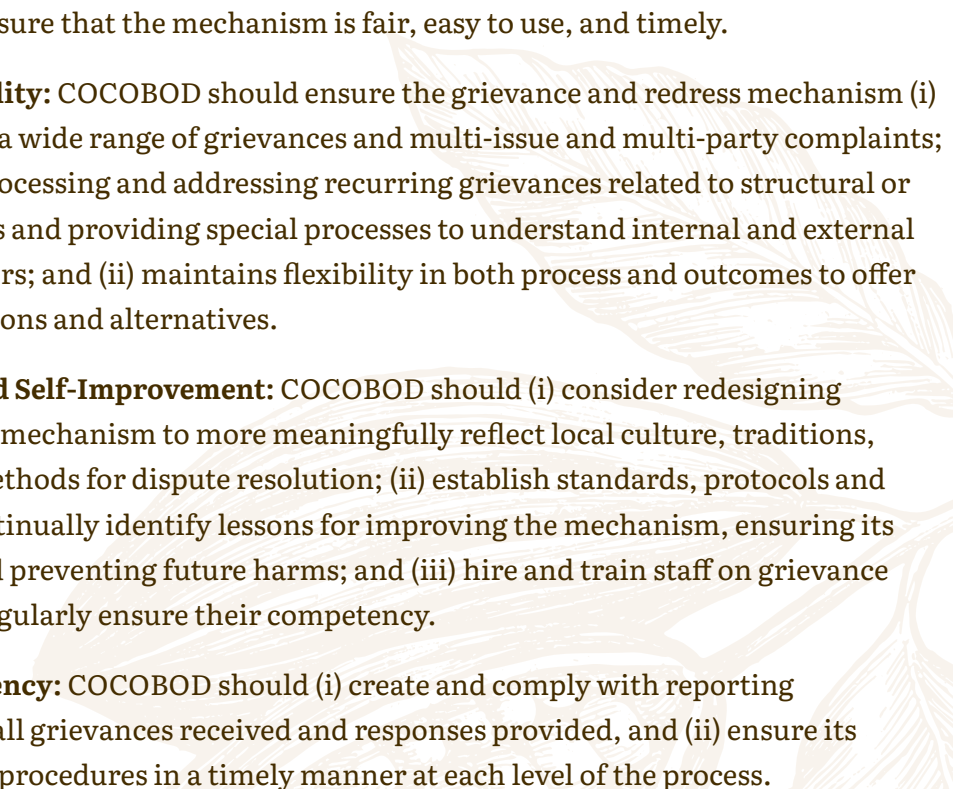
COCOBOD's central and commanding role in Ghana's cocoa sector comes with an equally demanding responsibility for cocoa-growing communities and the environment. Yet, despite its immense financial and political power, COCOBOD's potential remains unrealised. Poverty, harmful forms of child labour, and environmental degradation pervade Ghana's cocoa sector. The ESMS and its component grievance and redress mechanism, established as conditions for a 2019 loan from the African Development Bank and private lenders, present a unique opportunity for COCOBOD to begin fulfilling its promise. However, as this report shows, COCOBOD has yet to do so. COCOBOD must seize this opportunity to strengthen, enhance, and fully implement the ESMS and grievance and redress mechanism according to this report's recommendations. COCOBOD must act to fulfil its unrealised potential to protect the environment and promote the human rights and welfare of people living and working in Ghana's cocoa-growing communities.



Recommendations

These recommendations provide COCOBOD concrete guidance to strengthen its grievance and redress mechanism as part of the Environmental and Social Management System based on the PEER Principles—Principles for Effective and Efficient Redress:

- 1. Human Rights Compatibility:** COCOBOD should explicitly link the grievance and redress mechanism to the human rights of people living and working in cocoa-growing communities, including their economic and social rights, procedural rights, and right to an effective remedy.
- 2. Accessibility and Awareness:** COCOBOD should (i) publicise the grievance and redress mechanism in all necessary language, targeting cocoa-growing regions across the country; (ii) make the mechanism's procedures and guidelines publicly accessible online and in cocoa-growing communities; (iii) provide assistance for stakeholders who require help to access the mechanism; and (iv) ensure all relevant government officials and units in COCOBOD, the Ministry of Food and Agriculture, and other relevant ministries are aware of the mechanism and trained to effectively facilitate its use by stakeholders.
- 3. Transparency and Predictability:** COCOBOD should (i) make public accurate and consistent information about the grievance and redress mechanism's performance, including financial reporting and qualitative and quantitative information about redress procedures and outcomes; (ii) ensure predictability through clear guidelines, time frames, and general types of available redress; and (iii) keep parties informed of all decisions and progress throughout the grievance process.
- 4. Legitimacy and Accountability:** COCOBOD should (i) ensure officials implementing the grievance and redress mechanism have sufficient authority and leverage to ensure all parties comply with the decisions of the grievance redress teams; (ii) hold the grievance redress teams accountable for fair conduct during the process; (iii) ensure confidentiality and allow anonymity to protect complainants from retaliation; and (iv) allow all decisions to be subject to review by a credible, independent, external authority, such as a judge.
- 5. Monitoring and Evaluation:** COCOBOD should document and store all grievances and their outcomes, ensure consistency in processes and results, and establish and implement procedures to evaluate the outcomes produced by the grievance and redress mechanism.

- 
6. **Inclusivity and Equitable Participation:** COCOBOD should (i) consult with stakeholders, including cocoa farmers, workers, and non-governmental organizations while reviewing and improving the grievance and redress mechanism; (ii) facilitate the participation of diverse and vulnerable groups in finding collaborative solutions for their complaints through inclusive good-faith negotiations in an atmosphere of mutual confidence; and (iii) ensure all parties have access to sources of information, advice, and expertise to fully engage in the grievance process, respecting the role of complainants' advisors and representatives.
 7. **Comprehensibility and Manageability:** COCOBOD should (i) review the grievance and redress mechanism in coordination with farmers and other stakeholders to ensure it is simple and easy to understand and use and responsive to the needs of all stakeholders; (ii) provide guidance and support to stakeholders who require it to effectively use the mechanism, especially for grievances that involve international stakeholders; and (iii) minimise costs or burdens that could discourage use of the mechanism and that are unnecessary to ensure that the mechanism is fair, easy to use, and timely.
 8. **Scope and Flexibility:** COCOBOD should ensure the grievance and redress mechanism (i) accepts as eligible a wide range of grievances and multi-issue and multi-party complaints; (ii) is capable of processing and addressing recurring grievances related to structural or systemic problems and providing special processes to understand internal and external contributing factors; and (ii) maintains flexibility in both process and outcomes to offer complainants options and alternatives.
 9. **Sustainability and Self-Improvement:** COCOBOD should (i) consider redesigning the grievance and mechanism to more meaningfully reflect local culture, traditions, and customary methods for dispute resolution; (ii) establish standards, protocols and procedures to continually identify lessons for improving the mechanism, ensuring its sustainability, and preventing future harms; and (iii) hire and train staff on grievance procedures and regularly ensure their competency.
 10. **Procedural Efficiency:** COCOBOD should (i) create and comply with reporting requirements for all grievances received and responses provided, and (ii) ensure its officials follow all procedures in a timely manner at each level of the process.



Methodology

This report is based on information gathered through desk research and in-depth interviews. The authors conducted extensive research into the human rights and welfare of Ghana's cocoa-growing communities, cocoa's impact on Ghana's environment, the Ghana Cocoa Board's operations, financing, and political aspects, the African Development Bank's lending policies and procedures, and global standards and best practices for non-judicial grievance mechanisms.

The authors also conducted a series of semi-structured in-depth interviews with more than 20 stakeholders in Ghana's cocoa sector. The stakeholders included farmers, farmer cooperatives, non-governmental organizations, environmental advocates, legal and human rights experts, the African Development Bank, and others. Due to COVID-19 travel restrictions during 2020 and 2021, the authors based in the United States could not travel to Ghana to conduct in-person interviews and focus group discussions. Instead, they conducted interviews remotely via video conferencing and the telephone. The questionnaires the authors used to conduct the interviews are available in the **Appendix**. The authors verbally obtained informed consent from each interviewee prior to each in-depth interview. Throughout this report, the authors anonymously attribute direct quotations and other information obtained from stakeholders during in-depth interviews to protect the stakeholders' identities.

The authors conducted in-depth interviews with the following stakeholders:

1. **Nelson Adubofour**, cocoa farmer and Executive Secretary of the Kuapa Kokoo Cooperative Cocoa Farmers and Marketing Union Limited (Ghana) (04/09/20).
2. **Clement Akapame**, founding partner of TaylorCrabbe Initiative and In-Country Associate of ClientEarth (Ghana) (06/01/20).
3. **Barima Akwasi Amankwaah**, National Coordinator of Ghana NGO Coalition on the Rights of the Child (GNCRC) (Ghana) (05/22/20).
4. **Mercy Owusu Ansah**, **Doreen Asumang-Yeboah**, Director and Networking & Advocacy Expert, respectively, at Tropenbos Ghana (Ghana) (04/10/20).
5. **Stephen Ashia**, cocoa farmer and Managing Director of Aponoapono Biakoye Organic Cocoa Farmers Association (ABOCFA) (Ghana) (04/29/20).
6. **Glen Asomaning**, Director of Operations at the Nature and Development Foundation (NDF) (Ghana) (03/12/20).

7. **Prof. Raymond A. Atuguba**, Dean and Faculty at the University of Ghana School of Law (Ghana) (03/20/20).
8. **Frank Dwase**, cocoa farmer and member of Kuapa Kokoo Cooperative Cocoa Farmers and Marketing Union Limited (KKFU) (Ghana) (04/17/20).
9. **Antonie Fountain**, Managing Director at the VOICE Network (Voice of Organizations in Cocoa) (Netherlands) (04/03/20).
10. **Etelles Higonnet**, former Senior Campaign Director at Mighty Earth (USA) (03/05/20).
11. **Kwetey Nartey**, Senior Broadcast Journalist at JoyNews in Accra (Ghana) (08/18/20).
12. **Sebastian Okeke**, **Bumi Camara**, **Theo Braimah Awanzam**, Acting Country Program Manager, Country Economist, and Senior Macroeconomist, respectively, at the African Development Bank (AfDB) (Ghana) (06/09/20).
13. **Obed Owusu-Addai**, Co-Founder and Managing Campaigner at EcoCare Ghana (Ghana) (05/05/20).
14. **Barnett Quaicoe**, Resident Manager and UK/Europe Head of the Cocoa Marketing Company, a COCOBOD subsidiary (United Kingdom) (05/04/20).
15. **Sandra Kwabea Sarkwah**, **George Amankwah**, **Emmanuel Ayifah**, Project Officer, Finance Manager, and Deputy Country Director, respectively, at SEND Ghana (Ghana) (05/19/20).
16. **Prof. Christopher Udry**, Co-Director of the Global Poverty Research Lab at Northwestern University (USA) (05/08/20).



The authors were unable to interview COCOBOD officials in Ghana. The authors attempted to contact COCOBOD over the course of a year to schedule an interview through multiple communication channels, including post, telephone, email, WhatsApp, LinkedIn, and Skype. The authors sent numerous emails with signed letters of request for an interview to the COCOBOD spokesperson, the public affairs office, the National Coordinator, the COCOBOD focal person on the Ghana Cocoa Platform, the Environmental and Social Management System Coordinator, and the Cocoa Marketing Company in Ghana. Finally, the authors sent hard copies of the letter requesting an interview and this report's Executive Summary by post to the COCOBOD office in Accra. The authors received confirmation that COCOBOD had received the letter and summary, but they did not receive any other response.

The authors acknowledge that some of the stakeholders interviewed for this report are also co-authors. This occurred as a result of the dynamic process by which this project evolved over the course of approximately two years. Some stakeholders who were initially interviewed later joined the project and co-authored this report. The authors decided to continue to rely on the information obtained during in-depth interviews with these co-authors because the interviews were conducted prior to their joining the project.

I. Introduction

The cocoa sector in Ghana is a multi-billion-dollar industry. Yet, the human rights and welfare of people living and working in Ghana's cocoa-growing communities remain unrealised. Most of the approximately 800,000 cocoa farmers in the country live in poverty, and the use of children in cocoa production is widespread. Unsustainable farming practices have also devastated the environment, contributing to deforestation, rainfall loss, and wildlife and plant species' decimation.

In 2019, Ghana received a USD 600 million syndicated loan from the African Development Bank and private lenders to maximize cocoa production and improve farmers' livelihoods.¹ This loan is part of the African Development Bank's Feed Africa Strategy that aims to tackle hunger and malnutrition across the continent. As a prerequisite for obtaining the loan, the government agency that runs the cocoa industry, the Ghana Cocoa Board, known as COCOBOD, established an Environmental and Social Management System (ESMS) with a grievance and redress mechanism. The ESMS aims to identify and manage environmental and social risks and opportunities to improve the livelihoods of cocoa farmers and other stakeholders in the cocoa sector.

“Cocoa is the lifeblood of the economy in Ghana.”

— A stakeholder during an in-depth interview in March 2020.

This report examines COCOBOD, the ESMS, and the grievance and redress mechanism in light of the human rights and welfare concerns of people living and working in Ghana's cocoa-growing communities and cocoa's impact on the environment. From the under weighing and underpaying for cocoa beans by Licensed Buying Companies, to the unsafe disposal of pesticides, to instances of forced child labour, the grievance and redress mechanism could provide cocoa farmers, workers, and their communities a concrete tool to promote transparency and seek redress for a variety of harms. To date, however, the ESMS remains an unfulfilled promise. For the grievance and redress mechanism to truly support people living and working in cocoa-growing communities, COCOBOD must fully implement and enhance the mechanism to make it widely accessible, easy to use, and capable of providing effective and efficient redress.

¹ African Development Bank. Project Summary Note: Ghana Cocoa Board. Sept. 2019, <https://www.afdb.org/en/documents/ghana-ghana-co-coa-board-project-summary-note> [hereinafter Project Summary Note]; Ghana Cocoa Board. Environmental and Social Management Plan. 25 Oct. 2018, p. 3, <https://esa.afdb.org/sites/default/files/GHANA%20COCOA%20BOARD%20ESMP-102018.pdf> [hereinafter Environmental and Social Management Plan]; “Ghana Cocoa Board to Raise \$1.3 Billion in Syndicated Loans.” GhanaWeb, 30 July 2019, <https://www.ghanaweb.com/GhanaHomePage/business/Ghana-Cocoa-Board-to-raise-1-3-billion-in-syndicated-loans-767840#> [hereinafter Ghana Cocoa Board to Raise USD 1.3 Billion].



This report has four main sections. After this introduction, the second section highlights poverty among cocoa farmers and workers, child labour in cocoa, and cocoa's impact on Ghana's environment. The third section examines COCOBOD's operations, financing, political power, and lack of transparency. The fourth section explores COCOBOD's 2019 syndicated loan from the African Development Bank and the ESMS and grievance and redress mechanism established as conditions for the loan. The final section introduces the PEER Principles—Principles for Effective and Efficient Redress—synthesized from global standards for non-judicial grievance mechanisms and uses them to evaluate COCOBOD's grievance and redress mechanism.

II. Human Rights, Welfare & the Environment in Ghana's Cocoa Industry

Ghana is the second-largest producer of cocoa in the world, just behind its neighbour Côte d'Ivoire. Together, the two countries produce about 60 per cent of the cocoa that sustains the USD 130 billion global chocolate industry.² Cocoa is a crucial sector in Ghana's economy. Ghana is home to about 800,000 small cocoa farmers, comprising approximately 60 per cent of Ghanaian agricultural workers.³ In 2019, Ghana exported about USD 2.29 billion in cocoa products, which accounted for more than 14 per cent of its overall exports.⁴

“Poverty is the most important factor in the cocoa sector. It is a multifaceted issue, but at the center is the pricing of cocoa beans. Cocoa beans are priced at a rate that does not allow farmers to rise out of poverty.”

— A stakeholder during an in-depth interview in May 2020.

Despite cocoa's essential role in Ghana's economy, most cocoa farmers live in poverty, child labour is common, and deforestation and other environmental harms stemming from cocoa farming are grave threats. This section highlights these concerns for the environment and the human rights and welfare of people living and working in Ghana's cocoa-growing communities.

A. Farmer and Worker Poverty

Poverty is pervasive among cocoa farmers and cocoa workers in Ghana. Cocoa farmers often do not earn enough to support their families. According to the 2020 Cocoa Barometer—a global industry overview published by a consortium of civil society organisations—only about 9 per cent of cocoa farming households in Ghana earn a living income.⁵ Another recent survey of cocoa farmer households in Ghana found that the average annual income for an individual selling cocoa beans was USD 983.⁶ The same study found the average annual income for

² Fountain, Antonie C., and Friedel Huetz-Adams. *Cocoa Barometer 2020*. 2020, p. 22, <https://www.voicenetwork.eu/wp-content/uploads/2020/12/2020-Cocoa-Barometer.pdf> [hereinafter *Cocoa Barometer*]; Bhutada, Govind. “Cocoa's Bittersweet Supply Chain in One Visualization.” *World Economic Forum*, 4 Nov. 2020, <https://www.weforum.org/agenda/2020/11/cocoa-chocolate-supply-chain-business-bar-africa-exports/>.

³ “Cocoa Farmers in Ghana Experience Poverty and Economic Vulnerability.” *International Cocoa Initiative*, 1 Dec. 2017, <https://cocoainitiative.org/news-media-post/cocoa-farmers-in-ghana-experience-poverty-and-economic-vulnerability>.

⁴ Bank of Ghana. *Annual Report 2019*. Bank of Ghana, 2019, p. 17, <https://www.bog.gov.gh/wp-content/uploads/2020/06/AnnRep-2019.pdf>.

⁵ *Cocoa Barometer*, *supra* note 2, p. 40.

⁶ De Buhr, Elke, and Elise Gordon. *Bitter Sweets: Prevalence of Forced Labour and Child Labour in the Cocoa Sectors of Côte d'Ivoire and Ghana*. Tulane University and Walk Free Foundation, 2018, p. 21, https://cocoainitiative.org/wp-content/uploads/2018/10/Cocoa-Report_181004_V15-FNL_digital.pdf [hereinafter *Bitter Sweets*].

individuals working on cocoa farms was only USD 206.⁷ A recent estimate found that for farmers to earn a living wage, the farm gate price for cocoa would have to almost double, from the 2020-21 price of USD 1,837 to USD 3,116 per metric tonne.⁸ A further challenge lies in the relatively low global cocoa prices and their decline during the COVID-19 pandemic during 2020 and 2021. For example, during the first part of March 2021, global cocoa contract prices fell by 8 per cent from USD 2,736 to 2,512 per tonne in New York City.⁹

Abunu and Abusa Cocoa Farming

Cocoa farmers comprise a diverse group, including families who own and farm their own cocoa farms, as well as farmers and migrant workers who tend lands that are subject to a higher authority, such as tribal leaders, the government, other families, and other owners. *Abunu* and *abusa* sharecropping contracts play an increasing role in Ghana's cocoa sector, especially for migrant workers. In *abunu* contracts, the tenant farmer brings the entire farm to maturity within a specified period and the product is divided in two between the tenant and the landlord. Traditionally, once the land has been shared like this under an *abunu* contract, half of the land and the trees become the property of the tenant farmer who has the right to bequeath it while the other half reverts to the land-

lord. In contrast, in *abusa* contracts the landowner establishes the farm and the sharecropper, often called a caretaker, farms and maintains the land. The product is split in half or thirds under an *abusa* contract, the landowner receiving half or two-thirds and the caretaker farmer receiving the remaining amount. The caretaker has no property rights in the land under an *abusa* contract and his contract can be terminated at will with little notice by the landowner. While it is unknown how many farmers work in such tenant relationships, it appears that in parts of Ghana it is close to a quarter or even one-third of all cocoa farmers. The prevalence of these relationships demonstrates that a significant portion of cocoa farmers earn less than the value of the cocoa they produce.

Sources: Asamoah, Mercy, and Frank Owusu-Ansah. *Report on Land Tenure & Cocoa Production in Ghana: A CRIG/WCF Collaborative Survey*. Cocoa Research Institute of Ghana & The World Cocoa Foundation, Feb. 2017, https://www.worldcocoafoundation.org/wp-content/uploads/files_mf/1492612620CRIGLandTenureSurveyFinal41217.pdf; Fountain, Antonie C., and Friedel Huetz-Adams. *Cocoa Barometer 2020*. 2020, p. 22, <https://www.voicenetwork.eu/wp-content/uploads/2020/12/2020-Cocoa-Barometer.pdf>.

The labour-intensive nature of cocoa farming perpetuates this cycle of poverty. It is difficult, if not impossible, for a farming family living on USD 1 to 3 a day to hire the necessary labour to work a cocoa farm.¹⁰ When cocoa farmers do try and hire workers, the wages they offer are often so low that they are often unable to find help.¹¹ The introduction of high-yielding,

⁷ Ibid.

⁸ *Necessary Farm Gate Prices for a Living Income: Existing Living Income Reference Prices Are Too Low*. Consultation Paper for the 2020 Cocoa Barometer, Voice Network, Jan. 2020, p. 2, <https://www.voicenetwork.eu/wp-content/uploads/2020/01/200113-Necessary-Farm-Gate-Prices-for-a-Living-Income-Definitive.pdf>; Reuters Staff. "UPDATE 1-Ghana Raises 2020/21 Cocoa Farmgate Price by 28%." *Reuters*, 24 Sept. 2020, <https://www.reuters.com/article/cocoa-ghana/update-1-ghana-raises-2020-21-cocoa-farmgate-price-by-28-idUSL5N2GL5J1>.

⁹ *Cocoa Market Report: March 2021*. International Cocoa Organization, 2021, p. 2, <https://www.icco.org/wp-content/uploads/ICCO-Monthly-Cocoa-Market-Report-March-2021.pdf>.

¹⁰ *Cocoa Barometer*, *supra* note 2, p. 40.

¹¹ Ibid, p. 66.

disease-resistant cocoa varieties—often promoted to increase farmer incomes in Ghana¹²—has further exacerbated the need for labour and contributed to the number of children working in hazardous cocoa production.¹³

“Even though there is a market for cocoa, price setting is a major issue. Farmers don’t have a say in the price determination. COCOBOD says it represents farmers, but it doesn’t do anything.”

— A stakeholder during an in-depth interview in April 2020.

Notably, poverty among cocoa farmers and workers in Ghana remains deeply entrenched despite COCOBOD’s receipt, since the 1992-93 crop season, of annual loans to ensure its payments to cocoa farmers.¹⁴ These loans have recently ranged from USD 1.2 to 1.8 billion.¹⁵

In 2019, Ghana and Cote d’Ivoire agreed to implement a Living Income Differential (LID) of USD 400 per tonne added to cocoa’s price for the 2020-21 cocoa season.¹⁶ Officials introduced this premium to address the low incomes of cocoa farmers in both countries.¹⁷ The two governments aim to use the LID proceeds to guarantee farmers 70 per cent of the USD 2,600 per metric tonne free-on-board target price for cocoa. If market prices rise above USD 2,900, the governments will funnel excess income from the LID into a stabilisation fund to ensure that farmers continue to receive a fair price if cocoa prices fall.¹⁸ Based on an anticipated harvest of 3 million metric tonnes in Ghana and Cote d’Ivoire, observers expected the LID to generate an

¹² “Ghana Cocoa Board to Distribute 60 Million Hybrid Seedlings to Farmers Free.” *Alternative Africa*, 22 July 2019, <https://alternativeafrica.com/2019/07/22/ghana-cocoa-board-to-distribute-60-million-hybrid-seedlings-to-farmers-free/> (quoting Kwadwo Danso, a Regional Manager of the Cocoa Health and Extension Division of COCOBOD, claiming that hybrid, disease-resistant cocoa seedlings will promote higher cocoa production and increase cocoa farmers’ incomes); Kyei, Kofi. “COCOBOD Takes Steps to Revive Cocoa Production ... Kick-Starts Massive Rehabilitation of Farms in Western North and Eastern.” *State Interests and Governance Authority*, 13 Aug. 2020, <https://siga.gov.gh/cocobod-takes-steps-to-revive-cocoa-production-kick-starts-massive-rehabilitation-of-farms-in-western-north-and-eastern/> (quoting Kwame Owusu Ansah, a COCOBOD Regional Manager of the Cocoa Health and Extension Division, asserting that new hybrid cocoa seedlings will “help alleviate poverty by increasing productivity”).

¹³ Luckstead, Jeff, et al. “Estimating the Economic Incentives Necessary for Eliminating Child Labor in Ghanaian Cocoa Production.” *PLoS ONE*, vol. 14, no. 6, June 2019, p. 2, <https://doi.org/10.1371/journal.pone.0217230>; Final Report: 2013/14 Survey Research on Child Labor in West African Cocoa Growing Areas. Payson Center for International Development, Tulane University School of Public Health, July 2015, p. 73, https://www.dol.gov/sites/dolgov/files/ILAB/research_file_attachment/Tulane%20University%20-%20Survey%20Research%20Cocoa%20Sector%20-%202030%20July%202015.pdf.

¹⁴ Obiukwu, Onyedimachukwu. “Ghana Secures \$1.7bn Capital for Next Cocoa Season.” *Ventures*, 14 Sept. 2014, <https://venturesafrica.com/ghana-secures-1-7bn-capital-for-next-cocoa-season/> [hereinafter Ghana Secures USD 1.7 Billion in Capital]; “COCOBOD Signs US\$1.3 Billion Syndicated Loan Facility for 2020/2021 Crop Season.” Ghana Cocoa Board, 29 Sept. 2020, <https://cocobod.gh/news/cocobod-signs-us1-3-billion-syndicated-loan-facility-for-20202021-crop-season> [hereinafter COCOBOD Signs USD 1.3 Billion Loan for 2020-21].

¹⁵ Ghana Secures USD 1.7 Billion in Capital, *ibid*; COCOBOD Signs USD 1.3 Billion Loan for 2020-21, *ibid*; Kwasi Kpodo, “UPDATE 2-Ghana’s COCOBOD Signs \$1.3bln Syndicated Loan for 2018/19 Cocoa Buying,” *Reuters*, 20 Sept. 2018, <https://www.reuters.com/article/ghana-cocoa-loan/update-2-ghanas-cocobod-signs-1-3-bln-syndicated-loan-for-2018-19-cocoa-buying-idUKL8N1W62Z2> [hereinafter COCOBOD Signs USD 1.3 Billion Loan for 2018-19]; “UPDATE 1-Ghana’s COCOBOD Signs \$1.3bln Loan for 2017/18 Cocoa Purchases,” *Reuters*, 20 Sept. 2017, <https://www.reuters.com/article/ghana-cocoa/update-1-ghanas-cocobod-signs-1-3-bln-loan-for-2017-18-cocoa-purchases-idUSL5N-1M13X9> [hereinafter COCOBOD Signs \$1.3 Billion Loan for 2017-18].

¹⁶ Angel, Maytaal, et al. “Ivory Coast, Ghana Strike First Cocoa Deals with Living Income Premium.” *Reuters*, 13 Sept. 2019, <https://www.reuters.com/article/cocoa-west-africa-pricepremium/ivory-coast-ghana-strike-first-cocoa-deals-with-living-income-premium-idUSL5N-2644FR> [hereinafter Ivory Coast, Ghana Strike First Cocoa Deals].

¹⁷ *Ibid*; Voice Network. VOICE Network Welcomes Historic Move to Raise Cocoa Prices, Questions Remain on Implementation, <https://www.voice-network.eu/wp-content/uploads/2019/09/190905-VOICE-Position-on-West-African-Cocoa-Floor-Price.pdf>.

¹⁸ Ivory Coast, Ghana Strike First Cocoa Deals, *supra* note 16.

additional USD 1.2 billion.¹⁹ However, the COVID-19 pandemic led to a decrease in chocolate sales in 2020, resulting in an oversupply of cocoa.²⁰ This supply glut caused the price of cocoa to drop substantially. Cocoa companies have also found ways to avoid paying the LID. In the fall of 2020, Hershey's sourced cocoa on the futures market, in what Ghana and Cote d'Ivoire claimed was an attempt to avoid paying the LID. Other companies have also refused to pay the LID,²¹ citing the decreased demand as an excuse.²²

B. Children Working in Cocoa

Entrenched poverty in Ghana's cocoa industry leads some cocoa-growing families to engage their children in work on farms. The involvement of children in the production of cocoa in Ghana is a complicated phenomenon.



¹⁹ Wexler, Alexandra. "Cocoa Cartel Stirs Up Global Chocolate Market." *Wall Street Journal*, 5 Jan. 2020, <https://www.wsj.com/articles/new-cocoa-cartel-could-overhaul-global-chocolate-industry-11578261601>.

²⁰ Almeida, Isis, and Leanne de Bassompierre. "Chocolate War Leaves Top Cocoa Producer Stuck with Beans." *Bloomberg*, 20 Jan. 2021, <https://www.bloomberg.com/news/articles/2021-01-20/chocolate-war-leaves-world-s-top-cocoa-producer-stuck-with-beans>; Angel, Maytal, and Ange Aboa. "Exclusive: Pact to Aid Poor Cocoa Farmers in Peril as COVID-19 Hits Demand." *Reuters*, July 2020, <https://www.reuters.com/article/us-cocoa-poverty-exclusive/exclusive-pact-to-aid-poor-cocoa-farmers-in-peril-as-covid-19-hits-demand-idUSKCN24I19I>.

²¹ Peña, Christina. "The War on Cocoa: Hershey Co. Accused of Not Upholding Sustainability Efforts in West Africa." *NBC News*, 12 Dec. 2021, <https://www.nbcnews.com/business/business-news/war-cocoa-hershey-co-accused-not-upholding-sustainability-efforts-west-n1250798>.

²² Nartey, Kwetey. "Chocolate Companies Evading Payment of Living Income Differential for Ghanaian and Ivorian Cocoa Farmers – CSOs." *JoyOnline*, 19 Mar. 2021.

“You cannot disassociate child labour from poverty.”

— A stakeholder during an in-depth interview in April 2020.

Children are exposed to a broad spectrum of experiences in the cocoa industry. These include the culturally enriching introduction to longstanding farming traditions, but also harmful, forced labour of young children who do not otherwise attend school. Many other children help on the farm after school or on the weekends to contribute financially, learn practical farming skills, or remain under the supervision and care of their farming parents. Notwithstanding this nuanced reality, eliminating harmful forms of child labour is critical to ensuring the human rights and welfare of people living and working in cocoa-growing areas of Ghana.

Pesticides Harm Children and Other Workers in Cocoa Production

Workers in the cocoa industry are commonly exposed to pesticides in Ghana. People working on cocoa farms, including women and children, are exposed to hazardous chemicals without training or proper protective equipment, often causing long-term health conditions. One study found that more than 95 per cent of children in rural areas in Ghana did not use protective equipment while

working with pesticides, even though children are more susceptible to pesticide poisoning than adults. Protective clothing worn by adult workers often consists of material that is not chemical resistant. Birth defects, mental and motor impairment, hyperirritability, dizziness, headaches, and damage to internal organs are among the many adverse health effects related to pesticide exposure.

Sources: Mull, L. Diane, and Steven R. Kirkhorn. “Child Labor in Ghana Cocoa Production: Focus upon Agricultural Tasks, Ergonomic Exposures, and Associated Injuries and Illnesses.” *Public Health Reports*, vol. 120, no. 6, Nov. 2005, pp. 649–55; Denkyirah, Elisha Kwaku, et al. “Modeling Ghanaian Cocoa Farmers’ Decision to Use Pesticide and Frequency of Application: The Case of Brong Ahafo Region.” *SpringerPlus*, vol. 5, no. 1, Dec. 2016, p. 1113.

In October 2020, the United States Department of Labor released a study that found that 770,000 children were engaged in cocoa production in Ghana, 710,000 or 92 per cent of whom were exposed to at least one form of hazardous child labour.²³ The study also found that in 2018 and 2019, 55 per cent of children living in agricultural households in cocoa-growing areas in Ghana were engaged in child labour in cocoa production, with more than 50 per cent of children in agricultural households involved in hazardous work.²⁴ The study defines hazardous work as work that a child does involving land clearing, carrying heavy loads, using agrochemicals, using sharp tools, working long hours, or engaging in night work.²⁵

²³ NORC Final Report: Assessing Progress in Reducing Child Labor in Cocoa Production in Cocoa Growing Areas of Côte d’Ivoire and Ghana. NORC at the University of Chicago, Oct. 2020, p. 10, https://www.norc.org/PDFs/Cocoa%20Report/NORC%202020%20Cocoa%20Report_English.pdf.

²⁴ *Ibid.*

²⁵ *Ibid.*, pp. 8-9 (focusing on the “common ground” between the legal definitions in Ghana and Cote d’Ivoire within the broader framework of the International Labour Organization).

In addition to children working on family farms, there is evidence of trafficking and forced child labour in Ghana's cocoa industry. A 2018 study estimated that between 2013 and 2017 more than 14,000 children were forced to work in cocoa production by someone other than their parent in medium and high cocoa producing areas in Ghana.²⁶ The United States Department of Labor has also found that child trafficking within Ghana and forced child labour are present in the industry.²⁷

“Fraudulent scales showing lower weights for cocoa beans is a major problem for farmers. As long as there's fraud, the farm gate price and LID [Living Income Differential] will not make a difference.”

— A stakeholder during an in-depth interview in April 2020.

C. Cocoa's Impact on the Environment

Cocoa production in Ghana contributes to deforestation. Since 1955, Ghana has lost 80 to 95 per cent of its forest.²⁸ Between 2001 and 2014, 7,000 square kilometres of forests in Ghana were destroyed.²⁹ Cocoa production caused one-quarter of this deforestation.³⁰ Because cocoa farming degrades the soil, farmers repeatedly cut further into the forest to obtain new land for cocoa farms. Deforestation has decimated Ghana's wildlife population, and the country is experiencing decreased rainfall and unpredictable weather patterns.³¹ If the government does not act, deforestation could destroy all the forests remaining outside of Ghana's national parks within the next decade.³²

Cocoa farming can also cause the loss of forest plant species and strips the land of its nutrients.³³ The current pesticides used in cocoa production rely primarily on chemical methods and result in significant environmental damage. This damage includes the physical and chemical deterioration of the soil flora and fauna.³⁴ Water that seeps through these

²⁶ Bitter Sweets, *supra* note 6, p. 28.

²⁷ Child Labor and Forced Labor Reports: Ghana. U.S. Department of Labor Bureau of International Labor Affairs, 2018, <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/ghana>.

²⁸ Agroforestry in the Cocoa Sector: A Need for Ambitious Collaborative Landscape Approaches. Consultation Paper for the 2020 Cocoa Barometer, Voice Network, July 2020, p. 4, <https://www.voicenetwork.eu/wp-content/uploads/2020/07/200706-Cocoa-Barometer-Agroforestry-Consultation-Paper.pdf> [hereinafter *Agroforestry in the Cocoa Sector*].

²⁹ Higonnnet, Etelle, et al. *Chocolate's Dark Secret: How the Cocoa Industry Destroys National Parks*. Mighty Earth, 2017, p. 4, https://www.mightyearth.org/wp-content/uploads/2017/09/chocolates_dark_secret_english_web.pdf [hereinafter *Chocolate's Dark Secret*].

³⁰ *Ibid.*

³¹ *Agroforestry in the Cocoa Sector*, *supra* note 28, p. 4; *Chocolate's Dark Secret*, *supra* note 29, p. 4.

³² *Chocolate's Dark Secret*, *supra* note 29, p. 4.

³³ Asase, Alex, et al. "Impact of Cocoa Farming on Vegetation in an Agricultural Landscape in Ghana." *African Journal of Ecology*, vol. 48, 2009, pp. 338–46, on p. 342, <http://www.sidalc.net/reprodoc/A7633i/A7633i.pdf>; Vliet, J. A. van, et al. *Mineral Nutrition of Cocoa: A Review*. 2015. Open WorldCat, p. 47, <http://edepot.wur.nl/356090>; *Cocoa Barometer*, *supra* note 2, p. 77.

³⁴ Afrane, George, and Augustine Ntiamoah. "Use of Pesticides in the Cocoa Industry and Their Impact on the Environment and the Food Chain." *Pesticides in the Modern World - Risks and Benefits*, edited by Margarita Stoytcheva, InTech, 2011, pp. 51–68, on p. 64, https://cdn.intechopen.com/pdfs/21173/InTech-Use_of_pesticides_in_the_cocoa_industry_and_their_impact_on_the_environment_and_the_food_chain.pdf.

acidic soils also adversely impacts Ghana's aquatic ecosystems, including its lakes and rivers.³⁵ Pesticides used in the cocoa industry also decimate pests' natural enemies, leading to the development of pest resistance.³⁶ The adverse environmental effects of pesticides are particularly severe in Ghana because farmers do not always use approved pesticides, and they sometimes use more pesticides than recommended for their crops.³⁷



³⁵ Ibid, pp. 64-65.

³⁶ Denkyirah, Elisha Kwaku, et al. "Modeling Ghanaian Cocoa Farmers' Decision to Use Pesticide and Frequency of Application: The Case of Brong Ahafo Region." *SpringerPlus*, vol. 5, no. 1, Dec. 2016, p. 1113.

³⁷ Ibid.

III. COCOBOD: The Ghana Cocoa Board

The Ghana Cocoa Board, known as COCOBOD, exerts almost absolute control over Ghana's cocoa sector. COCOBOD sets the price of cocoa and is the sole buyer and seller of cocoa. It controls how cocoa is grown, the inputs farmers receive, and other day-to-day aspects of cocoa farming. COCOBOD's central and commanding role in Ghana's cocoa industry comes with an equally demanding responsibility to cocoa-growing communities. This section highlights COCOBOD's operations and objectives, examines its financing, and discusses its political power and lack of transparency.

A. COCOBOD'S Operations & Objectives

COCOBOD has existed in various forms since 1940 when the British government established the West African Cocoa Control Board.³⁸ In 1984, the Ghana Cocoa Board Act established the Ghana Cocoa Board, today's COCOBOD.³⁹ Although it is a government institution, the Act established COCOBOD as a "corporate body," meaning it may own property, enter into contracts, conduct transactions, sue and be sued in its corporate name, and be taxed.⁴⁰

In the early 1990s, COCOBOD underwent a series of reforms. Under pressure from the World Bank, COCOBOD downsized and further liberalized the cocoa industry.⁴¹ The Ghana Cocoa Board (Amendment) Act, 1991 restructured and partially privatized COCOBOD, making it the slimmer, public-private hybrid institution it is today.⁴² COCOBOD's structure has remained essentially unchanged since these reforms of the 1990s. However, in October 2020, the Parliament of Ghana passed the Ghana Cocoa Board (Amendment) Act, 2017 that amends and updates the law governing COCOBOD.⁴³ Among other changes, the law grants the Ministry of Food and Agriculture ministerial responsibility for COCOBOD, removing COCOBOD from the Minister of Trade and Industry.⁴⁴

³⁸ Meredith, David. "The Colonial Office, British Business Interests and the Reform of Cocoa Marketing in West Africa, 1937-1945." *The Journal of African History*, vol. 29, no. 2, 1988, pp. 285-300, on p. 293.

³⁹ Ghana Cocoa Board Act, 1984 (PNDCL 81).

⁴⁰ *Ibid.*

⁴¹ Williams, Tracy. *An African Success Story: Ghana's Cocoa Marketing System*. IDS, 2009, pp. 10-11, 15-16, 18-19. *Open WorldCat*, <https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.2040-0209.2009.00318.2.x> [hereinafter *An African Success Story*].

⁴² Ghana Cocoa Board (Amendment) Act, 1991 (PNDCL 265); *An African Success Story*, *supra* note 41, pp. 13-14, 18-19.

⁴³ PNDCL 265, *ibid*; Report of the Committee on Constitutional, Legal and Parliamentary Affairs on the Ghana Cocoa Board (Amendment) Bill, 2017. Dec. 2019, http://ir.parliament.gh/bitstream/handle/123456789/1540/2019_12_23_13_38_31.pdf?sequence=1&isAllowed=y.

⁴⁴ "COCOBOD Placement under Agric Ministry Almost Complete." *GhanaWeb*, 25 May 2020, <https://www.ghanaweb.com/GhanaHomePage/business/COCOBOD-placement-under-Agric-Ministry-almost-complete-961366>.

COCOBOD Board of Directors

1. Chairman of the Board and two additional “Government nominees”
2. Chief Executive of the Board
3. Two farmers’ representatives who have an “interest in cocoa farming”
4. A member of the “working staff”
5. Governor of the Bank of Ghana
6. A member responsible for Finance and Economic Planning
7. A member responsible for Trade and Tourism

Source: Ghana Cocoa Board (Amendment) Act, 1991, (PNDCL 265).

Today, COCOBOD is the sole purchaser and seller of Ghanaian cocoa. COCOBOD purchases cocoa through its subsidiary buying company, the Cocoa Marketing Company, or through a person or organization it has authorized to buy cocoa, but only for sale back to COCOBOD.⁴⁵

COCOBOD also sets the price paid to farmers for their cocoa.⁴⁶ This floor price reflects the expected export price, COCOBOD’s operating expenses, and taxes.⁴⁷ COCOBOD has a long-standing policy of paying less than 100 per cent to cocoa producers to hold reserves for “the fulfilment of objectives other than those related to producers’ income.”⁴⁸ COCOBOD authorizes Licensed Buying Companies (LBCs) to coordinate the purchase of cocoa from farmers. LBCs must purchase cocoa at the floor price set by COCOBOD. LBCs utilize Purchasing Clerks, also known as Commission Marketing Clerks, to buy cocoa from farmers at smaller quantities on the LBCs’ behalf. Purchasing Clerks also perform other tasks as needed, such as re-drying and weighing cocoa beans they purchase from farmers.⁴⁹

⁴⁵ PNDCL 265, *supra* note 42, § 4.

⁴⁶ *Ibid*, § 3.

⁴⁷ Kolavalli, Shashi, and Marcella Vigneri. “Cocoa in Ghana: Shaping the Success of an Economy.” *Yes Africa Can: Success Stories from a Dynamic Continent*, edited by Punam Chuhan-Pole and Manka Angwafo, World Bank, 2011, pp. 201–17, on p. 208, http://documents1.worldbank.org/curated/en/304221468001788072/930107812_201408252033945/additional/634310PUB0Yes0061512B09780821387450.pdf.

⁴⁸ Guri, Sanni. *The Ghana Cocoa Marketing Board: Conflicts of Interest*. Aug. 1975, pp. 87, 96, https://openresearch-repository.anu.edu.au/bitstream/1885/130324/2/b12581677_Guri_S.pdf; Reuben Quainoo, “GCCP Commends Ghana Cocoa Board on Producer Price Increment For 2020/2021 Cocoa Season,” *Modern Ghana*, 6 Oct. 2020, <https://www.modernghana.com/news/1033733/gccp-commends-ghana-cocoa-board-on-producer-price.html>.

⁴⁹ Owusu Ansah, Goodlet, et al. “The Stake of Licence Buying Companies (LBCs) in the Promotion of Quality Cocoa in Ghana.” *Cogent Business & Management*, edited by Shaofeng Liu, vol. 5, no. 1, Jan. 2018, 1560857, p. 10; Baah, Francis, et al. “Examining the Cocoa Farmer- Purchasing Clerk Relationship in Ghana.” *Global Journal of Science Frontier Research Agriculture and Veterinary Sciences*, vol. 12, no. 11, 2012, pp. 45–52, on p. 46.

COCOBOD's Quality Control Company inspects and certifies cocoa beans purchased by the LBCs. Once the cocoa passes inspection, it comes under the control of the Cocoa Marketing Company. The Cocoa Marketing Company is a subsidiary of COCOBOD that functions as a private company. It is responsible for marketing cocoa to domestic and international buyers. The Cocoa Marketing Company bargains with other companies to secure profitable foreign exchange revenue, maintains sales records, and settles disputes through direct arbitration.⁵⁰

COCOBOD's Subsidiaries and Divisions

1. The **Cocoa Research Institute of Ghana** conducts research and develops cocoa processing techniques.
2. The **Seed Production Division** assists farmers to ensure the production and delivery of high-quality cocoa products.
3. The **Cocoa Health and Extension Division** inspects and treats diseased cocoa farms.
4. The **Quality Control Company** is responsible for grading and sealing and fumigating and disinfecting cocoa.
5. The **Cocoa Marketing Company** coordinates the purchasing, transportation, storage, and internal and external marketing of cocoa.

Source: Ghana Cocoa Board (Amendment) Act, 1991, (PNDCL 265).

COCOBOD also serves as the primary provider of cocoa farming inputs through three of its subsidiaries and divisions, the Cocoa Research Institute of Ghana, the Seed Production Division, and the Cocoa Health and Extension Division.⁵¹ They provide pre-harvest services and inputs for cocoa farmers to improve the quality and yield of their crops.⁵² These inputs include training for cocoa farmers and farming materials like seedlings and pesticides.

⁵⁰ World Bank. Supply Chain Risk Assessment: Cocoa in Ghana. 2011, p. 11, <https://openknowledge.worldbank.org/bitstream/handle/10986/16516/775890WPOGhana0Box0342041B00PUBLIC0.pdf?sequence=1&isAllowed=y> [hereinafter Supply Chain Risk Assessment].

⁵¹ Ghana Cocoa Board. "Subsidiaries and Divisions." Ghana Cocoa Board, <https://cocobod.gh/subsidiaries-and-divisions>. Accessed 17 Apr. 2021.

⁵² Ghana Cocoa Board. "Cocoa Research Institute of Ghana." Ghana Cocoa Board, <https://cocobod.gh/subsidiaries-and-divisions/cocoa-research-institute-of-ghana>. Accessed 1 May 2021; Ghana Cocoa Board. "Seed Production Division." Ghana Cocoa Board, <https://cocobod.gh/subsidiaries-and-divisions/seed-production-division>. Accessed 1 May 2021; Ghana Cocoa Board. "Cocoa Health and Extension Division." Ghana Cocoa Board, <https://cocobod.gh/subsidiaries-and-divisions/cocoa-health-and-extension-division>. Accessed 1 May 2021; Supply Chain Risk Assessment, *supra* note 50, p. 10.

Key Terms

Floor Price: The price of cocoa paid to farmers set by COCOBOD reflecting expected export price, operating expenses, taxes, and farmers' production costs.

Licensed Buying Companies (LBCs): Private companies licensed by COCOBOD to manage the internal marketing of cocoa. LBCs purchase cocoa from farmers on behalf of COCOBOD.

Purchasing Clerk: Purchasing clerks are employed by LBCs to purchase cocoa directly from farmers on the LBCs' behalf.

COCOBOD has numerous statutory objectives for all aspects of the cocoa industry in Ghana. Its first general objectives are to encourage the production and undertake the cultivation of cocoa.⁵³ COCOBOD is also statutorily committed to regulating the marketing and export of cocoa and securing the “most favourable arrangements for the purchase, inspection, grading, sealing and certification, export and sale of cocoa.”⁵⁴ COCOBOD is further bound to promote “the general welfare” of cocoa farmers.⁵⁵

Some of COCOBOD's objectives are in direct tension with each other. As one stakeholder explained during an interview, a buyer in a market cannot effectively regulate themselves. This concern is particularly salient because COCOBOD is the sole buyer of Ghanaian cocoa and the only seller and exporter of that cocoa. The critical challenge lies in COCOBOD's ability to prioritize and promote farmer welfare while also securing the most favourable financial arrangements for the purchase, sale, and export of cocoa. Holding COCOBOD accountable for its obligations to people living and working in cocoa-growing communities is essential given its power over the industry and the welfare, human rights, and environmental concerns highlighted above.

⁵³ PNDCL 265, *supra* note 42, § 2(a)-(b).

⁵⁴ *Ibid.*, § 2(g).

⁵⁵ *Ibid.*, § 2(l).

Contacting COCOBOD

While researching this report, the authors tried unsuccessfully for more than one year to speak with COCOBOD. In total, the authors attempted to contact more than 20 different officials in various positions at COCOBOD by telephone, email, WhatsApp, Skype, and post. The authors emailed and sent by post a summary of this report and formal letters requesting interviews to COCOBOD's spokesperson, the public affairs office, the National Coordinator, the COCOBOD focal person on the Ghana Cocoa Platform, the ESMS Coordinator, and the Cocoa Marketing Company in Ghana. After numerous emails, COCOBOD's focal person on the Ghana Cocoa Platform agreed to speak with the authors over Zoom, but later cancelled

the interview due to COVID-19 restrictions. The authors attempted to reschedule the interview after the restrictions had been lifted but did not receive a response. The authors also reached the COCOBOD Deputy Chief Executive for Agronomy and Quality Control by telephone. The Deputy Chief Executive refused to speak with the authors without obtaining approval directly from COCOBOD's Chief Executive. The authors followed-up multiple times to determine whether the Deputy Chief Executive had received the Chief Executive's permission, but he did not respond. The authors also contacted two members of COCOBOD's staff through WhatsApp, but the staff members were ultimately unwilling to speak to them.

B. COCOBOD's Financing

COCOBOD receives large loans each year to fund Ghana's cocoa industry. COCOBOD uses these loans to buy and sell cocoa during the growing season, provide inputs to farmers, and carry out other tasks. Since the 1992-93 crop season, COCOBOD has received annual loans ranging from about USD 1.2 to 1.8 billion to ensure its payments to cocoa farmers.⁵⁶ In the past few years, four to six banks have generally underwritten these loans before bringing in more institutions to syndicate the loans.⁵⁷ For instance, in 2020 COCOBOD signed a USD 1.3 billion syndicated loan for the 2020-21 crop season.⁵⁸ This loan's purpose is "to finance cocoa purchases and related operational activities in the crop season."⁵⁹ This includes COCOBOD buying approximately 900,000 metric tonnes of cocoa beans through its LBCs.⁶⁰ Twenty-eight banks—24 international and four domestic institutions—underwrote the loan.⁶¹

COCOBOD's receipt each year of billions of dollars in loans to buy cocoa from farmers further underscores the need to hold the institution accountable to protect the environment and promote the welfare and human rights of people living and working in cocoa-growing communities. Moreover, while Ghana has a good track record of paying back its loans on

⁵⁶ Ghana Secures USD 1.7 Billion in Capital, *supra* note 14; COCOBOD Signs USD 1.3 Billion Loan for 2020-21, *supra* note 14; COCOBOD Signs USD 1.3 Billion Loan for 2018-19, *supra* note 15; COCOBOD Signs \$1.3 Billion Loan for 2017-18, *supra* note 15.

⁵⁷ "Banks Refuse Syndicated Loan for COCOBOD," *GhanaWeb*, 19 June 2020, <https://www.ghanaweb.com/GhanaHomePage/business/Banks-refuse-syndicated-loan-for-COCOBOD-984691>.

⁵⁸ COCOBOD Signs USD 1.3 Billion Loan for 2020-21, *supra* note 14.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

time, COCOBOD uses 70 per cent of its profits to repay these annual loans and only 30 per cent to reinvest in its operations.⁶² These figures suggest that COCOBOD is not investing enough to support farmers with inputs and to improve their farming practices and technologies. Instead, COCOBOD forces cocoa farmers themselves to absorb the costs of new farming techniques and technologies, cutting into their profits and exacerbating poverty in cocoa-growing communities.⁶³ Farmers interviewed for this report confirmed this concern, noting the high cost of farming inputs and its impact on their income and livelihoods.

C. COCOBOD'S Political Power & Lack of Transparency

COCOBOD's role as an export monopoly marketing board for cocoa provides it immense political power and wealth. During an in-depth interview, an environmental advocate asserted that this power and wealth makes COCOBOD "untouchable." Another stakeholder described COCOBOD during an interview as "one of the most powerful institutions in the country," noting that the Chief Executive has "direct access" to the President of Ghana. The interviewee stated that, as the country's "cash cow," COCOBOD is "subject to political capture" and corruption. This stakeholder explained that the government uses cocoa revenue to "reward political support, mobilize political power, and fund political parties." The interviewee further claimed that COCOBOD's maintenance of cocoa "price stability" comes at the cost of farmers' welfare so that politicians can "buy big fancy cars."

"Cocoa is political."

— A stakeholder during an in-depth interview in March 2020.

COCOBOD also has a reputation as a secretive institution, lacking in transparency and difficult to engage. Most of the stakeholders the authors interviewed for this report—farmers, professors, lawyers, and members of non-governmental organizations—expressed concern about COCOBOD's lack of transparency and accessibility. As one interviewee explained, COCOBOD officials "will not listen to civil society voices or other stakeholders" because their crop is a "huge source of revenue for the government." Other stakeholders explained during interviews that it was challenging to obtain policies, documents, or other kinds of information from COCOBOD, especially for non-governmental organizations. Interviewees in non-governmental organizations further asserted that when COCOBOD does make information available, it is often fragmented, incomplete, and difficult to understand.

⁶² Exploring Revenue Management & Producer Pricing Mechanism Within Ghana's Cocoa Sector. IMANI Center for Policy and Education, 2019, p. 80, https://imaniafrica.org/wp-content/uploads/2019/12/Cocoa-Project-Final-Web_Print-Final_compressed.pdf.

⁶³ Cocoa Barometer, *supra* note 2, p. 44; "COCOBOD Doesn't Have Enough Funds to Supply Free Fertiliser," *Ghanaweb*, 5 Nov. 2020, <https://www.ghanaweb.com/GhanaHomePage/business/COCOBOD-doesn-t-have-enough-funds-to-supply-free-fertiliser-Hackman-1101130>; Odijie, Michael E. "West Africa's Cocoa Farmers Are Trapped by the Global Chocolate Industry." *Quartz Africa*, 10 Oct. 2019, <https://qz.com/africa/1725709/ghana-ivory-coasts-cocoa-farmers-trapped-by-chocolate-industry/>.

“Working with COCOBOD is a major challenge. COCOBOD is an autonomous body. You cannot do anything in the cocoa sector without going through COCOBOD. But reaching them is quite difficult.”

— A stakeholder during an in-depth interview in March 2020.

Ghanaian lawmakers have also decried COCOBOD’s lack of transparency. COCOBOD has been the subject of widespread criticism regarding the lack of transparency around its allocation of funds from the USD 600 million loan from the African Development Bank and private lenders, discussed in detail below. In 2019, Rockson-Nelson E.K. Dafeamekor Esq., Member of Parliament of the South Dayi Constituency, issued a press release to several Ghanaian news outlets urging COCOBOD to “come clear” on its allocation of funds from the loan.⁶⁴ His public statement at the time highlighted widespread mistrust in COCOBOD as an institution and frustration with the lack of transparency surrounding COCOBOD’s financial operations.



⁶⁴ Dafeamekor, Rockson-Nelson E. K. “Government Must Come Clear on the \$600m COCOBOD Loan.” *Ghana News*, 18 Nov. 2019, <https://ghananewsonline.com.gh/government-must-come-clear-on-the-600m-cocobod-loan/> (Dafeamekor concluded in his press release that “this money is being applied to something markedly different from what Gov’t has stated on paper”). Stakeholders the authors interviewed for this report echoed this suspicion about the misallocation of the African Development Bank loan funds.

“Almost everybody is afraid of engaging COCOBOD because of how decisions are made within the institution.

— A stakeholder during an in-depth interview in May 2020.

COCOBOD has also taken aggressive steps to try and shut down public criticism. In 2018, an independent media outlet, JoyNews, produced a documentary exposing the fraudulent adjustment of scales and the under weighing of cocoa bags by LBCs’ purchasing clerks.⁶⁵ Through multiple interviews with cocoa farmers and workers, the documentary “Missing Kilos” lays bare the widespread but illegal practice that cheats farmers of significant portions of their income. LBCs filed an injunction to prevent the documentary from airing, claiming that it contained “unfair and unverified allegations of crime made against the companies.”⁶⁶ In May 2018, the Accra High Court Human Rights Division dismissed the LBCs’ application for an injunction, holding that it would amount to unconstitutional “preemptive censorship.”⁶⁷ The LBCs appealed the decision and in February 2020 the Supreme Court of Ghana dismissed their appeal, thereby preserving the High Court ruling.⁶⁸ The “Missing Kilos” documentary aired in the summer of 2020.

⁶⁵ Missing Kilos Pt. 1 - Hotline Documentary on JoyNews (14-8-20). JoyNews, 14 Aug. 2020, <https://www.youtube.com/watch?v=9HtTH9fj-2k> [hereinafter Missing Kilos Pt. 1]; Missing Kilos Pt. 2 - Hotline Documentary on JoyNews (14-8-20). JoyNews, 14 Aug. 2020, https://www.youtube.com/watch?v=5ZK8s9_at0Q [hereinafter Missing Kilos Pt. 2]; Missing Kilos Pt. 3 - Hotline Documentary on JoyNews (14-8-20). JoyNews, 14 Aug. 2020, <https://www.youtube.com/watch?v=3fBB0ZCUB0E> [hereinafter Missing Kilos Pt. 3].

⁶⁶ “Court Gives JoyNews Green Light to Air ‘Missing Kilos’ Documentary.” JoyOnline, 21 Jan. 2020, <https://www.myjoyonline.com/court-gives-joynews-green-light-to-air-missing-kilos-documentary/>; “Cocoa Buyers Association Fights Back Attempts by Joy News to Air Documentary.” JoyOnline, 23 May 2018, <https://www.myjoyonline.com/cocoa-buyers-association-fights-back-attempts-by-joy-news-to-air-documentary/#!>.

⁶⁷ Licensed Cocoa Buyers Association & Ors. v. Multimedia Group Ltd. & Ors., p. 4, Suit No. GJ 188/2018, Accra High Court of Justice (Human Rights Div.) (Unreported).

⁶⁸ The Republic v. High Court (Human Rights Div.), Accra, Suit No. J5/52/2018, Supreme Court (Civil Div.) (Unreported).

IV. COCOBOD'S Environmental and Social Management System & Grievance and Redress Mechanism

In 2019, COCOBOD received a USD 600 million syndicated loan from the African Development Bank and several private institutions. The African Development Bank required that COCOBOD create an Environmental and Social Management System (ESMS) and a grievance and redress mechanism to obtain these funds. This report aims to understand these relatively new programs and their potential to protect the environment and promote the human rights and welfare of people living and working in Ghana's cocoa-growing communities. To this end, this section first discusses the USD 600 million syndicated loan. It then provides an overview of the ESMS, highlighting its objectives, scope, and implementation. Lastly, this section examines COCOBOD's grievance and redress mechanism, a component of its Stakeholder Engagement Plan under the ESMS.

A. African Development Bank USD 600 Million Syndicated Loan

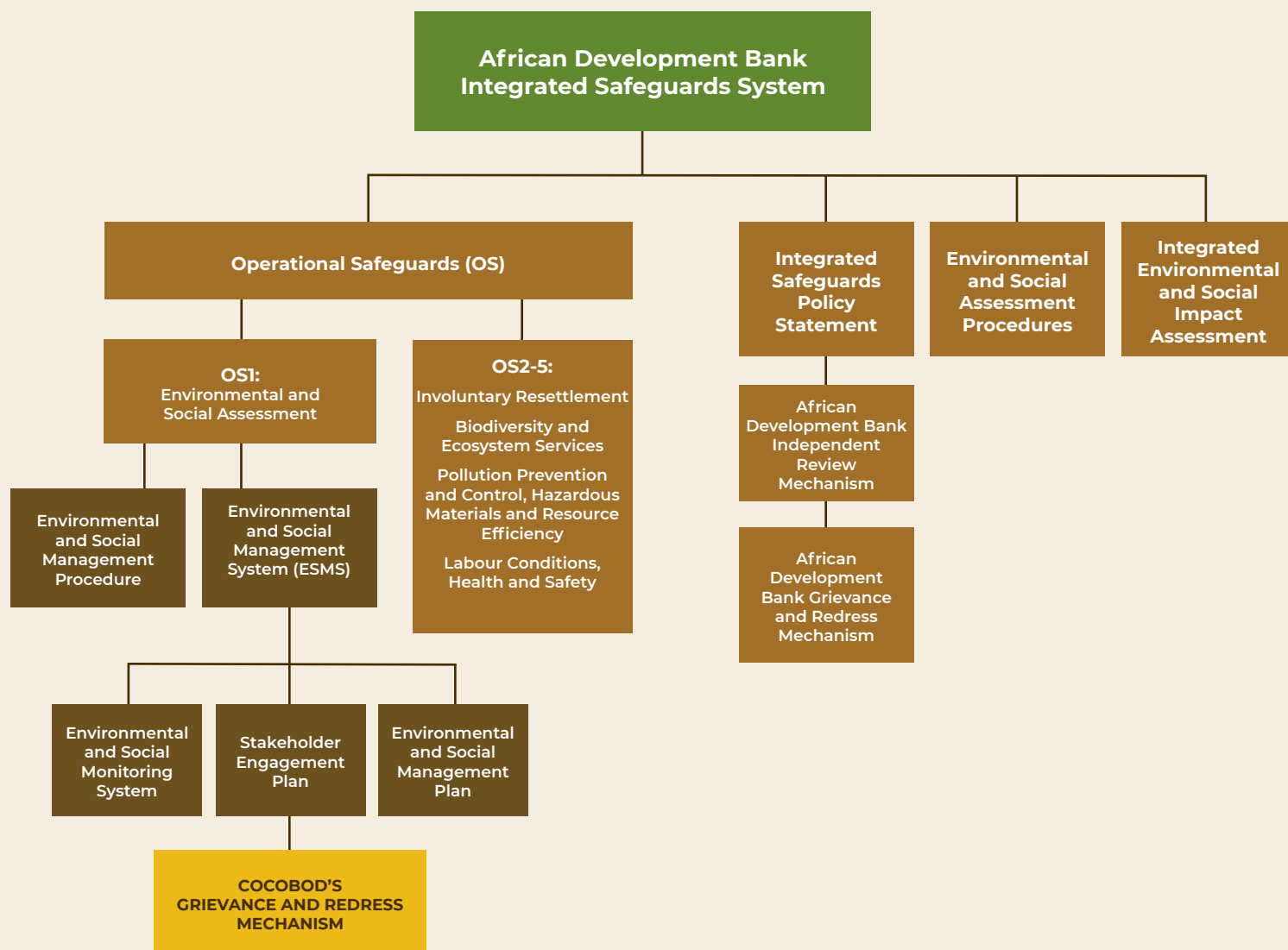
On November 12, 2019, following a year of negotiations, COCOBOD, the African Development Bank, Credit Suisse AG, and the Industrial and Commercial Bank of China signed a USD 600 million, seven-year syndicated loan agreement.⁶⁹ In February 2020, several other development finance institutions joined the loan, including the Japan International Cooperation Agency, the Development Bank of South Africa, and Cassa Depositi e Prestiti Spa, the primary Italian development bank.⁷⁰ The development institutions contributed USD 250 million for the loan, and the private financial institutions provided USD 350 million.⁷¹

⁶⁹ "African Development Bank, Credit Suisse, Industrial and Commercial Bank of China and Ghana Cocoa Board Ink \$600 Million Loan Agreement to Boost Cocoa Production." *African Development Bank Group*, 12 Nov. 2019, <https://www.afdb.org/en/news-and-events/press-releases/african-development-bank-credit-suisse-industrial-and-commercial-bank-china-and-ghana-cocoa-board-ink-600-million-loan-agreement-boost-cocoa-production-32628>.

⁷⁰ Signing of Loan Agreement for "Cocoa Value Chain Enhancement Project" in Ghana: Contributing to Enhancement of the Agricultural Value Chain and Related Industries. *Japan International Cooperation Agency*, 21 Feb. 2020, https://www.jica.go.jp/english/news/press/2019/20200221_10_en.html [hereinafter Signing of Loan Agreement]; Ghana COCOBOD Launches US \$600m Syndicated Loan Facility to Boost Sector Operations. 24 June 2020, <https://africaincmag.com/tag/cocobod/>.

⁷¹ Signing of Loan Agreement, *ibid*.

African Development Bank Institutional and Policy Framework for COCOBOD's Grievance and Redress Mechanism



Source: African Development Bank Group's Integrated Safeguards System — Policy Statement and Operational Safeguards. African Development Bank Group, 2013, https://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/December_2013_-_AfDB%E2%80%99S_Integrated_Safeguards_System_-_Policy_Statement_and_Operational_Safeguards.pdf.

According to COCOBOD, the African Development Bank, and the Ghanaian press, the purpose of this loan is to assist COCOBOD in implementing Productivity Enhancement Programs to maximize Ghanaian cocoa production and increase farmer income.⁷² COCOBOD has stated that it intends to use the loan to support the following activities:

- » Hand pollination of cocoa farms;
- » Irrigation of cocoa farms;
- » Rehabilitation of Cocoa Swollen Shoot Virus Disease (CSSVD) infested farms;
- » Rehabilitation of moribund cocoa farms;
- » Increasing and improving warehousing capacity;
- » Creation of an integrated farmer database;
- » Promotion of domestic processing; and
- » Promotion of local consumption.⁷³

The Productivity Enhancement Programs are a part of the African Development Bank's larger Feed Africa Strategy, an economic development strategy that aims to tackle hunger and malnutrition across the continent.⁷⁴ The programs aim to “sustainably increase plant fertility; develop irrigation systems; rehabilitate aged and disease-infected farms; increase warehouse capacity; and create an integrated farmer database.”⁷⁵ The African Development Bank also intends for the Product Enhancement Programs to provide short-term capital to support cocoa-processing companies in Ghana and promote domestic consumption of cocoa products.



⁷² Environmental and Social Management Plan, *supra* note 1, p. 3; Project Summary Note, *supra* note 1; Ghana Cocoa Board to Raise USD 1.3 Billion, *supra* note 1.

⁷³ Environmental and Social Management Plan, *supra* note 1, p. 3.

⁷⁴ Project Summary Note, *supra* note 1; Feed Africa: Strategy for Agricultural Transformation in Africa 2016-2025. African Development Fund, May 2016, p. v, https://www.afdb.org/fileadmin/uploads/afdb/Documents/Generic-Documents/Feed_Africa-_Strategy_for_Agricultural_Transformation_in_Africa_2016-2025.pdf.

⁷⁵ Project Summary Note, *supra* note 1.

B. Environmental and Social Management System

COCOBOD created its Environmental and Social Management System (ESMS), including the grievance and redress mechanism, in 2018 as a requirement to obtain the USD 600 million syndicated loan from the African Development Bank and private lenders.⁷⁶ The African Development Bank required COCOBOD to ensure its operations conformed to the Bank's Environmental and Social Safeguards Requirement Standards, called the Operational Safeguards.⁷⁷ The Operational Safeguards are part of the Bank's Integrated Safeguards System to promote socially inclusive and environmentally sustainable development.⁷⁸ To fulfil these Operational Safeguards, COCOBOD must follow their guidelines set forth in the Integrated Safeguards System.⁷⁹

“[The grievance and redress mechanism] is not a common thing that people are talking about in the cocoa sector. It is not something I see being implemented or being effective at all. I don't see its effectiveness, not for now.”

— A stakeholder during an in-depth interview in May 2020.

The African Development Bank determined that COCOBOD's Productivity Enhancement Programs were “medium risk.”⁸⁰ Consequently, under the Operational Safeguards, COCOBOD was required to develop and maintain the ESMS and summarise the program on its website.⁸¹ COCOBOD also created an Environmental and Social Management Plan (ESMP) to provide a framework to implement the ESMS.⁸² The Integrated Safeguards System further requires all African Development Bank loan recipients to develop “a credible, independent and empowered local grievance and redress mechanism to ... facilitate ... the resolution of affected people's grievances and concerns about the environmental and social performance of the project.”⁸³

⁷⁶ Environmental and Social Management Plan, *supra* note 1, pp. 3-4 (“This Environmental and Social Management Plan (ESMP) provides a framework for the implementation of COCOBOD's ESMS, in satisfaction of the requirements of the Bank.”); Ghana Cocoa Board. Environmental and Social Management System. 25 Oct. 2018, p. 8, <https://esa.afdb.org/sites/default/files/ESMS%20GHANA%20COCOA%20BOARD.pdf> [hereinafter Environmental and Social Management System] (stating that the ESMS is “guided by the national laws of Ghana; AfDB Environmental and Social safeguards requirement standards; International Labour Organisation conventions and other relevant policies of the Global Environment”). As a back-up for project-specific grievance and redress mechanisms, in 2004 the African Development Bank created an Independent Review Mechanism. The Bank's mechanism is meant to “address complaints made by any group of two or more people who have been harmed, or who are likely to be harmed, by a project funded by the AfDB Group.” The Independent Review Mechanism of the African Development Bank, p. 2, <https://rightsindevelopment.org/wp-content/uploads/2017/12/The-independent-review-mechanism-of-the-african-development-bank.pdf>. Accessed 18 Apr. 2021. Accessed 18 Apr. 2021.

⁷⁷ Environmental and Social Management System, *supra* note 76, p. 8.

⁷⁸ African Development Bank Group's Integrated Safeguards System — Policy Statement and Operational Safeguards. African Development Bank Group, 2013, p. 1, https://www.afdb.org/fileadmin/uploads/afdb/Documents/Policy-Documents/December_2013_-_AfDB%E2%80%99S_Integrated_Safeguards_System_-_Policy_Statement_and_Operational_Safeguards.pdf [hereinafter Policy Statement and Operational Safeguards].

⁷⁹ *Ibid*; Environmental and Social Management System, *supra* note 76, p. 8.

⁸⁰ Environmental and Social Management Plan, *supra* note 1, p. 4 (“These projects have been categorized as FI-B medium risk by AfDB.”).

⁸¹ *Ibid* (“COCOBOD has developed this Environmental and Social Management Plan (ESMP) to identify the environmental and social management and mitigation measures associated with the implementation of the projects in line with the requirements of AfDB.”); Policy Statement and Operational Safeguards, *supra* note 78, p. 25 (stating that according to the African Development Bank's Integrated Safeguards System, all Category 4 financial intermediaries are required to “[d]evelop and disclose a summary of the ESMS to the public on its website”).

⁸² Environmental and Social Management Plan, *supra* note 1.

⁸³ Policy Statement and Operational Safeguards, *supra* note 78, p. 29.



The ESMS applies to all COCOBOD's operations, officials, and agents working in Ghana's cocoa sector, including its subsidiaries and divisions, outside contractors, service providers, and consultants.⁸⁴ The ESMS aims to "identify and manage environmental and social risks and opportunities" and "improve [the] livelihoods of cocoa farmers and other stakeholders."⁸⁵ The ESMS identifies numerous risks associated with COCOBOD's activities in Ghana's cocoa industry. These risks include deforestation, child labour, volatile cocoa prices, the lack or misuse of personal protective equipment, and unresolved grievances from individuals and communities living and working in project areas.⁸⁶ The ESMS provides COCOBOD with a "framework for continuous improvement" in managing these risks, including its Stakeholder Engagement Plan and component grievance and redress mechanism, discussed in detail below.⁸⁷

⁸⁴ Environmental and Social Management System, *supra* note 76, p. 5 ("COCOBOD, its subsidiaries and divisions, productivity enhancing programmes, projects and activities, contractors, services providers, consultants and parties associated with any of the operations of the Board must conform to this ESMS.").

⁸⁵ *Ibid.*, pp. 5, 12.

⁸⁶ *Ibid.*, p. 10.

⁸⁷ *Ibid.*, pp. 6, 27.

“We could not find the ESMS online or in Ghana. What we see in the ESMS is the business-as-usual approach with language to appeal to donors. We feel it was only written for donors and the African Development Bank loan. For now, the ESMS is just a document that has been developed to meet donor requirements.”

— A stakeholder during an in-depth interview in May 2020.

According to COCOBOD’s Chairman, Hon. Hackman Owusu-Agyemang, and Chief Executive, Hon. Joseph Boahen Aidoo, the successful design and implementation of the ESMS are necessary to advance COCOBOD’s ultimate mission: “to create a modernized, resilient and competitive cocoa environment where all stakeholders strive towards a sustainable cocoa economy in which cocoa farmers and their communities thrive.”⁸⁸

However, to date, it appears that COCOBOD has not fully implemented the ESMS. Only five of fourteen stakeholders the authors interviewed for this report had heard of the ESMS before the authors spoke with them. Three of these five interviewees emphasized that, to their knowledge, the ESMS had not yet been implemented and was instead only established on paper. Moreover, while the 2018 ESMS and ESMP reports are available on the African Development Bank’s website,⁸⁹ at the time the authors wrote this report, they were only able to find minimal information about ESMS programs and activities on COCOBOD’s website and elsewhere online.⁹⁰

C. Grievance and Redress Mechanism

COCOBOD’s grievance and redress mechanism is a non-judicial grievance mechanism that individuals and organizations affected by COCOBOD projects may use to seek redress for environmental and social harms. COCOBOD declared that it would establish the grievance and redress mechanism based on the “principles of accessibility, effectiveness, transparency, independenc[e] and record maintenance.”⁹¹ The mechanism is a part of COCOBOD’s Stakeholder Engagement Plan under the ESMS.⁹² The Stakeholder Engagement Plan aims to increase transparency by promoting engagement among all stakeholders in the cocoa sector.⁹³ COCOBOD’s grievance and redress mechanism is the product of policies and procedures for sustainable project management required under the African Development Bank’s Integrated Safeguards System.⁹⁴

⁸⁸ Ibid, p. 7.

⁸⁹ “Environmental and Social Assessment: ESA Full Disclosure Site.” African Development Bank Group, <https://esa.afdb.org/document/environmental-and-social-impact-assessment-14>. Accessed 1 April 2021 [hereinafter Environmental and Social Assessment].

⁹⁰ For example, only recently in April 2021—two and a half years after the ESMS was established on paper—has information about an ESMS program become available on COCOBOD’s website. “A Survey to Assess the Environmental and Social Impacts of COCOBOD’S PEPs Takes Off.” Ghana Cocoa Board, 27 Apr. 2021, <https://cocobod.gh/news/a-survey-to-assess-the-environmental-and-social-impacts-of-cocobods-peps-takes-off>.

⁹¹ Environmental and Social Management System, *supra* note 76, p. 30.

⁹² Ibid, p. 27.

⁹³ Ibid.

⁹⁴ Policy Statement and Operational Safeguards, *supra* note 78, pp. 18, 29.

“There should be a COCOBOD unit responsible for hearing complaints. Currently, the chain is too long; it can get lost. They should give a solution in a short period of time.”

— A stakeholder during an in-depth interview in May 2020.

When a person or group files a complaint using the grievance and redress mechanism, it triggers a formal review and response process. There are four levels to the process: (1) the society level, (2) the district level, (3) the regional level, and (4) the national level.⁹⁵ Each level should include a grievance redress team (or committee) consisting of five to seven representatives from COCOBOD, other government institutions, cocoa farmers, traditional leaders, and other stakeholder groups.

COCOBOD’s Grievance Redress Teams’ Composition

| Level | Composition |
|----------|--|
| Society | <ul style="list-style-type: none"> • Community Extension Agent (Chairman) • Chief of the community or his representative • Chief Farmer • Leader/Representative, Cocoa Farmers’ Cooperative • Women’s Representative • Leader, Youth in Cocoa Initiative • Assemblyman/Unit Committee Chairperson |
| District | <ul style="list-style-type: none"> • District Cocoa officer (Chairman) • Traditional Council Rep. • District Chief Cocoa Farmer • LBC Rep. • District NADMO Coordinator |
| Regional | <ul style="list-style-type: none"> • Regional Manager, CHED (Chairman) • Traditional Council Rep. • Regional Chief Cocoa Farmer • LBC Rep. • Regional NADMO Coordinator • Regional EPA |
| National | <ul style="list-style-type: none"> • Chief Executive • ESMS Manager • National Chief Cocoa Farmer • NADMO • EPA |

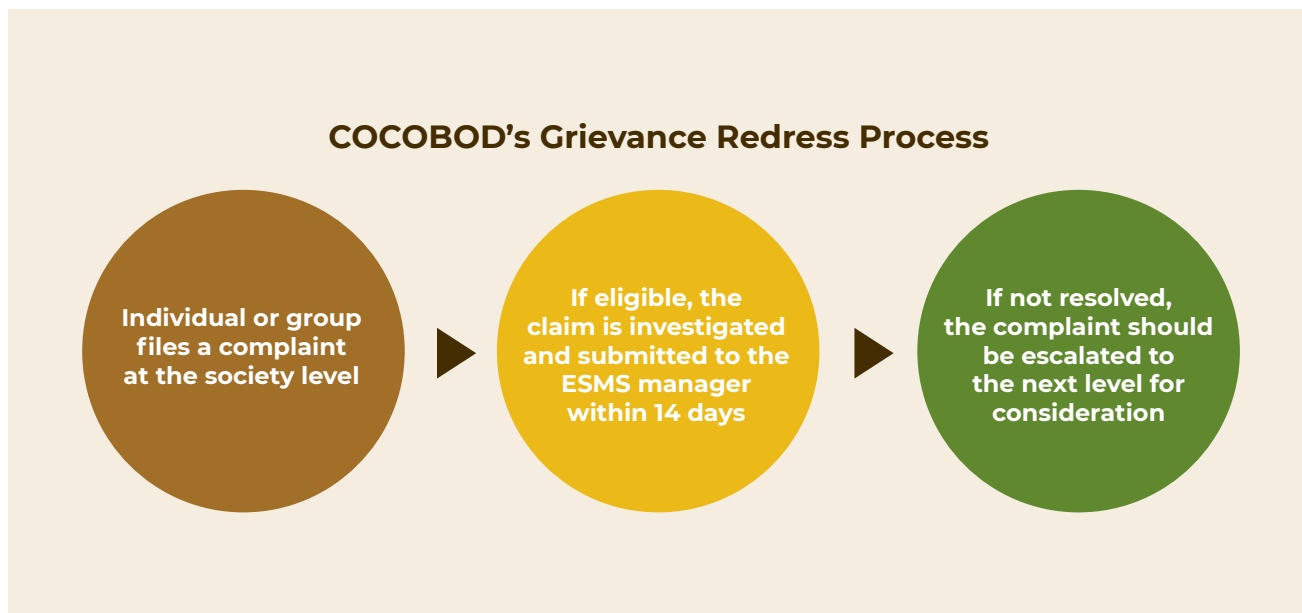
Source: Ghana Cocoa Board. *Environmental and Social Management System*. 25 Oct. 2018, pp. 30-31, <https://esa.afdb.org/sites/default/files/ESMS%20GHANA%20COCOA%20BOARD.pdf>.

⁹⁵ *Environmental and Social Management System*, supra note 76, pp. 30-31.

An individual or group begins the process by filing a complaint with a receiving officer at the society level. The official complaint form is in the **Appendix**. The receiving officer registers the complaint and documents it within a logbook or database. Within five working days, the chairman of the grievance redress team at the societal level should consult with other committee members and notify the complainant whether the complaint is “eligible.”⁹⁶ Unfortunately, COCOBOD has not set forth the factors to be used to determine whether a complaint is eligible.

If the complaint is deemed eligible, the committee at that level shall investigate the issue and submit a detailed report within 14 working days to the ESMS Manager.⁹⁷ COCOBOD has also not established how the committee should investigate a complaint or which standards or evidence it should consider. The committee’s report should consist of a “detailed response” to the issue, confirmation that the complaint is valid, and an “action plan” to address it.⁹⁸

If the complaint is not resolved at the initial society level, the committee should forward it to the next level for consideration.⁹⁹ COCOBOD has not laid out the ways that the grievance redress teams may resolve complaints. However, it has established that “[f]eedback on reported grievances shall be channeled through face-to-face interactions, leaflets, radio, durbars/rallies, farmer business schools, emails, phone calls and letters.”¹⁰⁰



⁹⁶ Ibid, p. 31.

⁹⁷ Ibid.

⁹⁸ Ibid.

⁹⁹ Ibid.

¹⁰⁰ Ibid, p. 32.

Like the ESMS, it appears that COCOBOD has not yet fully implemented the grievance and redress mechanism. The only publicly available information the authors could find about the grievance and redress mechanism comprises a few pages in the 2018 ESMS and ESMP reports.¹⁰¹ Moreover, only five of fifteen stakeholders the authors interviewed for this report had heard of COCOBOD's grievance and redress mechanism before the authors spoke with them. Three of these five interviewees emphasized that, to their knowledge, like the ESMS, the grievance and redress mechanism had not yet been implemented and instead only existed on paper.

Why Use COCOBOD's Grievance and Redress Mechanism?

Under Weighing Cocoa

In 2020, a documentary entitled "Missing Kilos" produced by JoyNews revealed that purchasing clerks for Licensed Buying Companies (LBCs) were under weighing and underpaying for cocoa bags, cheating cocoa farmers of their income.¹⁰² Individual cocoa farmers who have had their cocoa under weighed and have lost income could file a grievance using the grievance and redress mechanism to obtain their lost income. A group of cocoa farmers could file a grievance together to highlight and seek redress for the problem's systemic nature.

Forced Child Labour

In March 2021, the Government of Ghana rescued thirteen children who were victims of trafficking and forced labour.¹⁰³ These children, ages 9 to 19, had worked on cocoa farms in the Volta region, some for ten years.¹⁰⁴ Although they have since been repatriated to their homes and families, these children and their families could bring a grievance using the grievance and redress mechanism to seek redress for the harms they suffered.

Deforestation

Deforestation has continued at a fast pace in Ghana, despite commitments by the Government of Ghana and multinational chocolate and cocoa companies to achieve zero deforestation.¹⁰⁵ Under the Cocoa and Forest Initiative, these and other parties have promised not to convert any more forest land for cocoa production.¹⁰⁶ Non-governmental organizations that work to protect and preserve the environment could bring a grievance through the grievance and redress mechanism to address the continued destruction of forests for cocoa farming.

¹⁰¹ Ibid, pp. 30-32; Environmental and Social Management Plan, supra note 1, pp. 19-20.

¹⁰² Missing Kilos Pt.1, supra note 65; Missing Kilos Pt.2, supra note 65; Missing Kilos Pt.3, supra note 65.

¹⁰³ "Child Survivors of Trafficking Rescued in Ghana Return to Côte d'Ivoire." International Organization for Migration, 19 Mar. 2021, <https://www.iom.int/news/child-survivors-trafficking-rescued-ghana-return-cote-divoire>.

¹⁰⁴ Ibid.

¹⁰⁵ "Cocoa & Forests Initiative." World Cocoa Foundation, <https://www.worldcocoafoundation.org/initiative/cocoa-forests-initiative/>. Accessed 18 Apr. 2021.

¹⁰⁶ Ibid.

V. The PEER Principles: An Evaluation of COCOBOD's Grievance and Redress Mechanism

This section examines COCOBOD's grievance and redress mechanism based on global standards and best practices for non-judicial grievance mechanisms. The authors synthesized these standards into the PEER Principles—Principles for Effective and Efficient Redress. This report employs the PEER Principles to evaluate and score COCOBOD's grievance and redress mechanism. The aim is to highlight the mechanism's strengths and weaknesses and offer concrete recommendations to ensure it provides effective and efficient redress for people living and working in Ghana's cocoa-growing communities.

The first part of this section introduces the ten PEER Principles and their sources and explains the grading system. The second part evaluates COCOBOD's grievance and redress mechanism according to the ten principles and their component criteria. The final part of this section considers the analysis as a whole, focusing on what COCOBOD must do to improve its score and ensure the grievance and redress mechanism is an effective tool for cocoa farmers, workers, and their communities.

A. Principles for Effective and Efficient Redress: The PEER Principles

A non-judicial grievance mechanism is any non-legal routine process by which parties may raise complaints and secure redress. COCOBOD's grievance and redress mechanism is an example of a non-judicial grievance mechanism.

The PEER Principles comprise ten principles and their component criteria synthesized from global standards and best practices for non-judicial grievance mechanisms. The PEER Principles are:

- 1. Human Rights Compatibility**
- 2. Accessibility and Awareness**
- 3. Transparency and Predictability**
- 4. Legitimacy and Accountability**
- 5. Monitoring and Evaluation**
- 6. Inclusivity and Equitable Participation**
- 7. Comprehensibility and Manageability**
- 8. Scope and Flexibility**
- 9. Sustainability and Self-Improvement**
- 10. Procedural Efficiency**

To create the PEER Principles, the authors surveyed and incorporated essential components of the following sources:

- » United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework;¹⁰⁷
- » Karen Lukas et al.’s “criteria of excellence” from *Corporate Accountability: The Role and Impact of Non-Judicial Grievance Mechanisms*;¹⁰⁸
- » Center for Research on Multinational Corporations (SOMO) *Glass Half Full?: The State of Accountability in Development Finance*;¹⁰⁹
- » The Institute for Multi-Stakeholder Initiative Integrity and Harvard’s International Human Rights Clinic’s *MSI Evaluation Tool: For the Evaluation of Multi-Stakeholder Initiatives*;¹¹⁰ and
- » Oxfam Australia’s *Community-Company Grievance Resolution: A Guide for the Australian Mining Industry*.¹¹¹

The ten PEER Principles and their component criteria combine for a total of 100 points, with each principle contributing ten points. Each principle’s ten points are further divided by the number of component criteria. For example, for a principle with five criteria, each

¹⁰⁷ Special Representative of the Secretary-General on Human Rights and Transnational Corporations and Other Business Enterprises. *Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework*. A/HRC/17/31, 2011, https://www.ohchr.org/documents/issues/business/a-hrc-17-31_aev.pdf.

¹⁰⁸ Lukas, Karin, et al. *Corporate Accountability: The Role and Impact of Non-Judicial Grievance Mechanisms*. Edward Elgar Publishing, 2016.

¹⁰⁹ Daniel, Caitlin, et al., editors. *Glass Half Full? The State of Accountability in Development Finance*. SOMO, 2016.

¹¹⁰ MSI Integrity and Harvard Law School International Human Rights Clinic. *MSI Evaluation Tool: For the Evaluation of Multi-Stakeholder Initiatives*. 2017, https://www.msi-integrity.org/wp-content/uploads/2017/11/MSI_Evaluation_Tool_2017.pdf.

¹¹¹ Hill, Christina. *Community-Company Grievance Resolution: A Guide for the Australian Mining Industry*. Oxfam Australia, 2010, <https://www.oxfam.org.au/wp-content/uploads/2011/11/OAus-GrievanceMechanisms-0410.pdf>.

component criteria is worth two points. A table with all ten PEER Principles and their component criteria is available in the **Appendix**.

The authors use three evaluative levels to describe the extent to which COCOBOD's grievance and redress mechanism fulfils each principle: Good, Moderate, or Poor. A "Good" evaluation means the grievance and redress mechanism fulfils 65 per cent or more of a principle's component criteria. A "Moderate" evaluation means the grievance and redress mechanism fulfils more than 35 but less than 65 per cent of a principle's component criteria. A "Poor" evaluation means the mechanism fulfils 35 per cent or less of a principle's component criteria.

Overall, the grievance and redress mechanism receives points for each principle corresponding to the percentage of criteria it fulfils for each principle. For example, if the mechanism fulfils three of five component criteria for a particular principle, it receives a "Moderate" evaluation for that principle and six points for its overall score for meeting 60 per cent of that principle's criteria.

Good is $\geq 65\%$ / 65 total points

Moderate is $> 35\%$ / 35 total points and $< 65\%$ / 65 total points

Poor is $\leq 35\%$ / 35 total points

Given the lack of publicly available information about the implementation of the grievance and redress mechanism, the authors could not determine whether COCOBOD has fulfilled some of the PEER Principles' component criteria. The authors removed these criteria from the total number of component criteria when calculating a principle's score. For example, if a principle has four component criteria but information is only available to evaluate two components, the principle is treated as having only two criteria to calculate its score. If the grievance and redress mechanism fulfils one of this principle's component criteria, it receives an evaluation of "Moderate" with five points for meeting 50 per cent of the component criteria—one out of two for which information is available.

Finally, the authors assign an overall evaluation and score for COCOBOD's grievance and redress mechanism using the same formula as for each principle's evaluation.

¹¹² COCOBOD published the Environmental and Social Management System (ESMS) report and Environmental and Social Management Plan (ESMP) on the same day in October 2018, and they contain the same information about the grievance and redress mechanism. *Environmental and Social Management System*, supra note 76, pp. 30-32; *Environmental and Social Management Plan*, supra note 1, pp. 19-20.

¹¹³ "Home." Ghana Cocoa Board, <https://cocobod.gh/>. Accessed 18 Apr. 2021.

B. PEER Principles Evaluation of COCOBOD's Grievance and Redress Mechanism

As highlighted in the previous section, it appears that COCOBOD has not fully implemented its grievance and redress mechanism. The authors have not been able to find evidence that COCOBOD has publicised the mechanism or provided redress for any grievances. The information on which the authors rely for the PEER Principles evaluation therefore derives from three sources: (1) COCOBOD's 2018 documents that introduced the ESMS and ESMP and established the grievance and redress mechanism (collectively referred to as the "ESMS report" in this section);¹¹² (2) COCOBOD's website;¹¹³ and (3) information collected during in-depth interviews with farmers, farmer cooperatives, non-governmental organizations, legal and human rights experts, the African Development Bank, and others.

1. Human Rights Compatibility: Moderate (50% / 5 points)

| PEER Principle | Component Criteria |
|----------------------------|--|
| Human Rights Compatibility | <ul style="list-style-type: none">(i) Comprehensively address human rights issues, especially issues that prompted the grievance mechanism's formation;(ii) Ensure processes, outcomes, and remedies accord with internationally recognized human rights standards. |

COCOBOD's grievance and redress mechanism fulfils one of two component criteria for Human Rights Compatibility—component (ii).

The ESMS report acknowledges some of the human rights concerns of cocoa-growing communities, including child labour and environmental risks. However, the report does not recognize these concerns in connection with the grievance and redress mechanism, and the ESMS does not comprehensively address human rights issues.

Although there is a shortage of information about the implementation of the grievance and redress mechanism and its processes, outcomes, and remedies, the ESMS report explicitly establishes the mechanism based on the principles of accessibility, effectiveness, transparency, independence, and record maintenance.

2. Accessibility and Awareness: Poor (33% / 3.3 points)

| PEER Principle | Component Criteria |
|---------------------------|---|
| Accessibility & Awareness | <ul style="list-style-type: none">(i) Publicise the grievance mechanism and take appropriate steps to ensure stakeholders who might be impacted are aware of it;(ii) Make all procedures and guidelines necessary for utilizing the mechanism publicly available and accessible to stakeholders;(iii) Assist all stakeholders who may face barriers to accessing or understanding the procedures or guidelines;(iv) Ensure all relevant departments within the governing institution are aware of the mechanism and are actively involved in facilitating its use by stakeholders. |

COCOBOD's grievance and redress mechanism fulfils one of three component criteria for Accessibility and Awareness for which information is available—component (iv). The authors did not find sufficient information to evaluate component (iii).

The authors could not find evidence that COCOBOD has publicised the grievance and redress mechanism or made all its procedures and guidelines publicly available. Instead, as noted above, during interviews with key stakeholders, including farmers, farmer cooperatives, and non-governmental organizations, a large majority of people had not heard of either the ESMS or the grievance and redress mechanism. In addition, as described in the Methodology and the **Contacting COCOBOD** text box above, COCOBOD declined to engage the authors during their research and development of this report to discuss, among other things, whether the institution has publicized the grievance and redress mechanism or made its procedures and guidelines publicly available for relevant stakeholders. There is also no information about the grievance and redress mechanism or the ESMS on the COCOBOD or Ministry of Food and Agriculture websites.¹¹⁴ The complaint form is not available on the “Download Our Forms” webpage on COCOBOD's website or on the Ministry of Food and Agriculture's website.¹¹⁵ There is also no mention of the grievance and redress mechanism or the ESMS under the “Programs” menu tab or on the “Social Responsibility” webpage on COCOBOD's website.¹¹⁶

Given the lack of publicly available information about COCOBOD's implementation of the grievance and redress mechanism, it is unknown whether COCOBOD assists stakeholders who face barriers to accessing or understanding the mechanism's procedures or guidelines.

¹¹⁴ Ibid; “Home.” Ministry of Food & Agriculture, <http://mofa.gov.gh/site/>. Accessed 29 April 2021 [hereinafter Ministry of Food & Agriculture Website].

¹¹⁵ “Download Our Forms.” Ghana Cocoa Board, <https://cocobod.gh/resources/forms>. Accessed 18 Apr. 2021; Ministry of Food & Agriculture Website, *ibid*.

¹¹⁶ “Social Responsibility.” Ghana Cocoa Board, <https://cocobod.gh/social-responsibility>. Accessed 18 Apr. 2021.

The authors were also unable to confirm whether COCOBOD has ensured that all relevant departments within the institution are aware of and involved in facilitating the use of the grievance and redress mechanism. However, COCOBOD's Cocoa Health and Extension Division has conducted at least one training on the ESMS for its Extension Staff in a district in the Volta Region, during which it appears the participants discussed the grievance and redress mechanism.¹¹⁷

3. Transparency and Predictability: Poor (33% / 3.3 points)

| PEER Principle | Component Criteria |
|-------------------------------|--|
| Transparency & Predictability | <ul style="list-style-type: none"> (i) Publicly provide accurate and consistent information about the mechanism's overall performance, including financial reporting, information about the allocation of resources for implementation activities, and qualitative and quantitative information on the redress procedure and outcomes; (ii) Ensure predictability of procedure by providing clear guidelines for procedures with an indicative time frame, clarity on types of processes and outcomes available, and means of monitoring implementation; (iii) Keep all parties to a grievance informed throughout the process. |

COCOBOD's grievance and redress mechanism fulfils one of three component criteria for Transparency and Predictability—component (ii).

The authors could not access any information—public or maintained by COCOBOD—about the grievance and redress mechanism's performance. They were unable to find any publicly available records indicating whether a stakeholder has filed a grievance or COCOBOD has provided redress. The ESMS report states that COCOBOD officers receiving complaints should document them in a database or logbook, but the authors could not verify whether this has occurred. Moreover, as noted above, the authors did not obtain any information about the grievance and redress mechanism during in-depth interviews with farmers, farmer cooperatives, lawyers, or non-governmental organizations. The interviewees were either unaware of the mechanism or indicated that COCOBOD had not yet implemented it.

The ESMS report provides guidelines for the mechanism's procedures with designated timeframes. The report indicates that COCOBOD will monitor the progress made in resolving complaints, and it notes that the grievance redress team shall submit an "action plan" to the

¹¹⁷ Eshun, Francis Mike. "Cocobod Ched in Volta Region Organises Training for Extension Officers on Environmental and Social Management Systems." *Modern Ghana*, 29 Oct. 2020, <https://www.modernghana.com/news/1039325/cocobod-ched-in-volta-region-organises-training.html>.

¹¹⁸ *Ibid.*

ESMS Manager. Finally, the report sets forth a variety of venues by which COCOBOD will provide “feedback” on grievances submitted by stakeholders, including emails, phone calls, face-to-face meetings, leaflets, the radio, rallies (*durbars*), and “farmer business schools.”

The ESMS report states that the Chairman of the ESMS grievance redress team “shall indicate to the complainant whether the request is eligible” within five working days of receiving a complaint. However, this is only the first step in the grievance and redress process. The report does not establish or discuss any further requirements or measures to keep parties informed during the rest of the process.

4. Legitimacy and Accountability: Moderate (50% / 5 points)

| PEER Principle | Component Criteria |
|-----------------------------|---|
| Legitimacy & Accountability | <ul style="list-style-type: none"> (i) Ensure the exercise of sufficient economic and political leverage over non-complying parties; (ii) Hold the redress team accountable for fair conduct during the process; (iii) Ensure confidentiality and allow anonymity upon request to protect complainants from retaliation; (iv) Allow all decisions to be subject to the review of a credible, independent, external authority. |

COCOBOD’s grievance and redress mechanism fulfils two of four component criteria for Legitimacy and Accountability — component (i) and (iii).

Given COCOBOD’s commanding position in Ghana’s cocoa sector, it appears that the grievance redress teams possess sufficient political and economic leverage to ensure compliance among responsible parties, especially at the higher Regional and National levels (see **COCOBOD’s Grievance Redress Teams’ Composition** above). The COCOBOD Chief Executive and ESMS Manager are members of the grievance redress team at the National level.

The ESMS report fails to establish procedures or safeguards to ensure fairness and accountability for the grievance redress team during the complaint process. Notably, the report provides no information about how the initial eligibility decision is made to determine whether a complaint may move forward in the process. The report indicates that the Chairman of the grievance redress team shall consult with the other team members at that level to decide whether a complaint is eligible. However, the report does not provide any information about the standards or protocols by which the team should make their decision.

The ESMS report does not mention confidentiality in direct relationship to the grievance and redress mechanism. However, the report asserts that confidentiality is a guiding principle of the Stakeholder Engagement Plan that contains the mechanism. The Official Complaint Form also provides an option to submit the complaint anonymously (see the **Appendix**).

Notwithstanding the involvement of some external stakeholders, such as Traditional Council Representatives and the District and National Chief Cocoa Farmers, decisions from the grievance redress teams are not subject to review by an independent, external authority. Instead, the grievance redress team at each of the four levels includes one or more COCOBOD officials.

5. Monitoring and Evaluation: Poor (33% / 3.3 points)

| PEER Principle | Component Criteria |
|-------------------------|--|
| Monitoring & Evaluation | <ul style="list-style-type: none">(i) Document grievances received and responses and redress provided;(ii) Ensure coherent and consistent results, and address decisions and other actions that are out of the ordinary;(iii) Establish follow-up procedures to review and evaluate outcomes produced. |

COCOBOD's grievance and redress mechanism fulfils one of three component criteria for Monitoring and Evaluation—component (i).

The ESMS report indicates that a “receiving officer” shall register and document all complaints received in a logbook or database so COCOBOD may monitor progress towards their resolution. The report further establishes that the ESMS Committee shall submit to the ESMS Manager a detailed response and an action plan for all eligible complaints.

However, the grievance and redress mechanism does not contain standards, protocols, or procedures to monitor and ensure consistency in its processes and decisions or to review and evaluate the outcomes it produces.

6. Inclusivity and Equitable Participation: Moderate (50% / 5 points)

| PEER Principle | Component Criteria |
|---------------------------------------|--|
| Inclusivity & Equitable Participation | <ul style="list-style-type: none">(i) Consult stakeholders while creating the mechanism;(ii) Ensure full participation of diverse and vulnerable groups, and respect local culture and traditions;(iii) Involve stakeholders in finding collaborative solutions for their complaints through inclusive good-faith negotiations in an atmosphere of mutual confidence;(iv) Ensure that aggrieved parties have adequate access to sources of information, advice, and expertise to engage in a grievance process on fair, informed, and respectful terms;(v) Respect the role of complainants' advisors and representatives. |

COCOBOD's grievance and redress mechanism fulfils one of two component criteria for Inclusivity and Equitable Participation for which information is available—component (ii). The authors did not find sufficient information to evaluate components (iii), (iv), or (v).

The authors could not determine whether COCOBOD involved any stakeholders in creating the grievance and redress mechanism. However, the ESMS report does not mention their involvement, and none of the farmers or civil society members the authors interviewed for this report was involved in developing the mechanism. Moreover, as noted above, COCOBOD declined to engage the authors during the research and development of this report. As a result, the authors could not discuss with COCOBOD the apparent lack of stakeholder involvement in the grievance and redress mechanism's creation.

The grievance redress teams include representatives from the community, vulnerable groups, and local and traditional leaders. For instance, at the Society level, the Chief of the community or his representative, the Chief Farmer, a women's representative, a leader from the Youth in Cocoa Initiative, and an Assemblyman or Unit Committee Chairperson are members of the decision-making committee.

Given the lack of information about the implementation of the grievance and redress mechanism, it is unknown whether COCOBOD has involved stakeholders in finding collaborative solutions for their complaints through inclusive good-faith negotiations in an atmosphere of mutual confidence. It is also unknown whether aggrieved parties have access to sources of information, advice, and expertise so they can engage in the grievance process on fair, informed, and respectful terms. Lastly, it is unknown whether the officials facilitating the grievance process respect the role of the complainants' advisors and representatives.

7. Comprehensibility and Manageability: Moderate (33% / 3.3 points)

| PEER Principle | Component Criteria |
|-----------------------------------|--|
| Comprehensibility & Manageability | <ul style="list-style-type: none">(i) Ensure that the mechanism is simple and easy to understand and recognizes the diverse needs of all stakeholders;(ii) Provide guidance and support to stakeholders to assist them in using the mechanism to address grievances, especially grievances that involve international, cross-border stakeholders;(iii) Minimise stakeholders' costs and burdens that are unnecessary to ensure the mechanism is fair, easy to use, and timely. |

COCOBOD's grievance and redress mechanism fulfils one of three component criteria for Comprehensibility and Manageability—component (i).

Although there is a lack of information about how (or whether) COCOBOD has implemented the grievance and redress mechanism, the ESMS report provides a process that is relatively simple and understandable. The report establishes multiple ways to submit a complaint: in person, by phone, by mail, and by email. The complaint form is uncomplicated, although it appears that it is only available in English. The ESMS report also considers some of the needs of diverse stakeholders by requiring a diverse make-up of the grievance redress teams at each of the four levels.

The ESMS report does not indicate whether COCOBOD will provide guidance or support to stakeholders to use the grievance and redress mechanism. Nor does it address complaints involving international or cross-border stakeholders or grievances. The failure to consider global concerns is a significant oversight, as Ghana's cocoa industry involves foreign workers and foreign multinationals as the ultimate purchasers of Ghanaian cocoa.

Although the ESMS report establishes a relatively simple, understandable grievance and redress mechanism, there is no indication of whether COCOBOD will minimize unnecessary costs or burdens for stakeholders to ensure fairness, timeliness, and ease of use.

8. Scope and Flexibility: Poor (20% / 2 points)

| PEER Principle | Component Criteria |
|---------------------|--|
| Scope & Flexibility | <ul style="list-style-type: none">(i) Be open to a wide range of concerns and grievances;(ii) Be able to address multi-party and multi-issue complaints while maintaining a narrow enough scope to address particular issues;(iii) Considers and addresses structural and systemic problems related to recurring grievances;(iv) When serious complaints or grievances arise, put a process in place for seeking to understand contributing factors, both internal (how the institution and its actions may have contributed) and external (factors beyond the control of the institution);(v) Maintain flexibility in both process and resolution by offering alternatives in negotiation and providing options for parties to choose the best alternative to negotiate an agreement. |

COCOBOD's grievance and redress mechanism fulfils one of five component criteria for Scope and Flexibility —component (i).

The grievance and redress mechanism appears to be open to a wide range of concerns. The ESMS report states that the mechanism allows “affected individuals and communities to raise environmental and social concerns related to the projects to be implemented by COCOBOD.” While this suggests that the grievance and redress mechanism is also capable of addressing multi-party and multi-issue complaints, there is no specific mention of these kinds of complaints in the ESMS report. There is also no publicly available information regarding multi-party or multi-issue complaints. There is also no clear indication that the mechanism can address structural or systemic problems when multiple complaints raise the same kinds of issues. The grievance and redress mechanism also does not explicitly allow for separate processes to understand internal and external contributing factors for serious grievances.

The ESMS report does not offer negotiation alternatives or allow parties to choose the best option to negotiate an agreement using the grievance and redress mechanism. As noted above, the report does state that COCOBOD shall provide feedback on grievances through multiple channels, including face-to-face interactions, leaflets, the radio, and rallies (or durbars). However, it appears that COCOBOD intends to use these forums to disseminate the decisions of the grievance redress team—i.e., the outcomes of the process—rather than to provide options for alternative dispute resolution.

9. Sustainability and Self-Improvement: Poor (25% / 2.5 points)

| PEER Principle | Component Criteria |
|-----------------------------------|--|
| Sustainability & Self-Improvement | <ul style="list-style-type: none">(i) Design the mechanism according to local culture, traditions and customary methods and/or local preferences for dispute resolution;(ii) Continually identify lessons for improving the mechanism and ensuring its sustainability;(iii) Establish standards and processes to ensure continuous learning from grievances to prevent future grievances and harms;(iv) Hire and train associates on grievance procedures and regularly ensure the competencies of staff members in charge of implementing the mechanism. |

COCOBOD's grievance and redress mechanism fulfils one of four component criteria for Sustainability and Self-Improvement—component (iv).

The grievance and redress mechanism does not appear to incorporate local culture, traditions, or customary methods. Nor does it consider local preferences for dispute resolution in its design. Although COCOBOD includes representatives of the community and traditional and customary leaders on the grievance redress teams, the design of the mechanism and its processes do not integrate community customs or traditions.

The ESMS report does not include standards, protocols, or processes to ensure continuous learning to improve and ensure the grievance and redress mechanism's sustainability or learn from and prevent future grievances and harm. COCOBOD has also not provided any publicly available information on whether it has taken steps or implemented protocols to these ends.

The ESMS report does not address how COCOBOD will hire, train, or otherwise regularly ensure its officials' competency in implementing the grievance and redress mechanism. However, as noted above, COCOBOD's Cocoa Health and Extension Division has completed at least one training on the ESMS for its Extension Staff in a district in the Volta Region, during which it appears the grievance and redress mechanism was covered.¹¹⁸

10. Procedural Efficiency: Poor (0% / 0 points)

| PEER Principle | Component Criteria |
|-----------------------|---|
| Procedural Efficiency | <ul style="list-style-type: none">(i) Create and comply with reporting requirements for all grievances received and responses provided;(ii) Incorporate most common key stages of non-judicial grievance mechanisms: (1) receipt and registration of grievance; (2) acknowledgement, assessment, and assignment of grievance; (3) proposal of response; (4) agreement on response; (5) implementation of agreed response; (6) review and evaluation of implementation; (7) closing out or referral of grievance;(iii) Ensure that officials and parties follow all procedures in a timely manner. |

COCOBOD's grievance and redress mechanism does not fulfil the one component criteria for Procedural Efficiency for which information is available. The authors did not find sufficient information to evaluate components (i) or (iii).

Although the ESMS report does create reporting requirements for complaints received and responses provided, there is no publicly available information about whether COCOBOD has complied with these requirements. It is therefore unknown whether the grievance and redress mechanism fulfils this component.

The grievance and redress mechanism only clearly incorporates the first two stages of the seven most common key stages of non-judicial grievance mechanisms. The grievance redress team is not required to propose or ensure agreement with the response between the parties involved. The ESMS report also fails to provide procedural stages for the review and evaluation of a resolution's implementation or the closing out or referral of a complaint.

Given the lack of information on the implementation of the grievance and redress mechanism, it is unknown whether COCOBOD officials and the parties involved follow all the established procedures in a timely manner.

C. The PEER Principles Overall Evaluation and Score

| PEER PRINCIPLES REPORT CARD: COCOBOD's Grievance and Redress Mechanism | | |
|---|---------------------------------------|--|
| | Principle | Evaluation / Score (100% / 100 points) |
| 1 | Human Rights Compatibility | Moderate 50% / 5 points |
| 2 | Accessibility & Awareness | Poor 33% / 3.3 points |
| 3 | Transparency & Predictability | Poor 33% / 3.3 points |
| 4 | Legitimacy & Accountability | Moderate 50% / 5 points |
| 5 | Monitoring & Evaluation | Poor 33% / 3.3 points |
| 6 | Inclusivity & Equitable Participation | Moderate 50% / 5 points |
| 7 | Comprehensibility & Manageability | Poor 33% / 3.3 points |
| 8 | Scope & Flexibility | Poor 20% / 2 points |
| 9 | Sustainability & Self-Improvement | Poor 25% / 2.5 points |
| 10 | Procedural Efficiency | Poor 0% / 0 points |
| | OVERALL EVALUATION & SCORE | Poor 33% / 33 points |

COCOBOD's grievance and redress mechanism earns an overall evaluation and score of "Poor" with 33 points. The mechanism received a score of 0 for procedural efficiency; 2 points for scope and flexibility; 2.5 points for sustainability and self-improvement; 3.3 points for accessibility and awareness, transparency and predictability, monitoring and evaluation, and comprehensibility and manageability; and 5 points for human rights compatibility, legitimacy and accountability, and inclusivity and equitable participation.

The PEER Principles' overall evaluation of "Poor" highlights the need for COCOBOD to immediately take steps to strengthen, enhance, and fully implement its grievance and redress mechanism. Mere words on paper in a report are insufficient to meet the demands of the African Development Bank's Environmental and Social Safeguards Requirement Standards and provide stakeholders in Ghana an effective tool for redress. To start, COCOBOD must act to publicise the grievance and redress mechanism so that it is well-known in cocoa-growing communities across Ghana. It must further ensure the mechanism is easy to access, understand, and use. This report's recommendations (in the **Recommendations** section above) set forth in greater detail the steps COCOBOD must take to ensure its grievance and redress mechanism provides effective and efficient redress for cocoa farmers, workers, and their communities.

VI. Conclusion

Ghana's cocoa industry is a complex ecosystem with hundreds of thousands of cocoa farmers, families, workers, and other stakeholders. Like any large industry—especially one heavily dependent on powerful multinational corporations—individuals and organizations at the producer end of the supply chain often have legitimate grievances but few avenues for redress. Moreover, COCOBOD's commanding role in Ghana's cocoa sector comes with an equally demanding duty to protect the environment and promote the human rights and welfare of people living and working in cocoa-growing communities. COCOBOD's Environmental and Social Management System (ESMS) and grievance and redress mechanism, created as conditions to receiving a USD 600 million loan in 2019, present it with a unique opportunity to address this crucial gap and begin fulfilling its promise to cocoa-growing communities.

To date, however, these promises remain unrealised. The persistence of poverty, child labour, and environmental degradation in Ghana's cocoa-growing communities demonstrate this in vivid detail. COCOBOD must seize this opportunity to strengthen, enhance, and fully implement the ESMS and grievance and redress mechanism in line with this report's recommendations to protect the environment and promote the human rights and welfare of people living and working in Ghana's cocoa-growing communities.

Appendix

THE PEER PRINCIPLES—PRINCIPLES FOR EFFECTIVE AND EFFICIENT REDRESS

| PEER Principle | Component Criteria |
|---|--|
| 1. Human Rights Compatibility | <ul style="list-style-type: none"> (i) Comprehensively address human rights issues, especially issues that prompted the grievance mechanism's formation; (ii) Ensure processes, outcomes, and remedies accord with internationally recognized human rights standards. |
| 2. Accessibility & Awareness | <ul style="list-style-type: none"> (i) Publicise the grievance mechanism and take appropriate steps to ensure stakeholders who might be impacted are aware of it; (ii) Make all procedures and guidelines necessary for utilizing the mechanism publicly available and accessible to stakeholders; (iii) Assist all stakeholders who may face barriers to accessing or understanding the procedures or guidelines; (iv) Ensure all relevant departments within the governing institution are aware of the mechanism and are actively involved in facilitating its use by stakeholders. |
| 3. Transparency & Predictability | <ul style="list-style-type: none"> (i) Publicly provide accurate and consistent information about the mechanism's overall performance, including financial reporting, information about the allocation of resources for implementation activities, and qualitative and quantitative information on the redress procedure and outcomes; (ii) Ensure predictability of procedure by providing clear guidelines for procedures with an indicative time frame, clarity on types of processes and outcomes available, and means of monitoring implementation. (iii) Keep all parties to a grievance informed throughout the process. |
| 4. Legitimacy & Accountability | <ul style="list-style-type: none"> (i) Ensure the exercise of sufficient economic and political leverage over non-complying parties; (ii) Hold the redress team accountable for fair conduct during the process; (iii) Ensure confidentiality and allow anonymity upon request to protect complainants from retaliation; (iv) Allow all decisions to be subject to the review of a credible, independent, external authority. |

| | |
|---|--|
| 5. Monitoring & Evaluation | <ul style="list-style-type: none"> (i) Document grievances received and responses and redress provided; (ii) Ensure coherent and consistent results, and address decisions and other actions that are out of the ordinary; (iii) Establish follow-up procedures to review and evaluate outcomes produced. |
| 6. Inclusivity & Equitable Participation | <ul style="list-style-type: none"> (i) Consult stakeholders while creating the mechanism; (ii) Ensure full participation of diverse and vulnerable groups, and respect local culture and traditions; (iii) Involve stakeholders in finding collaborative solutions for their complaints through inclusive good-faith negotiations in an atmosphere of mutual confidence; (iv) Ensure that aggrieved parties have adequate access to sources of information, advice, and expertise to engage in a grievance process on fair, informed, and respectful terms; (v) Respect the role of complainants' advisors and representatives. |
| 7. Comprehensibility & Manageability | <ul style="list-style-type: none"> (i) Ensure that the mechanism is simple and easy to understand and recognizes the diverse needs of all stakeholders; (ii) Provide guidance and support to stakeholders to assist them in using the mechanism to address grievances, especially grievances that involve international, cross-border stakeholders; (iii) Minimise stakeholders' costs and burdens that are unnecessary to ensure the mechanism is fair, easy to use, and timely. |
| 8. Scope & Flexibility | <ul style="list-style-type: none"> (i) Be open to a wide range of concerns and grievances; (ii) Be able to address multi-party and multi-issue complaints while maintaining a narrow enough scope to address particular issues; (iii) Considers and addresses structural and systemic problems related to recurring grievances; (iv) When serious complaints or grievances arise, put a process in place for seeking to understand contributing factors, both internal (how the institution and its actions may have contributed) and external (factors beyond the control of the institution); (v) Maintain flexibility in both process and resolution by offering alternatives in negotiation and providing options for parties to choose the best alternative to negotiate an agreement. |

| | |
|---|---|
| 9. Sustainability & Self-Improvement | <ul style="list-style-type: none"> (i) Design the mechanism according to local culture, traditions and customary methods and/or local preferences for dispute resolution; (ii) Continually identify lessons for improving the mechanism and ensuring its sustainability; (iii) Establish standards and processes to ensure continuous learning from grievances to prevent future grievances and harms; (iv) Hire and train associates on grievance procedures and regularly ensure the competencies of staff members in charge of implementing the mechanism. |
| 10. Procedural Efficiency | <ul style="list-style-type: none"> (i) Create and comply with reporting requirements for all grievances received and responses provided; (ii) Incorporate most common key stages of non-judicial grievance mechanisms: (1) receipt and registration of grievance; (2) acknowledgement, assessment, and assignment of grievance; (3) proposal of response; (4) agreement on response; (5) implementation of agreed response; (6) review and evaluation of implementation; (7) closing out or referral of grievance; (iii) Ensure that officials and parties follow all procedures in a timely manner. |

GRIEVANCE AND REDRESS MECHANISM COMPLAINT FORM

GHANA COCOA BOARD



OFFICIAL COMPLAINT FORM

| | | |
|--------------------------------|---|-------------------------------|
| Date/Time / Location | Date: Time: | Location: |
| Details of Complainant: | Name: Age: Village/town: | Complaint should be anonymous |
| Alternative contact | I nominate the under listed to make the complaint on my behalf: | |
| Contact Method: | Telephone/ mobile number: Email Address: Postal Address: Personal interaction: | |
| Residential Location: | Please describe the physical location of your current residence: | |
| Attached Documents: | Please indicate any attaching documents to your complaint if any: | |
| Complaint: | | |
| Signature: | | |

IN-DEPTH INTERVIEWS QUESTIONNAIRES

Cocoa Farmers

1. Name, title, department, and duties:
 - a. Please tell us briefly about your background in the industry and describe the nature of your work.
2. Role in Ghana's cocoa industry:
 - a. Please tell us about the kind of work you do as a cocoa farmer. What do your day-to-day operations look like?
 - b. Who do you work with, what kinds of organizations and people, to make a living as a farmer?
 - c. Could you please tell us about the nature of land ownership among cocoa farmers in Ghana?
 - d. Overall, what challenges do you face as a farmer within the Ghanaian cocoa sector?
3. Poverty, human trafficking, and child/forced labour:
 - a. As a farmer, do you see problems with poverty, human trafficking, or dangerous child labour in the Ghanaian cocoa industry?
 - b. Based on your experience, what do you believe are the primary causes of these issues?
4. Relationship with COCOBOD:
 - a. Do you work with COCOBOD? If so, what kind of relationship do you have, and which COCOBOD officials do you interact with?
 - b. What is your general impression of COCOBOD as an organization?
 - c. Overall, what role does COCOBOD play in promoting farmer welfare and addressing human rights issues?
5. African Development Bank and Bank Loan:
 - a. Are you aware of the AfDB \$600 million loan initially approved to COCOBOD in November 2019? If so, what have you heard about it?
 - b. Do you feel there has been a lack of transparency around the COCOBOD AfDB loan process? What have you observed?

6. COCOBOD's ESMS and GRM:

- a. COCOBOD has designed an Environmental and Social Management System as part of the AfDB loan requirements. Are you aware of the ESMS or its grievance and redress mechanism? If so, what is your impression about whether it will be effective?
- b. Have you heard about or been a part of any forums or durbars with COCOBOD and other farmers to discuss environmental and social issues? If so, please tell us about your experience.

7. Complaints and other redress mechanisms:

- a. What do you do if you have a grievance or complaint related to your work as a farmer? Where do you take these complaints, and what happens?
- b. Are you aware, more generally, of a system in the cocoa industry by which farmers can submit complaints or grievances related to things such as income and earnings? If so, what is it like? If not, how are these issues generally dealt with?
- c. What would an ideal grievance and redress mechanism look like for farmers in the cocoa sector?

8. Concluding questions:

- a. Do you know of any other cocoa farmers that you can put us in touch with?
- b. Is there anything else you'd like us to know for our research?

COCOBOD Departments and Subsidiaries

1. Name, title, department, and duties:

- a. Please tell us your name, title, and department, and briefly describe your duties and the nature of the work you perform
- b. How long have you been working there, and how long have you been working in the cocoa industry, more generally?

2. Poverty, human trafficking, and child/forced labour:

- a. How familiar are you with the issues of poverty, human trafficking, and child/forced labour in the Ghanaian cocoa sector?
- b. Based on your experience, what do you believe are the primary causes of these issues?

- c. What does COCOBOD consider the biggest challenge to stopping child labour?
- 3. Relationship with COCOBOD and institutional structure:
 - a. Can you please explain the relationship between your subsidiary and COCOBOD?
 - b. More generally, to what extent does a subsidiary of COCOBOD operate independently from the board and from the other subsidiaries?
[Subsidiaries: the Cocoa Marketing Company (CMC), the Seed Production Division (SPD), the Cocoa Research Institute of Ghana (CRIG), the Cocoa Health and Extension Division (CEHD), and the Quality Control Company (QCC)]
 - c. How are COCOBOD Board Members nominated and appointed, and are they full-time employees?
 - d. How are the Board Members' salaries determined, and do they receive yearly bonuses?
- 4. COCOBOD's role in Ghana's cocoa industry:
 - a. Does COCOBOD consider its obligations to cocoa farmers as any different from a business's obligations to its consumers?
 - b. What does COCOBOD consider the biggest challenge to increasing income for cocoa farmers, and what role, if any, do you believe CMC Ltd UK plays?
 - i. In particular, COCOBOD considers (1) the world market price of cocoa, (2) input from cocoa farmers, and (3) direction from the Ministry of Finance to determine the "farmgate" price of cocoa to be paid directly to farmers.
 - c. How are these considerations weighed and prioritized-does COCOBOD communicate with any other organizations, such as Licensed Buying Companies or IFIs, when determining the price for cocoa?
- 5. Relationship with purchasers and IFI's:
 - a. Does COCOBOD ever have disagreements between itself and foreign purchasers of cocoa, like Cargill, or between itself and international financial institutions (IFIs)? If so, how does COCOBOD handle such disagreements?

6. African Development Bank and Bank Loan:
 - a. Are you aware of the AfDB \$600 million loan initially approved to COCOBOD in November 2019? If so, what have you heard about it?
 - b. Do you feel there has been sufficient transparency around the AfDB loan process? What have you observed?
 - c. Do you know what projects will be supported by this loan?
7. COCOBOD's ESMS:
 - a. COCOBOD has designed an Environmental and Social Management System as part of the AfDB loan requirements. Are you aware of the ESMS or its grievance and redress mechanism? If so, what is your impression as to whether they have been implemented and are effective?
 - b. More generally, how does COCOBOD receive and address complaints or grievances from stakeholders, including farmers?
8. Complaints and remedial measures:
 - a. Are you aware of a system by which people can submit complaints or grievances related to the cocoa industry? If so, what is it like? If not, how are these issues generally dealt with?
 - b. What would an ideal grievance and redress mechanism look like for farmers, CSOs, and other stakeholders in the cocoa sector?
9. Concluding questions:
 - a. Moving forward, do you know of any other groups or individuals that we should speak with to gain insight into Ghana's cocoa industry and the effectiveness of COCOBOD's grievance mechanism?
 - b. Is there anything else you would like us to know for our research?

International Finance Institutions

1. Name, title, department, and duties:
 - a. Please tell us your name, title, and department, and briefly describe your duties and the nature of the work you perform.
 - b. How long have you been working for this particular IFI? How long have you been working in the cocoa industry, generally?

2. Role in Ghana's cocoa industry:

- a. Please tell us about the work you do in the Ghanaian cocoa industry. What do your day-to-day operations look like?
- b. Aside from COCOBOD, what groups do you primarily work with? What stakeholders in the cocoa industry do you represent?
- c. What types of projects have you implemented within the community?
- d. How is your organization funded? What kinds of payments do you accept and from whom?
- e. What kinds of projects does your IFI fund? Do you attach any requirements to such funding?
- f. How do you raise capital from investors?
- g. What types of investors typically contribute funds to your IFI?
- h. Overall, what challenges do you face in addressing the needs of your partners within the cocoa industry?

3. African Development Bank and Bank Loan:

- a. Are you aware of the application process to receive funding from the AfDB?
- b. Are you aware of the particular \$600 million loan approved to COCOBOD in November 2019?
- c. Do you know what projects will be supported by this loan?
- d. Have you heard of other organizations in Ghana developing an ESMS guide to receive such loans from the AfDB?
- e. Do you feel that COCOBOD has been transparent in its allocation of funding from the loan? Why or why not?
- f. Have you heard anything regarding COCOBOD's compliance with the loan requirements?

4. Relationship with COCOBOD:

- a. Does your organization have a connection to COCOBOD? If so, what is the nature of its relationship with COCOBOD?
- b. How often do you interact with COCOBOD officials throughout your day-to-day operations?
- c. What is your general impression of COCOBOD as an organization?

5. Evaluation of COCOBOD's GRM:

- a. Are you aware of the existence of COCOBOD's grievance mechanism?
- b. Do you believe COCOBOD's grievance mechanism meets the needs of the community you serve? Why or why not?
- c. What services do you believe are needed to better meet the community's grievances?
- d. Have you noticed a difference in the number of complaints received or the assessment of such complaints within the past two years?
- e. Have you noticed a difference in the cocoa industry overall during this two-year timeframe?

6. Poverty, human trafficking, and child/forced labour:

- a. How familiar are you with the issues of poverty, human trafficking, and child/forced labour in the Ghanaian cocoa sector?
- b. Based on your experience, what do you believe are the primary causes of these issues?
- c. Does your organization work on addressing these issues at all?
Please explain.
- d. Do you believe COCOBOD is impacting these issues? If so, would you consider their impact to be positive or negative?

7. Complaints and remedial measures:

- a. Is there a system by which individuals can submit complaints or grievances related to the cocoa industry? If not, how are these issues generally addressed?
- b. What kinds of redress and remedies are available to community members, specifically cocoa farmers, through this system?
- c. Have you received any complaints from cocoa farmers about a lack of redress from COCOBOD? If so, please explain the content of the complaint and how it was resolved.
- d. If there is a grievance among those you represent within the cocoa sector, does your organization have internal or external processes for addressing the grievance?
- e. What challenges does your organization face in addressing stakeholders' grievances?

8. Concluding questions:

- a. Moving forward, do you know of any other groups or individuals that we should meet with to gain insight into Ghana's cocoa industry and the effectiveness of COCOBOD's grievance mechanism?
- b. Is there anything else you would like us to know for our research?

Non-Governmental Organizations and Other Stakeholders

1. Name, title, department, and duties:

- a. Please tell us your title and briefly describe the nature of your work at your organization.

2. Role in Ghana's cocoa industry:

- a. Please tell us about the work you do in the Ghanaian cocoa sector. What do your day-to-day operations look like?
- b. Please tell us about the kinds of stakeholders you work within the cocoa sector.
- c. Overall, what challenges do you face in addressing the needs of farmers and your partners within the cocoa sector?

3. Poverty, human trafficking, and child/forced labour:

- a. How familiar are you with the issues of poverty, human trafficking, and child/forced labour in the Ghanaian cocoa sector?
- b. Based on your experience, what do you believe are the primary causes of these issues?
- c. Does your organization work on addressing these issues at all? Please explain.

4. Relationship with COCOBOD:

- a. What is the nature of your organization's relationship with COCOBOD?
- b. How often do you interact with COCOBOD officials through your work?
- c. What is your general impression of COCOBOD as an organization, and where do you receive information about COCOBOD's work?
- d. In particular, what role does COCOBOD play in promoting farmer welfare and addressing human rights issues?

5. African Development Bank and Bank Loan:

- a. Are you aware of the AfDB \$600 million loan initially approved to COCOBOD in November 2019? If so, what have you heard about it?
- b. Do you feel there has been a lack of transparency around the COCOBOD AfDB loan process? What have you observed?

6. COCOBOD's ESMS and GRM:

- a. COCOBOD has designed an Environmental and Social Management System as part of the AfDB loan requirements. Are you aware of the ESMS or its grievance and redress mechanism? If so, what is your impression as to whether it has been fully implemented and will be effective?
- b. Our research has revealed that other public institutions or non-governmental organizations have implemented similar ESMS programs to secure development funding. Do you have a sense of whether these kinds of initiatives have been successful?

7. Complaints and other redress mechanisms:

- a. Does your organization receive complaints or concerns from cocoa farmers? If so, how are they received and addressed?
- b. Are you aware of a system by which people can submit complaints or grievances related to the cocoa industry? If so, what is it like. If not, how are these issues generally dealt with?
- c. What would an ideal grievance and redress mechanism look like for farmers, CSOs, and other stakeholders in the cocoa sector?

8. Concluding questions:

- a. Moving forward, do you know of any other groups or individuals that we should speak with to gain insight into Ghana's cocoa industry and the effectiveness of COCOBOD's grievance mechanism?
- b. Is there anything else you would like us to know for our research?

COCOBOD's Unrealised Potential

Promoting Human Rights, Welfare, and the Environment in Ghana's Cocoa-Growing Communities

Northwestern Pritzker School of Law Center for International Human Rights
University of Ghana School of Law
Corporate Accountability Lab
SEND Ghana
Barima Akwasi Amankwaah
Glen Asomaning

June 2021