

# DIGITALES ARCHIV

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## Book

Guide to conducting risk analyses for cocoa producing countries : guidelines and analyses for Côte d'Ivoire, Ghana, Cameroon, Nigeria, Ecuador, Peru, the Dominican Republic, Nicaragua, Liberia, Togo, Sierra Leone and Bolivia

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COCOA

# guide

2021-17

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## GUIDE TO CONDUCTING RISK ANALYSES FOR COCOA PRODUCING COUNTRIES

Guidelines and analyses for Côte d'Ivoire, Ghana, Cameroon, Nigeria, Ecuador, Peru, the Dominican Republic, Nicaragua, Liberia, Togo, Sierra Leone and Bolivia

BY FRIEDEL HÜTZ-ADAMS



The guide was intensively discussed with the members of the working group "Human Rights Due Diligence" of the German Initiative on Sustainable Cocoa (GISCO). The flow chart for practical application by the companies was drawn up by the GISCO working group. Furthermore, the Helpdesk on Business & Human Rights supported the entire process of developing this publication.

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## Introduction

The German Initiative on Sustainable Cocoa (GISCO) was founded in 2012 with the aim of promoting social and ecological improvements in the cocoa sector. It pursues three overarching objectives:

*To improve living conditions of cocoa farmers and their families and to contribute to a secure living.*

*To conserve and protect natural resources and biodiversity in cocoa producing countries.*

*To increase cultivation and commercialisation of sustainably produced cocoa.*

Reducing and minimising violations of basic human rights in the value chain has thus been a core concern from the very beginning. In particular, the widespread use of child labour in West Africa's cocoa industry is a key issue here.

Among other things, GISCO members advocate for:

*“enforcing compliance with human rights ([implementation of the UN Guiding Principles on Business and Human Rights](#)) and environmental aspects by all actors in the cocoa supply chain and contributing to the discussion on possible regulatory measures at EU level” (goal 8).<sup>1</sup>*

Further recommendations are derived from the recommended actions for this goal; these have been stipulated by the German Initiative on Sustainable Cocoa as a benchmark for the activities of all members. In these explanatory notes, the requirements of the UN Guiding Principles are adopted as a key point of reference. With regard to the ecological requirements, reference is made to the OECD Guidelines for Multinational Enterprises and to the OECD-FAO Guidance for Responsible Agricultural Supply Chains (see next section for details).

In addition, as an important indicator for the achievement of the goal, it is stipulated that all members of the German Initiative on Sustainable Cocoa are to implement human rights and ecological due diligence by 2025.

It is important that companies in the cocoa and chocolate sector also prepare themselves in the most legally compliant way possible for the requirements for implementing United Nations human rights provisions in a German Due Diligence Act and in a future European Union regulation on respecting human rights in supply chains.

As a result of various national and international discussions, the challenge now for the cocoa and chocolate sector is to pursue a multi-stage process with the aim of identifying human rights risks, remedying these and putting a stop to human rights violations in the long term. The UN Guiding Principles on implementing human rights due diligence set out five key elements in relation to this:

- Key element 1: Acknowledge responsibility
- **Key element 2: Determine risks**
- Key element 3: Minimise risks
- Key element 4: Inform and report
- Key element 5: Enable grievances

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<sup>1</sup> The English version of the guidelines is entitled “Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework”. It can be found at [https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr\\_en.pdf](https://www.ohchr.org/documents/publications/guidingprinciplesbusinessshr_en.pdf). Here and in the following study, quotes are taken from the German version “Leitprinzipien für Wirtschaft und Menschenrechte. Umsetzung des Rahmens der Vereinten Nationen ,Schutz, Achtung und Abhilfe“ published by the office of the German Global Compact Network (DGCN). This version is not authorised by the United Nations. It can be found at: [https://www.globalcompact.de/wAssets/docs/Menschenrechte/Publikationen/leitprinzipien\\_fuer\\_wirtschaft\\_und\\_menschenrechte.pdf](https://www.globalcompact.de/wAssets/docs/Menschenrechte/Publikationen/leitprinzipien_fuer_wirtschaft_und_menschenrechte.pdf). The document is quoted in the following as “UNGP” and the number of the Guiding Principle.

The following study provides **background information and an action guideline for members of the German Initiative on Sustainable Cocoa for the purpose of implementing key element 2: preparation of a risk analysis for the cocoa sector.**

The information therefore focuses on a core aspect of the UN Guiding Principles. These require all companies to put in place the following:

*(b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;*

The German government demands similar in its National Action Plan for Business and Human Rights (NAP) which was adopted in December 2016. It calls for the establishment of

*2. procedures for the identification of actual or potential adverse impact on human rights*

as a second core element.

Many of the large member companies of the German Initiative on Sustainable Cocoa have set up dedicated departments for implementing human rights due diligence. This is much more difficult for small companies as they have fewer staff and financial resources at their disposal. This study has therefore been produced to support small and medium-sized companies for whom reviewing human rights risks is uncharted territory.

Following an **introduction to the scope of the risk analysis**, it sets out the steps that can be taken:

- Step 1: Acquire knowledge of the international and national requirements from which the obligation to prepare a risk analysis is derived
- Step 2: Produce a risk analysis based on existing guidelines
- Step 3: Identify the country of origin of the cocoa used
- Step 4: Overview risk analysis for the identified countries of origin
- Step 5: For identified country risks, detailed country-specific risk analysis for the identified countries of origin
- Step 6: Prioritise risks within the company's own supply chain
- Step 7: Verify risk analysis with local stakeholders

A flowchart is also provided showing the sequence of individual steps.

However, the analysis should not detract from the fact that, in accordance with applicable national and international requirements, it is ultimately the companies themselves who bear a large amount of responsibility for creating comprehensive and accurate risk analyses for their specific supply chain. This study thus provides support for creating a risk analysis, but cannot replace the independent production of such analyses by companies. Thanks to their close contact with suppliers, many companies have the substantial expertise required to carry out this task.

## Specifications regarding the scope of a risk analysis<sup>2</sup>

The UNGP suggest consulting affected stakeholders when carrying out the risk analysis. This makes it clear that a change of perspective is called for as a central aspect of the risk analysis: the individuals actually or potentially affected by human rights violations are the focus of the process, not the risks that exist for the company. The Guiding Principles serve to address the risks to those affected.

In discussions about corporate responsibility, one of the recurring controversial topics is how far the responsibility of the companies at the end of the supply chain extends into the supply

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<sup>2</sup> As soon as the German Federal Office of Economics & Export Control (BAFA) publishes guidance on the Act on Corporate Due Diligence in Supply Chains, it will be reviewed whether this Guide should be adapted.

chain. Closely related to this are the questions of what risks need to be recorded, how far the risk recording needs to reach into the supply chain and whether conclusions should be drawn from identified risks. The requirements of the United Nations and also those of the OECD define a comprehensive scope.

## 2.1 Definition of the supply chain

Principle 13 of the UN's Guiding Principles on Business and Human Rights makes it clear that corporate responsibility extends along the entire supply chain and includes both actions and omissions:

*The responsibility to respect human rights requires that business enterprises:*

*(a) Avoid causing or contributing to adverse human rights impacts through their own activities and address such impacts when they occur;*

*(b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts. (UNGP 13)*

The term "agricultural supply chain" has been defined more precisely for the agricultural sector in the [OECD-FAO Guidance for Responsible Agricultural Supply Chains](#) of 2016. This definition includes the entire supply chain associated with agricultural production:

*Agricultural supply chains refer to the system encompassing all the activities, organisations, actors, technology, information, resources and services involved in producing agri-food products for consumer markets. They cover agricultural upstream and downstream sectors from the supply of agricultural inputs (such as seeds, fertilisers, feeds, medicines or equipment) to production, post-harvest handling, processing, transportation, marketing, distribution and retailing. They also include support services such as extension services, research and development, and market information. As such, they consist of a wide range of enterprises ranging from smallholders, farmers' organisations, co-operatives and start-up companies to MNEs through parent companies or their local affiliates, state-owned enterprises and funds, private financial actors and private foundations (OECD 2016: 20).*

This means that extensive knowledge of the supply chain is the prerequisite for being able to make reliable statements about human rights risks. The cocoa and chocolate sector therefore faces major challenges (for details see section 3).

These conclusions result from the transparency obligations for complying with human rights due diligence obligations, which the OECD sets out clearly. These include "Step 2: Identify, assess and prioritise risks in the supply chain". In turn, the elements required to "map the supply chain" are derived from this:

*This requires identifying the various actors involved, including, when relevant, the names of immediate suppliers and business partners and the sites of operations. For instance, the following details can be requested from on-farm enterprises: name of the producer unit; address and site identification; contact details of the site manager; category, quantity, dates and methods of production; number of workers by gender; list of risk management practices; transportation routes; and risk assessments that have been undertaken (OECD 2016: 34).*

## 2.2 Bill of Human Rights: guidelines for risk analysis

The human rights that must be respected by companies are set out in Principle 12 of the UN's Guiding Principles on Business and Human Rights:

*The responsibility of business enterprises to respect human rights refers to internationally recognized human rights – understood, at a minimum, as those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work (UNGP 12).*

The requirements are thus aligned with the International Bill of Human Rights. This consists of the [Universal Declaration of Human Rights](#), the [International Covenant on Civil and Political Rights](#) and the [International Covenant on Economic, Social and Cultural Rights](#), coupled with the [eight ILO Core Conventions](#) (UNGP 12).

The risks cover a broad spectrum, as the Universal Declaration of Human Rights already provides for the comprehensive protection of people from violations of the law. Among other things, it enshrines the right to “just and favourable conditions of work” and to “just and favourable remuneration”. Also assured are the right “to form and to join trade unions” and the right to “rest and leisure, including reasonable limitation of working hours and periodic holidays with pay”. It further states: “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family” (UDHR 1948: Articles 23–25).

The International Covenant on Economic, Social and Cultural Rights includes the right to fair working conditions (fair wages, safe and healthy working conditions, work breaks, reasonable limitation of working hours, holidays with pay), the right to form and join trade unions, the right to an adequate standard of living and the right to education.

The core labour standards consist of a similar catalogue of rights and guarantee the right to organise and collective bargaining. Forced labour and child labour are forbidden; discrimination in employment and in remuneration are prohibited (for details see section 4.3).

## 2.3 Objectives of the risk analysis

Principle 17 of the UN's Guiding Principles calls for risk analyses in order to prevent human rights violations:

*In order to identify, prevent, mitigate and account for how they address their adverse human rights impacts, business enterprises should carry out human rights due diligence. The process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses and communicating how impacts are addressed. Human rights due diligence:*

*(a) Should cover adverse human rights impacts that the business enterprise may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships;*

*(b) Will vary in complexity with the size of the business enterprise, the risk of severe human rights impacts, and the nature and context of its operations;*

*(c) Should be ongoing, recognizing that the human rights risks may change over time as the business enterprise's operations and operating context evolve (UNGP 17).*

It is also explicitly stated that, with regard to due diligence, companies must take care to avoid being indirectly complicit in human rights violations committed by business partners. This is necessary in itself in order to prevent any subsequent legal claims by injured parties (UNGP 17).

The analysis of risks is thus an integral part of compliance with due diligence obligations. Ideally, companies should assess these risks before they enter into a business relationship.



Should any risks arise, they can be eliminated by means of contracts or other agreements (UNGP 17).

The United Nations stipulates that companies should “draw on internal and/or independent external human rights expertise” when assessing risks. Another crucial step is “meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation” (UNGP 18).

Risk analysis is intended to clarify which business processes present risks and what needs to be done to stop human rights violations or to prevent them in advance. The necessary internal processes in the company should be “assigned to the appropriate level and function within the business enterprise”. Full integration into business processes should ensure that “internal decision-making, budget allocations and oversight processes enable effective responses to such impacts”. An important aspect when selecting a company’s countermeasures is the decision on “the extent of its leverage in addressing the adverse impact” (UNGP 19).

After putting risk mitigation measures in place, “business enterprises should track the effectiveness of their response”. This tracking should be measured against appropriate indicators and “draw on feedback from both internal and external sources, including affected stakeholders” (UNGP 20).

Robust, long-term processes are needed within the company for identifying the risks and also for eliminating them, or for tracking the measures for their elimination. In its guidance for the agricultural sector, the OECD states that monitoring should entail the following:

*Creating internal verification procedures to undertake regular independent and transparent reviews of compliance with the policy. Such procedure can consist of a traceability system which implies: creating internal documentation of due diligence processes, findings and resulting decisions* (OECD 2016: 33).

It says this will be facilitated by “establishing permanent business relations as the best means for a continual flow of information”. There is no substitute for this because

*“the execution and follow-up of periodic audits and of environmental, social and human rights impact assessments can also help assess compliance but should not substitute for such information flows”* (OECD 2016: 33).

The OECD therefore clearly stipulates that processes are to be established within the company and not outsourced to external bodies as this may create gaps and the necessary knowledge will not be acquired.

## 2.4 Risk description in German due diligence legislation

The German Act on Corporate Due Diligence in Supply Chains<sup>3</sup> states that companies must act immediately where there are “actual indications” that “suggest violation of a human rights-related or an environment-related obligation at indirect suppliers to be possible (substantiated knowledge)”. Section 9 of the Act specifies that this also applies to indirect suppliers (see box).

The Federal Ministry of Labour and Social Affairs still needs to finalise details relating to implementation. Although this wording is relatively open, it does also indicate that the cocoa and chocolate sector must in all probability take action: a large number of studies and press reports prove that there are significant human rights risks involved in the cultivation of cocoa (see country examples in section 5).

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<sup>3</sup> See the German Act on Corporate Due Diligence in Supply Chains, 16.07.2021, Federal Law Gazette 2021 I no 46, p. 2959-2969.

## Section 9

### Indirect suppliers; authorisation to issue statutory instruments

- (1) The enterprise must set up the complaints procedure pursuant to section 8 in such a way that it also enables persons to report risks to human rights or environment-related risks as well as violations of human rights related or environment related obligations that have arisen due to the economic actions of an indirect supplier.
- (2) The enterprise must adapt its existing risk management system as defined in section 4 in accordance with paragraph (3) below.
- (3) If an enterprise has actual indications that suggest a violation of a human rights-related or an environment-related obligation at indirect suppliers to be possible (substantiated knowledge), it must without undue delay and as warranted
1. carry out a risk analysis in accordance with section 5 (1) to (3),
  2. lay down appropriate preventive measures vis-à-vis the party responsible, such as the implementation of control measures, support in the prevention and avoidance of a risk or the implementation of sector-specific or cross-sector initiatives to which the enterprise is a party,
  3. draw up and implement a prevention, cessation or minimisation concept and
  4. update its policy statement in accordance with section 6 (2), if necessary.
- (4) The Federal Ministry of Labour and Social Affairs is authorised to regulate the details of paragraph (3) by statutory instrument in agreement with the Federal Ministry for Economic Affairs and Energy without the consent of the Bundesrat.

Source: Act on Corporate Due Diligence Obligations in Supply Chains of July 16 2021, URL: [https://www.bmas.de/SharedDocs/Downloads/DE/Internationales/act-corporate-due-diligence-obligations-supply-chains.pdf;jsessionid=2D7ABCA38494051BC0822F89F88E7251.delivery1-replication?\\_\\_blob=publicationFile&v=2](https://www.bmas.de/SharedDocs/Downloads/DE/Internationales/act-corporate-due-diligence-obligations-supply-chains.pdf;jsessionid=2D7ABCA38494051BC0822F89F88E7251.delivery1-replication?__blob=publicationFile&v=2)

In the following sections, the individual steps that a company should take to carry out a risk analysis in the cocoa sector are described in more detail and the background information necessary for implementation is compiled.

## Step 1: Acquire knowledge of international and national requirements

### Procedure for companies

Within the company, at least a basic knowledge should be acquired of existing requirements and the implementation of these with regard to human rights due diligence in supply chains, and of the suggestions for implementation made by the United Nations, the OECD, the German government and the EU. This study provides a summary of the most important sources. The [United Nations' Guiding Principles on Business and Human Rights](#) are outlined, as are the [OECD](#) guidelines. More complex for companies are the analysis of the Due Diligence Act, which the Bundestag has adopted, and the announced EU regulation. Here, companies should urge their trade associations to provide up-to-date, easy to understand and clear guidance if they have not done so already.

Ideally, one person within the company should be responsible for following discussions in this area – once they are familiar with the topic, it should be possible to do this without it being too time-consuming. The following section provides some background information as a useful introduction.

## 1.1 United Nations provides a framework

From 2005 to 2011, John Ruggie, the UN Special Representative for Business and Human Rights appointed by UN Secretary-General Kofi Annan, looked at the role companies played in human rights violations. His work resulted in a number of proposals for defining the responsibility of businesses to respect human rights.

Ruggie's proposals were accepted and the UN Human Rights Council endorsed the Guiding Principles on Business and Human Rights in 2011. In the Principles, the United Nations states that it is the duty of governments to protect against human rights abuses. This does not relieve businesses of their responsibility, however. They are obliged to respect human rights and should take all necessary steps to minimise and avoid human rights violations in their supply chains. Where the measures taken to protect and respect human rights have not been sufficient to avoid human rights violations, access to remedy must be ensured and redress made. The Guiding Principles are built on three pillars: protect, respect and remedy (United Nations 2011).

To implement the pillars, [31 Guiding Principles](#) were agreed which set out specific actions for businesses and governments. A key term in the Guiding Principles is due diligence: companies must establish mechanisms that enable them to identify risks to the protection of human rights within their supply chains.<sup>4</sup>

Risk analysis is a core component in a multi-stage process. Principle 15 of the Guiding Principles calls for it as a key aspect of corporate due diligence:

*In order to meet their responsibility to respect human rights, business enterprises should have in place policies and processes appropriate to their size and circumstances, including:*

- (a) A policy commitment to meet their responsibility to respect human rights;*
- (b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;*
- (c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute (UNGP 15).*

Points (a) and (b) are very closely interlinked since identifying human rights risks is the prerequisite for complying with the obligation of respecting human rights. If the risks are not known, it is not possible to take action against human rights risks.

Principle 16 clearly sets out the high priority attached to a policy commitment which, in accordance with the specifications:

- (a) Is approved at the most senior level of the business enterprise;*
- (b) Is informed by relevant internal and/or external expertise;*
- (c) Stipulates the enterprise's human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services;*
- (d) Is publicly available and communicated internally and externally to all personnel, business partners and other relevant parties;*
- (e) Is reflected in operational policies and procedures necessary to embed it throughout the business enterprise (UNGP 16).*

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<sup>4</sup> An introduction to the process and links to key documents can be found on the website of the Federal Ministry of Labour and Social Affairs: <https://www.csr-in-deutschland.de/DE/Wirtschaft-Menschenrechte/Unternehmerische-Sorgfaltspflicht/unternehmerische-sorgfaltspflicht.html>. The website also provides many implementation examples and support materials.

A company's management team will only sign such a statement of policy if they can assess whether the company is actually meeting its responsibilities.

## 1.2 OECD makes suggestions for implementation

Building on the United Nations' specifications, the Organisation for Economic Co-operation and Development (OECD), which has 36 industrialised and emerging countries as members, has developed implementation criteria. These are incorporated into the update of the OECD Guidelines for Multinational Enterprises (OECD 2011). In addition to the OECD member countries,<sup>5</sup> seven other states recognise the binding obligation of the guidelines.<sup>6</sup> The list of countries includes all major cocoa consuming states, in which in turn the headquarters of nearly all the large corporations in the cocoa and chocolate sector are located.

In addition to the general guidelines, the OECD has drawn up specific provisions for a range of industries. These include the [Guidance for Responsible Agricultural Supply Chains](#) (OECD 2016) published in conjunction with the Food and Agriculture Organization of the United Nations (FAO).

The United Nations guidelines and the OECD suggestions for implementation serve as a guide for the following information.

## 1.3 German government initiates National Action Plan

In order to implement the international guidelines, the German government adopted the [National Action Plan on Business and Human Rights \(NAP\)](#) in December 2016.

At the same time, a number of measures were initiated which were designed to help companies implement the United Nations' guidelines. The German government's provision is thus closely aligned with the UN specifications. This includes taking over Principle 15:

*Corporate due diligence in the field of human rights comprises five [core elements](#):*

1. *a human rights policy statement*
2. *procedures for the identification of actual or potential adverse impact on human rights*
3. *measures to ward off potentially adverse impacts and review of the effectiveness of these measures*
4. *reporting*
5. *a grievance mechanism*

## 1.4 Human rights requirements according to the German Due Diligence Act

Due diligence legislation was passed by the Bundestag and Bundesrat in June 2021. The regulations are scheduled to take effect from 2023 onwards for companies with more than 3,000 employees and from 2024 onwards for companies with more than 1,000 employees.

In the cocoa and chocolate industry, many of the companies involved have far fewer employees and are therefore not directly impacted by this legislation. On the other hand, however, many small businesses are also involved as suppliers in the supply chains of major brand-name companies and as producers of retailers' own brands. In addition, it is assumed that retailers will look very carefully at whether the specifications must also be applied to the marketing of branded goods.

The German government's specifications<sup>7</sup> are for the most part very closely based on what the UNGP stipulates; the Conventions are listed in an annex:

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<sup>5</sup> Australia, Austria, Belgium, Canada, Chile, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Latvia, Lithuania, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Poland, Portugal, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Turkey, United Kingdom (all founding members), United States

<sup>6</sup> Argentina, Brazil, Egypt, Latvia, Lithuania, Peru, Romania

<sup>7</sup> See the German Act on Corporate Due Diligence in Supply Chains, 16.07.2021, Federal Law Gazette 2021 I no 46, p. 2968.



1. ILO Convention No. 29 of 28 June 1930 concerning Forced or Compulsory Labour (Federal Law Gazette 1956 II p. 640, 641)
2. Protocol of 11 June 2014 to ILO Convention No. 29 of 28 June 1930 concerning Forced or Compulsory Labour (Federal Law Gazette 2019 II p. 437, 438)
3. ILO Convention No. 87 of 9 July 1948 concerning Freedom of Association and Protection of the Right to Organise (Federal Law Gazette 1956 II p. 2072, 2071) amended by the Convention of 26 June 1961 (Federal Law Gazette 1963 II p. 1135)
4. ILO Convention No. 98 of 1 July 1949 concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (Federal Law Gazette 1955 II p. 1122, 1123) amended by the Convention of 26 June 1961 (Federal Law Gazette 1963 II p. 1135)
5. ILO Convention No. 100 of 29 June 1951 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (Federal Law Gazette 1956 II p. 23, 24)
6. ILO Convention No. 105 of 25 June 1957 concerning the Abolition of Forced Labour (Federal Law Gazette 1959 II p. 441, 442)
7. ILO Convention No. 111 of 25 June 1958 concerning Discrimination in Respect of Employment and Occupation (Federal Law Gazette 1961 II p. 97, 98)
8. ILO Convention No. 138 of 26 June 1973 concerning Minimum Age for Admission to Employment (Federal Law Gazette 1976 II p. 201, 202)
9. ILO Convention No. 182 of 17 June 1999 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Federal Law Gazette 2001 II p. 1290, 1291)
10. International Covenant on Civil and Political Rights, 19 December 1966 (Federal Law Gazette 1973 II p. 1533, 1534)
11. International Covenant on Economic, Social and Cultural Rights, 19 December 1966 (Federal Law Gazette 1973 II p. 1569, 1570)
12. Minamata Convention on Mercury, 10 October 2013 (Federal Law Gazette 2017 II p. 610, 611) (Minamata Convention)
13. Stockholm Convention on Persistent Organic Pollutants, 23 May 2001 (Federal Law Gazette 2002 II p. 803, 804) (POPs Convention), most recently amended by the resolution of 6 May 2005 (Federal Law Gazette 2009 II p. 1060, 1061).
14. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, 22 March 1989 (Federal Law Gazette 1994 II p. 2703, 2704) (Basel Convention), most recently amended by the Third Ordinance to Amend the Annexes to the Basel Convention of 22 March 1989, 6 May 2014 (Federal Law Gazette II p. 306/307)

Specifically, the following areas are covered (see Annex A for wording with explanatory notes):

1. Child labour defined according to ILO Convention No. 138,
2. Worst forms of child labour defined according to ILO Convention No. 182,
3. Forced labour defined according to ILO Convention No. 29 and the International Covenant on Civil and Political Rights of 19 December 1966,
4. Slavery, practices similar to slavery, servitude and other forms of exercising power or oppression in the workplace environment,
5. National legislation relating to applicable health and safety obligations at work,
6. Violation of freedom of association,
7. Unequal treatment in employment,
8. Withholding of a reasonable wage,
9. Causing harmful impacts on the soil, water pollution, air pollution, harmful noise emissions and excessive water consumption,
10. Illegal eviction and the prohibition of illegal deprivation of land, forests and waters,
11. Use of private or public security forces to protect business projects.

These points served as a guide for the selection of areas examined in sections 4 and 5.

## Step 2: Produce a risk analysis based on existing guidelines

### Procedure for companies

There are many services designed to help companies, especially SMEs, meet their human rights due diligence obligations. These services are expected to increase in number in the near future as many consultancy firms offer assistance. The Helpdesk on Business & Human Rights set up by the German government provides a helpful overview. Business associations could also take action by expanding their existing support services for their members and making recommendations. This is also something that should be pursued by a key relevant person in a company.

### 2.1 Institutions' guidelines

Various institutions have published guidelines to which companies can refer when preparing their risk analyses.

The [Federal Foreign Office](#) has brought together the United Nations guidelines and the processes in Germany in a separate area of its website dedicated to business and human rights.

The *Global Compact Network Germany Office* ([DGCN](#)) publishes important information on its website and has also provided a range of resources including its own webinar on identifying risks and impacts. The organisation's [website](#) also includes a detailed analysis of which stakeholders need to be involved.

The non-profit organisation Shift provides a comprehensive [explanation](#) of the main human rights issues. Equally very helpful is the guidance published by the [Danish Institute for Human Rights](#), which sets out in detail the steps a company should take in succession in order to produce a comprehensive human rights risk analysis.

### 2.2 Helpdesk on Business & Human Rights

The [Helpdesk on Business & Human Rights](#) is a free support service provided by the German government. It advises companies individually and confidentially on implementing human rights due diligence processes in their supply and value chain. As the first point of contact for initial advice and referrals, the advisors help companies do business in an environmentally friendly and socially responsible way. Workshops and training courses for companies are also offered. Event formats like the Berlin Breakfast: Business & Human Rights give companies the opportunity to engage in dialogue with representatives from business associations, government departments and civil society.

Free, practical online tools help companies implement human rights due diligence processes:

**SME Compass:** The [SME Compass](#) provided by the Helpdesk on Business & Human Rights is a free information portal for SMEs. It offers companies specific guidance, tips and practical help on implementing human rights due diligence measures. With the aid of simple questions, the online tool guides users through a series of steps in which they learn to apply due diligence standards to their business activities and give greater consideration to these. The focus is always on the specific challenges, needs and requirements of SMEs.

**CSR Risk Check:** With the free [CSR Risk Check](#) online tool implemented jointly by MVO Nederland, UPJ and the Helpdesk on Business & Human Rights, companies can filter by raw materials, services or products and countries in order to narrow down this extensive area to aspects relevant to the individual company. The results provide an overview of potential human rights and environmental risks. More than 2,700 sources are used for the CSR Risk Check.

### 2.3. Company risk analyses

Many companies have meanwhile begun to prepare risk analyses for their supply chains. There are also many agencies who specialise in producing these analyses for businesses. However, UN and OECD guidelines state that the necessary expertise should always be developed within the companies themselves. This is also the urgent advice of companies who have already produced comprehensive risk analyses and put countermeasures in place.<sup>8</sup>

Nevertheless, when compiling risks in the cocoa sector it is possible to use material that companies have already developed, be it specifically for cocoa farming or generally binding. Retailer [Aldi has already published its own risk analysis for cocoa](#). It summarises the main risks in a simple and concise form.

[Nestlé has published a detailed guide](#) explaining how it undertakes its own risk analyses. Other companies have also carried out risk analyses, but have not published them. A number of these companies were willing to share their experiences with the author.

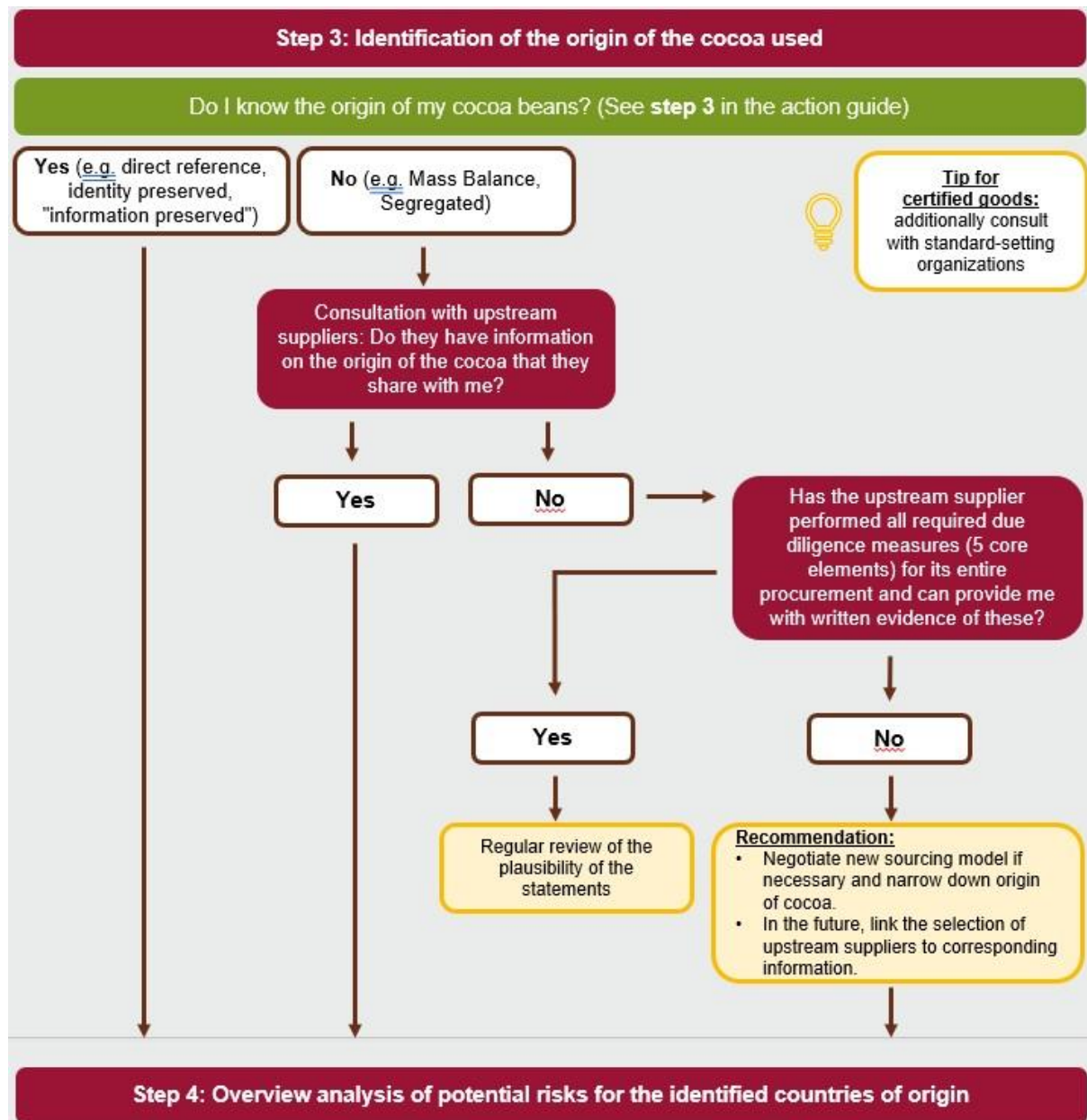
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<sup>8</sup>In the course of his research, the author spoke to representatives of several companies from various industries who have already carried out risk analyses and taken remedial action for their respective sector. They were almost unanimously critical of outsiders carrying out risk analyses. The general view was that it was essential for this knowledge to be built up within the company and permanently embedded in it.

## Step 3: Identify the origin of the cocoa used

### Procedure for companies

In the company, the flow of the cocoa must be recorded and traced, if this has not already been done. As the first step of the analysis, the source of the cocoa beans should be identified in terms of their country of origin. The first step is to approach either the company's own buyers or the supplying companies and gather the data needed to make the origin of the cocoa traceable. *(See Annex D for details on the definition of traceability)*



Source: German Initiative on Sustainable Cocoa

It can be concluded from the UNGP requirements summarised in section 2 and particularly from the OECD recommendations for action that transparency in the supply chain is of key importance for the entire human rights due diligence process. Ultimately, companies will only be able to carry out a risk analysis if they know the precise origin of their cocoa.

For the initial rough analysis of the risks, it is necessary to clarify which country the cocoa beans come from. This is the starting point for answering the question of whether there are potential risks and what further steps need to be taken.



### **Direct purchase simplifies analysis**

Some small- and medium-sized chocolate producers buy a certain amount of cocoa directly from farmers or their organisations and already have very precise knowledge of their supply chain. This is especially true of companies who operate in niche markets and who need high-quality or ecologically produced cocoa.

### **Longer supply chains must become more transparent**

Some companies buy raw cocoa from intermediaries; others buy cocoa in processed form as cocoa mass, cocoa butter or processed chocolate. The trade chains may be diverse, but ultimately many of them are buyers of the relatively small number of multinational companies that dominate the trade in and processing of cocoa.

The large cocoa trading companies have known for many years that they will face significant challenges in creating transparency in the supply chain. This concerns not only the emerging legislation on human rights due diligence that have been passed in Germany and France, for example, and similar efforts in other countries and at the EU level, but also the EU's desire to be able to demonstrate deforestation-free supply chains for all imports. Companies will only be able to demonstrate both if they know their supply chain. This has resulted in companies in the cocoa sector investing significant sums in registering farmers in recent years. According to industry sources, around one million family businesses in West Africa have already been registered and the number is increasing rapidly.

Determining the locality of the plantations with GPS, the subsequent measurement of the areas involved and the opportunity to identify non-registered cocoa plantations using satellite systems improve the chances of establishing transparent supply chains. In addition, many cocoa cultivating countries, including Ghana and Côte d'Ivoire, are making efforts to register their farmers and measure their cultivated areas.

At present, however, large quantities of cocoa and cocoa products are still being traded in mass balance systems. In particular, the origin of cocoa butter is often not traceable. In future, the purchase of cocoa beans and other cocoa products using mass balance – and therefore without precise knowledge of the origin of the products bought – will only be possible under the condition that the upstream supplier has carried out all the relevant and necessary due diligence measures (five key elements) for all possible countries of origin and can provide evidence of this in writing.

This will involve substantial adjustments in the value chains of the cocoa and chocolate sector.

That is why there are different approaches for SMEs. If they already know the origin of their cocoa, it will be immediately possible to produce a risk analysis, including information from upstream suppliers where necessary. However, if they do not know the origin of the cocoa, they will have to negotiate with upstream suppliers.

### **Suppliers could make risks analyses available**

It is possible that a supplier may make the origin of their cocoa transparent. In addition, the supplier may already have conducted extensive risks analyses themselves. These risk analyses can be provided to the supplier's customer. It is then up to the customer to decide whether the risk analyses are sufficient. If they are not, additional steps will need to be taken.

### **Purchasers could carry out risk analyses themselves**

The other option is that the supplier makes the origin of the cocoa transparent and then the company purchasing it carries out the risk analysis. This would most likely be necessary if the supplier is not covered by European regulations.

## Support from standard-setting organisations

Companies that buy certified products can also contact standard-setting organisations, in addition to consulting their upstream suppliers. These organisations may be able to provide information about the origin of the purchased products and/or share existing risks in specific regions which the company can then use as a basis for its own risk analysis. It is always advisable to consult standard-setting organisations as in most cases they can offer expert knowledge about the supply chain and about risks in the local area.

## Market transparency will significantly increase

National regulations on human rights issues (e.g. in the UK, France, Australia, soon in Germany, the Netherlands) and emerging European regulations on human rights issues as well as zero deforestation are exerting considerable pressure on the major companies in the industry. These will drive forward the rapid development of transparent structures which began a few years ago. The range of raw cocoa and intermediate products containing cocoa whose origin can be accurately traced will increase substantially in the next few years.

This will significantly expand the variety of transparent supply chains for SMEs who buy raw cocoa or intermediate products containing cocoa from suppliers.

At the same time, they will have to ensure complete transparency wherever they buy cocoa directly in growing regions.

## Step 4: Conduct overview risk analysis for the identified countries of origin

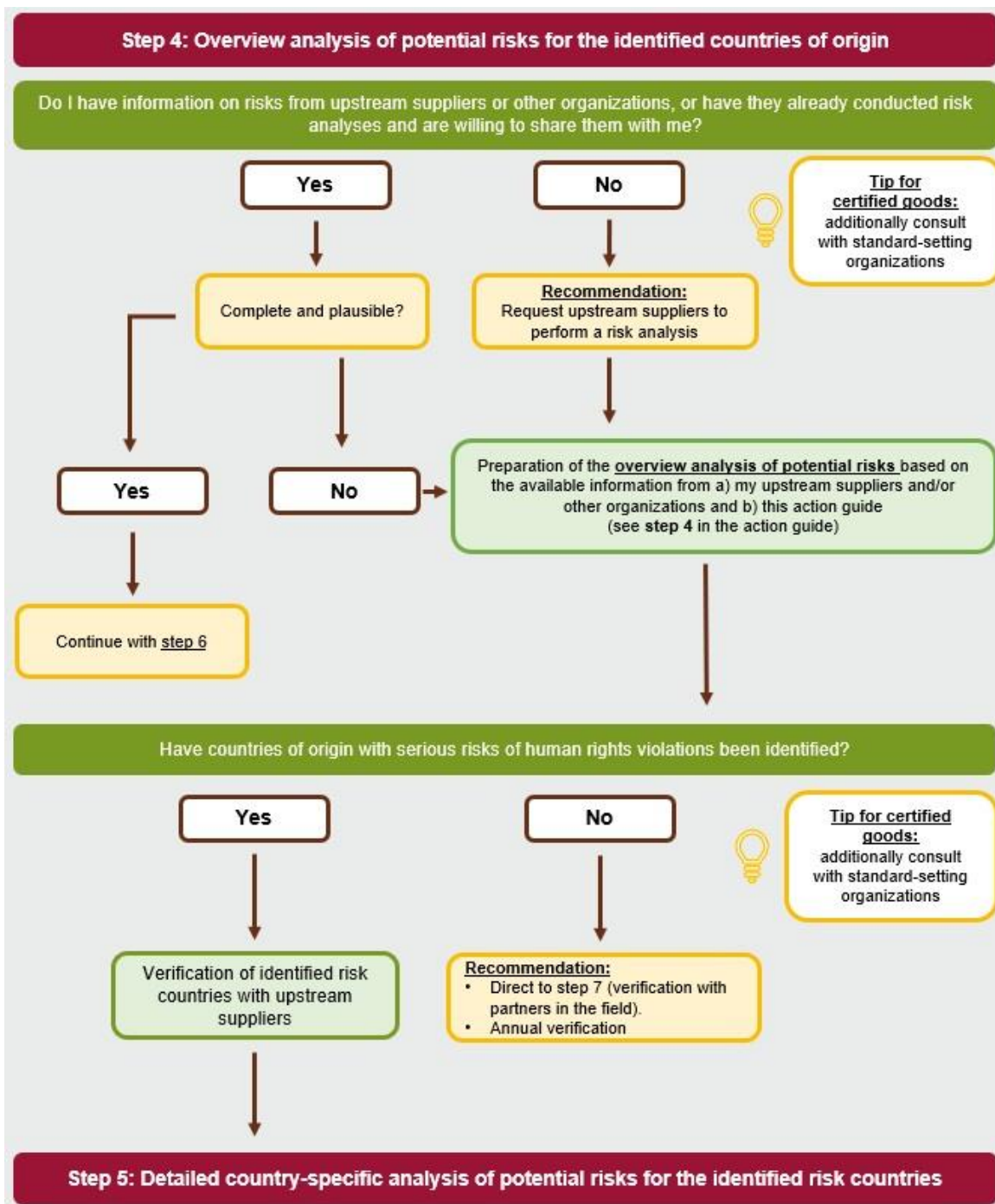
### Procedure for companies

As soon as the origin of the cocoa has been clarified, the company should first obtain an overview of risks in the identified countries of origin. An evaluation of a small amount of easily accessible data is sufficient for an initial assessment of risks in the identified cocoa supplying countries. Basic data relating to the economic and social situation in countries is published annually by the United Nations Development Programme. The tables showing the index on human development include information that enables an initial rough assessment of the supplier countries to be made.

On the basis of this data, it is possible to identify whether there are any risks to be concerned about and whether in-depth analyses are necessary (see Step 5).

Information on the political situation of a country can be compiled relatively quickly from the tables of the Freedom House Index, amfori BSCI, Transparency International, CIVICUS, the ILO and the ITUC. Generally speaking, this enables a rough overview to be gained quickly of the situation within the country. All of these works are updated annually, which greatly reduces the effort involved in the updates.

The following section summarises the most important basic information on which an initial overview risk analysis in the cocoa sector should be based.



Source: German Initiative on Sustainable Cocoa

Based on the identified countries of origin of the cocoa, it can now be examined in an initial rough overview whether basic indices on the social and political situation in these countries suggest that risks exist there. The risks examined in this section build on the guidelines for creating a risk analysis presented in section 2 and also on the existing published guidance in the cocoa sector.

To assess whether the areas of risk apply to the selected countries, only publicly available sources have been analysed for an initial overview. When selecting these sources, the focus was on publications that are internationally recognised and also regularly updated. The databases used here also contain information about countries that have not been examined in this study but in which cocoa is also cultivated. The following information provides an initial overview and also a guide to the possible sources; a detailed analysis follows in the country profiles.

#### 4.1. Development status, poverty indices, gender

Generally, the risk of human rights violations increases in countries in which a large proportion of the population has a very low income or lives in multidimensional poverty (see below for details) and is therefore dependent on taking up work under very poor conditions. Child labour is also usually most widespread where there is a major poverty problem.

It is possible to make a rough assessment of a country's living conditions by looking at the annually published Human Development Index (HDI) put together by the United Nations Development Programme (UNDP). The HDI is calculated based on data relating to life expectancy, school enrolment ratios and income per capita.

The annual report also contains comprehensive data analyses in its statistical annex, for example concerning the proportion of the population living in poverty as measured against the poverty line set by the World Bank, the percentage of working children, school enrolment ratios and the number of people in vulnerable employment.

The UNDP has produced an index showing what proportion of the population lives in multidimensional poverty. The indicators are nutrition, child mortality, average years of schooling, school attendance, cooking fuel, sanitation, drinking water, electricity, housing and assets. This can also be found in the annual reports on human development.

COUNTRY	HDI (HIGHEST ACHIEVABLE VALUE 1/RANK OUT OF 189 COUNTRIES)	POPULATION LIVING BELOW INCOME POVERTY LINE OF \$1.90 A DAY (PPP) (%)	PROPORTION OF POPULATION IN MULTIDIMENSIONAL POVERTY (%)	GENDER DEVELOPMENT INDEX (MAXIMUM VALUE 1, LOWEST VALUE 5)
COTE D'IVOIRE	0.538 (162)	28.2	46.1	5
GHANA	0.611 (138)	13.3	30.1	4
CAMEROON	0.563 (153)	23.8	45.3	5
NIGERIA	0.539 (161)	53.5	46.4	5
ECUADOR	0.759 (86)	3.3	4.6	2
PERU	0.777 (79)	2.6	7.4	2
DOMINICAN REPUBLIC	0.756 (88)	0.4	3.9	1
NICARAGUA	0.660 (128)	3.2	16.3	1
LIBERIA	0.480 (175)	40.9	62.0	5
TOGO	0.515 (167)	49.8	37.6	5
SIERRA LEONE	0.452 (182)	40.1	57.9	5
BOLIVIA	0.718 (107)	4.5	20.4	3

Source: UNDP: Human Development Report 2020

The annual comprehensive report by the UNDP and extensive profiles of all countries are available on the UNDP website at <http://hdr.undp.org/>. In addition to the data mentioned, these profiles contain much more information on the situation in the individual countries, such as information on the social and educational system, poverty trends, crime etc.



It is thus possible to make an initial assessment of where the biggest risks are as regards the countries included in the study.

The data overview of the countries analysed shows that there are significant differences with regard to the categories examined. Development status (defined by the HDI) and poverty rates are much more precarious in the West African countries than in South and Central America.

The development index calculated for females shows that the situation of women in the West African countries is significantly worse than in South and Central America. This in turn is an indication that the economic situation of women as employees or farmers in the cocoa sector is in all likelihood much worse than that of male employees or self-employed farmers.

## **4.2 Political environment**

A range of databases and websites provide information on how to assess the political environment of the country concerned.

The Freedom House Index provides an initial overview, enabling the overall political situation in a country to be assessed. The assessment focuses on political rights, civil liberties and many other criteria. For Côte d'Ivoire, for example, an assessment was made of the security situation, the role of ethnic and regional conflicts, land conflicts, corruption and immunity from prosecution for individual persons. The assessment also included treatment of the opposition, the media, religious freedom and the right to organise. The reports are continuously updated and provide an instantaneous overview of the political situation in each country.

The amfori BSCI initiative, which is supported by businesses, has created country ratings which also provide an initial overview. These ratings are also based on fundamental rights of freedom and, in addition, look at political stability, government efficiency, regulatory frameworks, the rule of law and efforts to combat corruption. Members can view very detailed country information on the website.

The corruption index produced by Transparency International enables an assessment to be made of how widespread corruption is within a country. In turn, the report published regularly by CIVICUS on the ability of civil society to operate freely in a country provides an indication of whether trade unions and non-governmental organisations can operate freely and tackle human rights violations through their work.

The overview of all countries examined shows that there are significant risks in all states. Only Ghana is rated as free by Freedom House, for example, but even though the state performs better in the corruption index than all the other countries examined, it does so with a low score. It is notable that all the countries examined are considered risk countries by amfori BSCI.

COUNTRY	FREEDOM SCORES (SCORE OUT OF 100/STATUS) (1)	RISK CLASSIFICATION (SCORE OUT OF 100/CLASSIFICATION) (2)	CORRUPTION PERCEPTIONS INDEX (SCORE OUT OF 100/RANK OUT OF 180 COUNTRIES) (3)	STATE OF CIVIC SPACE (RANKING) (4)
COTE D'IVOIRE	44 (Partly free)	32 (Risk country)	36 (Rank 104/180)	Repressed
GHANA	82 (Free)	53 (Risk country)	43 (75/180)	Narrowed
CAMEROON	16 (Not free)	14 (Risk country)	25 (149/180)	Repressed
NIGERIA	45 (Partly free)	17 (Risk country)	25 (149/180)	Repressed
ECUADOR	67 (Partly free)	35 (Risk country)	39 (92/180)	Obstructed
PERU	71 (Free)	48 (Risk country)	38 (94/180)	Obstructed
DOMINICAN REPUBLIC	67 (Partly free)	43 (Risk country)	28 (137/180)	Narrowed
NICARAGUA	30 (Not free)	17 (Risk country)	22 (159/180)	Repressed
LIBERIA	60 (Partly free)	24 (Risk country)	28 (137/180)	Obstructed
TOGO	43 (Partly free)	24 (Risk country)	29 (134/180)	Repressed
SIERRA LEONE	65 (Partly free)	29 (Risk country)	33 (117/180)	Obstructed
BOLIVIA	66 (Partly free)	23 (Risk country)	31 (124/180)	Obstructed

Source:

(1) Freedom House Index: <https://freedomhouse.org/countries/freedom-world/scores> (June 2021)

(2) amfori/BSCI: [https://www.amfori.org/sites/default/files/amfori-2020-11-12-Country-Risk-Classification-2021\\_0.pdf](https://www.amfori.org/sites/default/files/amfori-2020-11-12-Country-Risk-Classification-2021_0.pdf) (June 2021)

Expanded country profiles: <https://www.amfori.org/content/country-due-diligence-tool> (June 2021)

(3) Transparency International <https://www.transparency.de/cpi/> (January 2021, information for 2020)

(4) CIVICUS: <https://www.civicus.org/index.php/state-of-civil-society-report-2020#> (June 2021)

### 4.3 Working conditions and child labour

All the countries examined apart from Liberia have signed all the ILO Core Conventions – this is an initial indication that these states are at least attempting to stop human rights violations in the workplace.

The [core labour standards](#) are:

- Convention 87: Freedom of Association and Protection of the Right to Organise Convention, 1948;
- Convention 98: Right to Organise and Collective Bargaining Convention, 1949;
- Convention 29: Forced Labour Convention, 1930, and Protocol of 2014 to the Forced Labour Convention, ILO 2014;
- Convention 105: Abolition of Forced Labour Convention, 1957;
- Convention 100: Equal Remuneration Convention, 1951;
- Convention 111: Discrimination (Employment and Occupation) Convention, 1958;
- Convention 138: Minimum Age Convention, 1973;
- Convention 182: Worst Forms of Child Labour Convention, 1999;

However, ratification of these is only a first step and says little about how far the Core Conventions are actually being implemented in practice. The International Trade Union Confederation (ITUC) produces an annual assessment of where violations of labour laws occur. Of the countries examined, only the Dominican Republic performs well; Ghana ranks in the middle and no assessment is available for Nicaragua. All the other countries do badly, with Ecuador even scoring very badly.

Regarding the protection of workers' rights, another important aspect that needs to be examined is whether workers have regular employment contracts. According to the UNDP, this is not the case for more than two thirds of workers in the West African states. Vulnerable employment is

widespread in Central and South America as well.

In all the countries studied, children work – and a significant number of 5 to 17 year olds work in the West African cocoa farming countries in particular. Since many of the working children around the world work in the agricultural sector, it can be concluded that there are high risks in the cocoa supply chain. This is also demonstrated in UNICEF's risk assessment, which looks at the relationship between children's rights, work and parents' employment rights. None of the cocoa producing countries is classified as risk free; the risks are high in West Africa in particular.

COUNTRY	RATIFICATION OF ILO CORE CONVENTIONS (2)	ITUC GLOBAL RIGHTS INDEX (3)	VULNERABLE EMPLOYMENT (%) (1)	CHILD LABOUR (% AGES 5-17) (1)	CHILDREN'S RIGHTS IN THE WORKPLACE INDEX (4) (10 IS WORST VALUE)
COTE D'IVOIRE	Yes	4 (Systematic violations of rights)	71.2	22.1	6.1
GHANA	Yes	2 (Repeated violations of rights)	68.7	19.9	4.5
CAMEROON	Yes	4 (Systematic violations of rights)	73.6	38.9	6.2
NIGERIA	Yes	4 (Systematic violations of rights)	77.6	31.5	5.9
ECUADOR	Yes	5 (No guarantee of rights)	46.7	n/a	3.5
PERU	Yes	4 (Systematic violations of rights)	50.4	14.5	4.2
DOMINICAN REPUBLIC	Yes	2 (Repeated violations of rights)	40.4	7.0	4.5
NICARAGUA	Yes	No rating	40.9	n/a	5.1
LIBERIA	No: not C100, C139	3 (Regular violations of rights)	77.2	14	5.5
TOGO	Yes	3 (Regular violations of rights)	80.9	22.6	5.1
SIERRA LEONE	Yes	4 (Systematic violations of rights)	86.1	25.2	6.3
BOLIVIA	Yes	4 (Systematic violations of rights)	63.2	n/a	5.0

*Sources:*

(1) UNDP: *Human Development Report 2020*, <http://hdr.undp.org/>

(2) There is a website dedicated to ratifications of ILO Core Conventions:

[https://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:10011:0::NO::P10011\\_DISPLAY\\_BY,P10011\\_CONVENTION\\_TYPE\\_CODE:1,F](https://www.ilo.org/dyn/normlex/en/?p=NORMLEXPUB:10011:0::NO::P10011_DISPLAY_BY,P10011_CONVENTION_TYPE_CODE:1,F)

The ILO website also provides details of which other Conventions have been ratified by individual countries.

(3) ITUC: [https://www.ituc-csi.org/IMG/pdf/ituc\\_globalrightsindex\\_2020\\_en.pdf](https://www.ituc-csi.org/IMG/pdf/ituc_globalrightsindex_2020_en.pdf)

(4) UNICEF/Global Child Forum: <https://www.childrensrighsatlas.org/country-data/workplace/>

In addition to the Core Conventions, there are [other important ILO Conventions that are of considerable significance for the cocoa sector](#). In particular, these are:

- Convention 11: Right of Association (Agriculture) Convention, 1921;
- Convention 97: Migration for Employment Convention (Revised), 1949;
- Convention 131: Minimum Wage Fixing Convention, 1970;
- Convention 141: Rural Workers' Organisations Convention, 1975;
- Convention 184: Safety and Health in Agriculture Convention, 2001.



These are not part of the Bill of Human Rights and therefore only states, not companies, are obliged to comply. However, as internationally recognised standards, they may provide direction when assessing whether national governments are making greater efforts to implement important ILO Conventions.

Ecuador is the only country to have ratified more than half of these Conventions; the Dominican Republic has not ratified any. Cameroon, Ecuador and Nicaragua have signed ILO Convention 131 on minimum wages; only Côte d'Ivoire, Cameroon and Peru have signed the Convention on minimum wages in agriculture. The Convention on safety at work has been ratified only by Ghana. These are indications that there are significant gaps in the regulatory environment of the cocoa sector in all the countries examined.

COUNTRY	ILO 11 RIGHT OF ASSOCIATION (AGRICULTURE)	ILO 97 MIGRATION FOR EMPLOYMENT	ILO 99 MINIMUM WAGE FIXING MACHINERY (AGRICULTURE)	ILO 129 LABOUR INSPECTION (AGRICULTURE)	ILO 131 MINIMUM WAGE FIXING	ILO 141 RURAL WORKERS' ORGANISATIONS	ILO 184 SAFETY AND HEALTH IN AGRICULTURE
COTE D'IVOIRE	Yes	No	Yes	Yes	No	No	No
GHANA	Yes	No	No	No	No	No	Yes
CAMEROON	Yes	Yes	Yes	No	Yes	No	No
NIGERIA	Yes	Yes	No	No	No	No	No
ECUADOR	Yes	Yes	No	No	Yes	Yes	No
PERU	Yes	No	Yes	No	No	No	No
DOMINICAN REPUBLIC	No	No	No	No	No	No	No
NICARAGUA	Yes	No	No	No	Yes	Yes	No
LIBERIA	No	No	No	No	No	No	No
TOGO	Yes	No	No	Yes	No	No	No
SIERRA LEONE	No	No	Yes	No	No	No	No
BOLIVIA	No	No	No	Yes	Yes	No	No

Source: ILO <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12001:0::NO::>

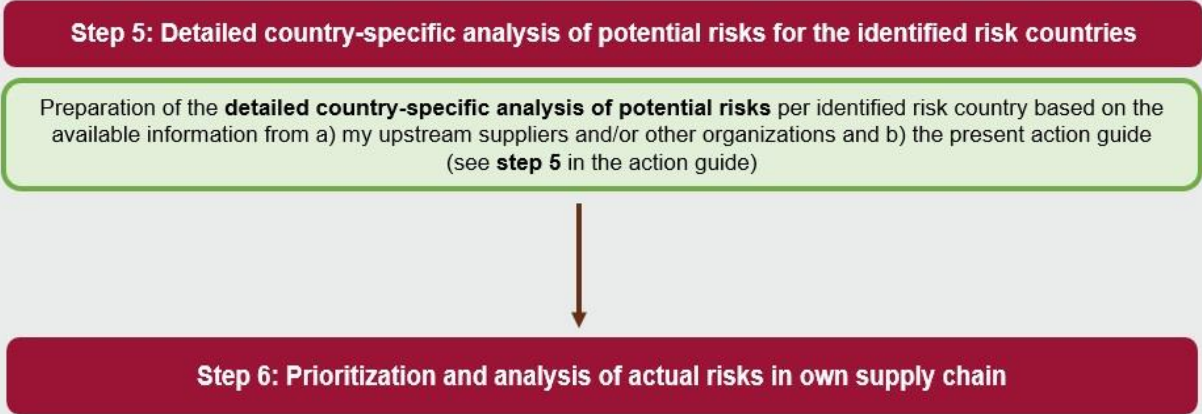
# Step 5: Detailed country-specific risk analysis for the identified countries of origin

## Procedure for companies

If Step 4’s fairly rough analysis of the situation in the cocoa producing countries brings human rights risks to light, additional databases and studies must be analysed. One possible point of entry into the research is the [CSR Risk Check](#), which is based on a large number of databases and also incorporates current studies. Another option is to use annually updated country reports from various US authorities which give a detailed account of the prevalence of child labour, forced labour and human rights violations. It would be desirable for business associations or an institution commissioned by the cocoa and chocolate sector to produce risk analyses centrally, update them regularly and make them available to the industry. This would make things much easier for SMEs in particular.

However, it is important to remember that employees of the companies who visit suppliers often have a far deeper and more up-to-date understanding of the local situation than these cross-border studies can guarantee. A process should therefore be organised within the company to record this knowledge and incorporate it into the risk analyses.

In the following, sources relating to important cocoa producing countries of origin are brought together. A country-specific detailed analysis can be based on these.



Source: German Initiative on Sustainable Cocoa

## 5.1 Côte d'Ivoire

### Introduction

Major human rights risks exist in Côte d'Ivoire, and not only in the cocoa sector. According to the United Nations Development Programme (UNDP), the country has widespread poverty and marked differences between men and women, which indicates significant risks. amfori BSCI lists Côte d'Ivoire as a risk country, with this categorisation based partially on the classification of "partly free" by the Freedom House Index and on the endemic corruption as measured by Transparency International. Although Côte d'Ivoire has signed the ILO's Core Conventions, serious violations of labour law are regularly reported by the International Trade Union Confederation (ITUC). Vulnerable employment and child labour are also widespread according to the UNDP.

HDI (highest achievable value 1/rank out of 189 countries)	Population living below income poverty line of \$1.90 a day (PPP) (%)	Percentage of population in multidimensional poverty (%)	Gender Development Index (maximum value 1, lowest value 5)	Freedom House (score out of 100/status)	amfori BSCI (score out of 100/classification)	Corruption Perceptions Index (score out of 100/rank out of 180 countries)
0.538 (162)	28.2	46.1	5	44 (Partly free)	32 (Risk country)	36 (Rank 104/180)
State of Civic Space (ranking)	Ratification of ILO Core Conventions	ITUC Global Rights Index	Vulnerable employment (%)	Child labour (% ages 5–17)	Children's Rights in the Workplace Index	ILO 11 Right of Association (Agriculture)
Repressed	Yes	4 (Systematic violations of rights)	71.2	22.1	6.1	Yes
ILO 97 Migration for Employment	ILO 99 Minimum Wage Fixing Machinery (Agriculture)	ILO 129 Labour Inspection (Agriculture)	ILO 131 Minimum Wage Fixing	ILO 141 Rural Workers' Organisations	ILO 184 Safety and Health in Agriculture	
No	Yes	Yes	No	No	No	

*Sources: see previous section*

### Social risks

#### Farmers' income

The majority of cocoa farming families in Côte d'Ivoire do not have a living income (CIRES 2018; Tyszler, Bymolt Laven 2018b).

This is a violation of Article 23 (3) of the Universal Declaration of Human Rights (UDHR), which calls for just and favourable remuneration.

#### Child labour

According to a study based on data from 2018, around 800,000 children work on cocoa plantations in Côte d'Ivoire. Most of them work in conditions that are considered the worst forms of child labour. Many injuries occur in the course of this work. In addition, a large number of these children come into contact with pesticides (NORC 2020). This is a violation of ILO Core Conventions 138 and 182.

#### Forced labour and human trafficking

The discovery of forced labour is a common occurrence in Côte d'Ivoire. This affects both adults, who have to work off debts with employers, and children. Migrants from neighbouring

countries are particularly at risk (Republic of Côte d'Ivoire 2008; Verite 2019). The U.S. classifies Côte d'Ivoire as a destination country for human trafficking, which also involves children from neighbouring countries. The cocoa sector is explicitly named as an industry in which victims of human trafficking are used (United States Department of State 2020). Police interventions and media reports confirm the high risk of human trafficking in cocoa farming (e.g. Whoriskey 2019).

This is a violation of ILO Core Conventions 29 and 105.

### **Malnutrition**

Low incomes mean that many families in the cocoa sector cannot afford a balanced diet at least in parts of the year. As a result, significant numbers of children suffer from malnutrition and its lasting harmful effects (GAIN et al. 2012; FLA 2015).

This is a violation of Article 11 of the UN's International Covenant on Economic, Social and Cultural Rights which guarantees the right to an adequate standard of living including adequate food.

### **Income of employees and tenants**

Besides the human rights violations already mentioned (child labour, forced labour, human trafficking) it is likely that workers in the cocoa sector are generally not able to earn a living wage because their employers do not have sufficient resources for this.

It is not clear how widespread tenancy systems are. It is estimated that more than 10% of plantations are run by tenants, some of whom work solely on leased land while others also have their own land (Bymolt/Laven/Tyszler 2018). In the tenancy systems, no consideration is given to whether the tenants earn a living income.

This is a violation of Article 23 (3) of the Universal Declaration of Human Rights and of Article 7 (a) of the UN's International Covenant on Economic, Social and Cultural Rights, which call for living wages.

### **Working conditions**

As a rule, workers have neither written employment contracts nor social protection (Meemken et al. 2019).

### **Discrimination against women**

Women who run cocoa plantations themselves face many disadvantages. They often have great difficulty gaining access to loans, training, inputs, etc. Female employees on plantations are generally paid less than male employees (FLA 2015).

This also violates Article 23 (3) and Article 7 (a) of the International Covenant on Economic, Social and Cultural Rights. It is also a violation of ILO Core Conventions 100 and 111.

### **Freedom of association and the right to collective bargaining**

Many of the farmers in Côte d'Ivoire are still not organised in any way. Workers on plantations are usually not members of a trade union or a group that represents their interests. This presents considerable risks as people without any representation have great difficulty in actively advocating for compliance with the rights granted to them.

### **Health and safety**

In West Africa's cocoa sector, a large number of pesticides are used which pose significant health risks. Often the users do not have sufficient knowledge and/or the necessary protective equipment to protect themselves effectively against the harmful effects of these pesticides.

This is a violation of Article 7 (b) of the International Covenant on Economic, Social and Cultural Rights, which relates to safe and healthy working conditions, and of Article 12 (1) of the International Covenant on Economic, Social and Cultural Rights, which relates to physical and mental health.



## **Land rights**

The scarcity of land was one of the issues fuelling the conflicts that led to civil war in Côte d'Ivoire. These conflicts have not been resolved in many regions.<sup>9</sup> This makes it difficult to exercise many essential human rights.

## **Disputes about protected natural areas**

A substantial proportion of Côte d'Ivoire's cocoa harvest comes from protected forest areas. Estimates suggest that this is true for up to 40% of the harvest. Hundreds of thousands of families live in these protected woodlands, with large areas of forest already having been destroyed. Attempts in 2015/16 to evict these families from at least two areas in order to reforest the woodland involved significant human rights violations (HRW 2016). These conflicts could increase significantly in the future as the government is planning to clear illegally cultivated areas.<sup>10</sup>

## ***Environmental risks***

### **Deforestation/conversion of land**

Cocoa plantations in Côte d'Ivoire have usually been established on land that was once primary forest. This presents the most serious ecological risk in cocoa farming. As a result of the conversion of woodland areas, only around 10% of Côte d'Ivoire is now forested (Mighty Earth 2017).

Changes in the microclimate are already being observed. Forecasts indicate that, in a few years' time, cocoa farming will no longer be possible in many of the current cultivation regions (Schroth et al. 2016).

### **Biodiversity**

In West Africa's cocoa sector, a large number of pesticides are used which have a very negative impact on biodiversity (PAN 2018).

### **Continuous updates**

The information presented is a snapshot. The UNGP call for any changes in the local situation to be recorded. The [CSR Risk Check](#) can currently be used for this because it is updated continuously.

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<sup>9</sup> See: <https://freedomhouse.org/country/cote-divoire/freedom-world/2020>

<sup>10</sup> See: <https://www.hrw.org/news/2019/06/28/farmers-face-new-round-eviction-protected-forests-cote-divoire>

## 5.2 Ghana

### Introduction

Human rights risks exist in Ghana, and not only in the cocoa sector. Data from the United Nations Development Programme (UNDP) indicates widespread poverty and marked differences between men and women. Although Ghana is classified as “free” by the Freedom House Index – indicating a relatively stable political system – corruption is widespread according to data from Transparency International. amfori BSCI lists Ghana as a risk country. Although Ghana has signed the ILO’s Core Conventions, violations of labour law are regularly reported by the International Trade Union Confederation (ITUC). Vulnerable employment and child labour are widespread according to the UNDP.

HDI (highest achievable value 1/rank out of 189 countries)	Population living below income poverty line of \$1.90 a day (PPP) (%)	Percentage of population in multidimensional poverty (%)	Gender Development Index (maximum value 1, lowest value 5)	Freedom House (score out of 100/status)	amfori BSCI (score out of 100/classification)	Corruption Perceptions Index (score out of 100/rank out of 180 countries)
0.611 (138)	13.3	30.1	4	82 (Free)	53 (Risk country)	43 (75/180)
State of Civic Space (ranking)	Ratification of ILO Core Conventions	ITUC Global Rights Index	Vulnerable employment (%)	Child labour (% ages 5–17)	Children’s Rights in the Workplace Index	ILO 11 Right of Association (Agriculture)
Narrowed	Yes	2 (Repeated violations of rights)	68.7	19.9	4.5	Yes
ILO 97 Migration for Employment	ILO 99 Minimum Wage Fixing Machinery (Agriculture)	ILO 129 Labour Inspection (Agriculture)	ILO 131 Minimum Wage Fixing	ILO 141 Rural Workers’ Organisations	ILO 184 Safety and Health in Agriculture	
No	No	No	No	No	Yes	

*Sources: see previous section*

### Social risks

#### Farmers’ income

The majority of cocoa farming families in Ghana do not have a living income (Smith/Sarpong 2018; Tyszler/Bymolt/Laven 2018a).

This is a violation of Article 23 (3) of the Universal Declaration of Human Rights (UDHR), which calls for just and favourable remuneration.

#### Child labour

According to a study based on data from 2018, more than 750,000 children work on cocoa plantations in Ghana. Most of them work in conditions that are considered the worst forms of child labour. Many injuries occur in the course of this work. In addition, a large number of these children come into contact with pesticides (NORC 2020).

This is a violation of ILO Core Conventions 138 and 182.

#### Forced labour and human trafficking

In Ghana there is forced labour in individual cases; this involves both the local population and also migrants from neighbouring countries (United States Department of State 2020).

This is a violation of ILO Core Conventions 29 and 105.

### **Malnutrition**

Low incomes mean that many families in the cocoa sector cannot afford a balanced diet at least in parts of the year. As a result, significant numbers of children suffer from malnutrition and its lasting harmful effects (GAIN et al. 2012).

This is a violation of Article 11 of the UN's International Covenant on Economic, Social and Cultural Rights which guarantees the right to an adequate standard of living including adequate food.

### **Income of employees and tenants**

Besides the human rights violations already mentioned (child labour, forced labour, human trafficking) it is likely that workers in the cocoa sector are generally not able to earn a living wage because their employers do not have sufficient resources for this.

It is not clear how widespread tenancy systems are. It is estimated that up to 40% of plantations are run by tenants, some of whom work solely on leased land while others also have their own land. In the tenancy systems, no consideration is given to whether the tenants earn a living income (Waarts et al. 2015: 18; Kolavalli/Vigneri/Gockowski 2016; Asamoah/Owusu-Ansah 2017: 16; Bymolt/Laven/Tyszler 2018).

This is a violation of Article 23 (3) of the Universal Declaration of Human Rights and of Article 7 (a) of the UN's International Covenant on Economic, Social and Cultural Rights, which call for living wages.

### **Working conditions**

As a rule, workers have neither written employment contracts nor social protection (Nelson et al. 2013; Waarts et al. 2015).

### **Discrimination against women**

It is estimated that 25% of plantations in Ghana are run by women; the proportion of the total work done is even substantially higher (Marston 2016: 7).

Women who run cocoa plantations themselves face many disadvantages. They often have great difficulty gaining access to loans, training, inputs, etc. That is why their earnings from cocoa farming are substantially lower than those of the male plantation operators. Female employees on plantations are generally paid less than male employees (Hiscox/Goldstein 2014; UTZ Certified 2009; Marston 2016).

This also violates Article 23 (3) and Article 7 (a) of the International Covenant on Economic, Social and Cultural Rights. It is also a violation of ILO Core Conventions 100 and 111.

### **Freedom of association and the right to collective bargaining**

Many of the farmers and plantation workers are still not organised in any way. Workers on plantations are usually not members of a trade union or a group that represents their interests. This presents considerable risks as people without any representation have great difficulty in actively advocating for compliance with the rights granted to them.

### **Health and safety**

In West Africa's cocoa sector, a large number of pesticides are used which pose significant health risks. Often the users do not have sufficient knowledge and/or the necessary protective equipment to protect themselves effectively against the harmful effects of these pesticides (PAN 218).

This is a violation of Article 7 (b) of the International Covenant on Economic, Social and Cultural Rights, which relates to safe and healthy working conditions, and of Article 12 (1) of the International Covenant on Economic, Social and Cultural Rights, which relates to physical and mental health.

### **Land rights**

With the exception of some individual cases, there are no known conflicts over land rights in Ghana.

### **Disputes about protected natural areas**

A proportion of Ghana's cocoa harvest comes from protected forest areas. Estimates suggest that this is true for up to 20% of the harvest.

These conflicts could increase significantly in the future as the government is planning to clear illegally cultivated areas.

### ***Environmental risks***

#### **Deforestation/conversion of land**

Cocoa plantations in Ghana have usually been established on land that was once primary forest. This presents the most serious ecological risk in cocoa farming (Mighty Earth 2017).

Changes in the microclimate are already being observed. Forecasts indicate that, in a few years' time, cocoa farming will no longer be possible in many of the current cultivation regions (Schroth et al. 2016).

#### **Biodiversity**

In West Africa's cocoa sector, a large number of pesticides are used which have a very negative impact on biodiversity (PAN 2018).

In addition to the pesticides permitted by COCOBOD, some of which pose significant risks to the environment and people (PAN 2018), a variety of different pesticides are sold on the street, with some of these only labelled in Chinese.<sup>11</sup>

#### **Continuous updates**

The information presented is a snapshot. The UNGP call for any changes in the local situation to be recorded. The [CSR Risk Check](#) can currently be used for this because it is updated continuously.

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<sup>11</sup>Own observations 2016 and 2019.



## 5.3 Cameroon

### Introduction

The human rights situation in Cameroon has been very poor in many areas for decades. President Paul Biya has ruled the country for nearly 40 years, and political and ethnic tensions have increased over recent years.

Data from the United Nations Development Programme (UNDP) indicates widespread poverty and marked differences between men and women. Cameroon is classified as “not free” by the Freedom House Index; corruption is widespread according to Transparency International. amfori BSCI lists Cameroon as a risk country. Although Cameroon has signed the ILO’s Core Conventions, systematic violations of labour laws are noted by the International Trade Union Confederation (ITUC). The UNDP reports that the majority of the population is in vulnerable employment, and none of the main cocoa farming countries has a higher rate of child labour.

HDI (highest achievable value 1/rank out of 189 countries)	Population living below income poverty line of \$1.90 a day (PPP) (%)	Percentage of population in multidimensional poverty (%)	Gender Development Index (maximum value 1, lowest value 5)	Freedom House (score out of 100/status)	amfori BSCI (score out of 100/classification)	Corruption Perceptions Index (score out of 100/rank out of 180 countries)
0.563 (153)	23.8	45.3	5	16 (Not free)	14 (Risk country)	25 (149/180)
State of Civic Space (ranking)	Ratification of ILO Core Conventions	ITUC Global Rights Index	Vulnerable employment (%)	Child labour (% ages 5–17)	Children’s Rights in the Workplace Index	ILO 11 Right of Association (Agriculture)
Repressed	Yes	4 (Systematic violations of rights)	73.6	38.9	6.2	Yes
ILO 97 Migration for Employment	ILO 99 Minimum Wage Fixing Machinery (Agriculture)	ILO 129 Labour Inspection (Agriculture)	ILO 131 Minimum Wage Fixing	ILO 141 Rural Workers’ Organisations	ILO 184 Safety and Health in Agriculture	
Yes	Yes	No	Yes	No	No	

*Sources: see previous section*

### Social risks

#### Farmers’ income

The majority of cocoa farming families in Cameroon live in poverty (Mbah Alma Andoh 2018; Mukete et al. 2018; European Commission/VCAAD 2020). Currently, no calculations are available to show how many families in the cocoa sector do not have a living income. However, there are up-to-date calculations both for living wages and for living incomes in the rural regions of Cameroon which can be used as a starting point for the necessary income. The actual income must still be recorded in order to draw conclusions regarding the number of families that still do not have a living income.<sup>12</sup>

This widespread poverty is a violation of Article 23 (3) of the Universal Declaration of Human Rights (UDHR), which calls for just and favourable remuneration.

<sup>12</sup> On wages, see: <https://globallivingwage.org/wp-content/uploads/2021/01/Rural-Cameroon-LW-Reference-value.pdf>

### **Child labour**

Studies on the prevalence of child labour in the cocoa sector indicated in 2002 that the number of children working on cocoa plantations was very high (IITA 2002 a and 2002 b). No further studies have been carried out since 2002. It can be assumed that not much has changed since then as regards the child labour situation. The high child labour rate of 38% in Cameroon, which is much higher than that in Côte d'Ivoire and Ghana, demonstrates an urgent need for action.

A violation of ILO Core Conventions 138 and 182 is therefore very likely.

### **Forced labour and human trafficking**

In Cameroon there are indications of forced labour; this involves both the local population and also migrants from neighbouring countries. However, the cocoa sector has not been mentioned in this context to date (United States Department of State 2020).

### **Malnutrition**

Even without recourse to country-specific studies, it can be concluded from Cameroon's high poverty rates, combined with the findings of studies in Côte d'Ivoire and Ghana (see GAIN et al. 2012), that some of the families in Cameroon's cocoa sector could have great difficulty obtaining enough food, at least in parts of the year.

The poverty in rural regions means it is highly probable that cocoa farming families are among those affected by widespread malnutrition (European Commission/VCAAD 2020).

This is a violation of Article 11 of the UN's International Covenant on Economic, Social and Cultural Rights which guarantees the right to an adequate standard of living including adequate food.

### **Income of employees and tenants**

In view of the generally very poor working conditions in the country (European Commission/VCAAD 2020) it is likely that workers in the cocoa sector are usually not able to earn a living wage because their employers do not have sufficient resources for this. It is not clear how widespread tenancy systems are, in which no consideration is given to whether the tenants earn a living income.

A calculation of living wages for rural areas of Cameroon is available; this can be used as a guide for future discussions.<sup>13</sup>

This is a violation of Article 23 (3) of the Universal Declaration of Human Rights and of Article 7 (a) of the UN's International Covenant on Economic, Social and Cultural Rights, which call for living wages.

### **Working conditions**

As a rule, workers in Cameroon have neither written employment contracts nor social protection. In this respect, the cocoa sector will be no different from other sectors within the country.

### **Discrimination against women**

Women work in many areas of the cocoa sector; however, they often have no access to land titles. They are frequently excluded from decision-making processes on the plantations (European Commission/VCAAD 2020).

Women who run cocoa plantations themselves face many disadvantages. They often have great difficulty obtaining confirmed land rights and gaining access to loans, training, inputs, etc. That is why their earnings from cocoa farming are in many cases lower than those of the male plantation operators.

This also violates Article 23 (3) and Article 7 (a) of the International Covenant on Economic, Social and Cultural Rights. It is also a violation of ILO Core Conventions 100 and 111.

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<sup>13</sup> See: <https://globallivingwage.org/wp-content/uploads/2021/01/Rural-Cameroon-LI-Reference-Value.pdf>

### **Freedom of association and the right to collective bargaining**

Many of the farmers and plantation workers are still not organised in any way. Workers on plantations are usually not members of a trade union or a group that represents their interests. This presents considerable risks as people without any representation have great difficulty in actively advocating for compliance with the rights granted to them.

### **Health and safety**

In West Africa's cocoa sector, a large number of pesticides are used which pose significant health risks. Often the users do not have sufficient knowledge and/or the necessary protective equipment to protect themselves effectively against the harmful effects of these pesticides (PAN 218).

The situation in Cameroon is likely to be similar, especially as many of the farmers do not possess adequate knowledge of the pesticides they are using (Mukete et al. 2018).

This is a violation of Article 7 (b) of the International Covenant on Economic, Social and Cultural Rights, which relates to safe and healthy working conditions, and of Article 12 (1) of the International Covenant on Economic, Social and Cultural Rights, which relates to physical and mental health.

### **Land rights**

With the exception of some individual cases, there are no known conflicts over land rights in Cameroon. This may change in the future, however, as land speculators are becoming increasingly active in Cameroon (European Commission/VCAAD 2020).

### **Disputes about protected natural areas**

To date, there has been a lack of data showing whether large-scale plantations have also been built in protected areas in Cameroon. It is already clear, however, that the risks are high and that current monitoring mechanisms are not adequate enough to rule out the establishment of plantations on protected areas.<sup>14</sup>

## ***Environmental risks***

### **Deforestation/conversion of land**

Cocoa plantations in Cameroon have usually been established on land that was once primary forest. This presents the most serious ecological risk in cocoa farming (European Commission/VCAAD 2020).

Deforestation is already resulting in changes in the microclimate. Forecasts indicate that, in a few years' time, cocoa farming will no longer be possible in many of the current cultivation regions (Schroth et al. 2016).

### **Biodiversity**

In West Africa's cocoa sector, a large number of pesticides are used which have a very negative impact on biodiversity (PAN 2018). This is also likely to apply to Cameroon.

### **Continuous updates**

The information presented is a snapshot. The UNGP call for any changes in the local situation to be recorded. The [CSR Risk Check](#) can currently be used for this because it is updated continuously.

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<sup>14</sup> See: <https://forestsnews.cifor.org/64893/producing-legal-sustainable-and-zero-deforestation-cocoa-in-cameroon-wont-be-easy?fnl=>

## 5.4 Nigeria

### Introduction

The human rights situation in Nigeria has been very poor in many areas for decades. Several periods of military dictatorship, civil governments often plagued by serious corruption problems, conditions resembling civil war in the North as well as in the Niger Delta and high levels of crime throughout the country all contribute towards widespread human rights violations. Added to this are the huge social contrasts between a small, rich upper class and the rest of the population. Data from the United Nations Development Programme (UNDP) indicates widespread poverty and marked differences between men and women. Despite its oil reserves, the country has the highest rates of poverty of all the countries examined.

Nigeria is classified as “partly free” by the Freedom House Index; corruption is widespread according to Transparency International. amfori BSCI lists Nigeria as a risk country. Although Nigeria has signed the ILO’s Core Conventions, systematic violations of labour laws are noted by the International Trade Union Confederation (ITUC). Most of the population works in vulnerable employment and child labour is also widespread according to the UNDP.

HDI (highest achievable value 1/rank out of 189 countries)	Population living below income poverty line of \$1.90 a day (PPP) (%)	Percentage of population in multidimensional poverty (%)	Gender Development Index (maximum value 1, lowest value 5)	Freedom House (score out of 100/status)	amfori BSCI (score out of 100/classification)	Corruption Perceptions Index (score out of 100/rank out of 180 countries)
0.539 (161)	53.5	46.4	5	45 (Partly free)	17 (Risk country)	25 (149/180)
State of Civic Space (ranking)	Ratification of ILO Core Conventions	ITUC Global Rights Index	Vulnerable employment (%)	Child labour (% ages 5–17)	Children’s Rights in the Workplace Index	ILO 11 Right of Association (Agriculture)
Repressed	Yes	4 (Systematic violations of rights)	77.6	31.5	5.9	Yes
ILO 97 Migration for Employment	ILO 99 Minimum Wage Fixing Machinery (Agriculture)	ILO 129 Labour Inspection (Agriculture)	ILO 131 Minimum Wage Fixing	ILO 141 Rural Workers’ Organisations	ILO 184 Safety and Health in Agriculture	
Yes	No	No	No	No	No	

*Sources: see previous section*

### Social risks

#### Farmers’ income

The majority of cocoa farming families in Nigeria live below the poverty line (Matthess 2013). Currently, no calculations are available to show how many families in the cocoa sector do not have a living income. However, there is an up-to-date calculation for living incomes in the rural areas of Nigeria which can be used as a basis for calculations in the cocoa sector.<sup>15</sup> The income of farmers still needs to be ascertained, however.

This widespread extreme poverty is a violation of Article 23 (3) of the Universal Declaration of Human Rights (UDHR), which calls for just and favourable remuneration.

<sup>15</sup> See: <https://globallivingwage.org/wp-content/uploads/2021/01/Rural-Nigeria-LI-Reference-Value.pdf>

### **Child labour**

Studies on the prevalence of child labour in the cocoa sector indicated in 2002 that the number of children working on cocoa plantations was very high (IITA 2002a and 2002b). No further studies have been carried out since 2002. It can be assumed that not much has changed since then as regards the child labour situation. Even studies restricted to small regions indicate that there are still many children working on cocoa plantations (Williams/Famuyiwa/Abdulkarim 2020).

This is a violation of ILO Core Conventions 138 and 182.

### **Forced labour and human trafficking**

In Nigeria there are indications of forced labour; this involves both the local population and also migrants from neighbouring countries. However, the cocoa sector has not been mentioned in this context to date (United States Department of State 2020).

### **Malnutrition**

Even without recourse to country-specific studies, it can be concluded from Nigeria's high poverty rates, combined with the findings of studies in Côte d'Ivoire and Ghana (see GAIN et al. 2012), that some of the families in Nigeria's cocoa sector could have great difficulty obtaining enough food, at least in parts of the year.

This is a violation of Article 11 of the UN's International Covenant on Economic, Social and Cultural Rights which guarantees the right to an adequate standard of living including adequate food.

### **Income of employees and tenants**

It is likely that workers in the cocoa sector are usually not able to earn a living wage because their employers do not have sufficient resources for this.

It is not clear how widespread tenancy systems are. There is evidence that a substantial number of plantations are operated by tenants and, as regards levies, no consideration is given to whether the cocoa farming families earn a living income (Iyama 2013: 6).

This is a violation of Article 23 (3) of the Universal Declaration of Human Rights and of Article 7 (a) of the UN's International Covenant on Economic, Social and Cultural Rights, which call for living wages.

### **Working conditions**

As a rule, workers in Nigeria have neither written employment contracts nor social protection. In this respect, the cocoa sector will be no different from other sectors within the country.

### **Discrimination against women**

Women work in many areas of the cocoa sector; however, they often have no access to land titles and are not well integrated into ongoing projects (Enete/Amusa 2010: 2–5; Oxfam Canada 2013: 5).

Women who run cocoa plantations themselves face many disadvantages. They often have great difficulty obtaining confirmed land rights and gaining access to loans, training, inputs, etc. That is why their earnings from cocoa farming are in many cases lower than those of the male plantation operators.<sup>16</sup>

This also violates Article 23 (3) and Article 7 (a) of the International Covenant on Economic, Social and Cultural Rights. It is also a violation of ILO Core Conventions 100 and 111.

### **Freedom of association and the right to collective bargaining**

Many of the farmers and plantation workers are still not organised in any way. Workers on plantations are usually not members of a trade union or a group that represents their interests. This presents considerable risks as people without any representation have great difficulty in actively advocating for compliance with the rights granted to them.

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<sup>16</sup> See: <https://www.future-agricultures.org/blog/gender-inequalities-in-nigerian-cocoa-production/>



### **Health and safety**

In West Africa's cocoa sector, a large number of pesticides are used which pose significant health risks. Often the users do not have sufficient knowledge and/or the necessary protective equipment to protect themselves effectively against the harmful effects of these pesticides (PAN 218).

This is a violation of Article 7 (b) of the International Covenant on Economic, Social and Cultural Rights, which relates to safe and healthy working conditions, and of Article 12 (1) of the International Covenant on Economic, Social and Cultural Rights, which relates to physical and mental health.

### **Land rights**

With the exception of some individual cases, there are no known conflicts over land rights in Nigeria.

### **Disputes about protected natural areas**

To date, there has been a lack of data showing whether large-scale plantations have also been built in protected areas in Nigeria. However, individual examples show that cocoa is one of the drivers behind the illegal deforestation of protected natural areas. Corruption is one of the reasons why this is not being stopped.<sup>17</sup>

## ***Environmental risks***

### **Deforestation/conversion of land**

Cocoa plantations in Nigeria have usually been established on land that was once primary forest. This presents the most serious ecological risk in cocoa farming. For a while, the government had advertised the fact that large areas of forest were still available for expanding the cocoa sector in Nigeria, and they wanted to more than double cocoa cultivation through support measures (Hütz-Adams et al. 2016). These plans have not been implemented to date.

Deforestation is already resulting in changes in the microclimate. Forecasts indicate that, in a few years' time, cocoa farming will no longer be possible in many of the current cultivation regions (Schroth et al. 2016).

### **Biodiversity**

In West Africa's cocoa sector, a large number of pesticides are used which have a very negative impact on biodiversity (PAN 2018).

### **Continuous updates**

The information presented is a snapshot. The UNGP call for any changes in the local situation to be recorded. The [CSR Risk Check](#) can currently be used for this because it is updated continuously.

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<sup>17</sup> E.g. in Omo Forest Reserve, see <https://news.mongabay.com/2019/07/cocoa-and-gunshots-the-struggle-to-save-a-threatened-forest-in-nigeria/>

## 5.5 Ecuador

### Introduction

The human rights situation in Ecuador is complex. According to information from the United Nations Development Programme (UNDP), poverty rates have declined sharply over recent decades and are in the low single-digit range. The development indicators for men and women have moved much closer together. However, the Freedom House Index score is only “partly free” due to the political situation in the country, and corruption is widespread according to Transparency International. amfori BSCI lists Ecuador as a risk country. Although Ecuador has signed the ILO’s Core Conventions, the International Trade Union Confederation (ITUC) categorises the country at the lowest level and notes that the rights of workers are not guaranteed. There are no figures to show the incidence of child labour, but vulnerable employment is widespread.

HDI (highest achievable value 1/rank out of 189 countries)	Population living below income poverty line of \$1.90 a day (PPP) (%)	Percentage of population in multidimensional poverty (%)	Gender Development Index (maximum value 1, lowest value 5)	Freedom House (score out of 100/status)	amfori BSCI (score out of 100/classification)	Corruption Perceptions Index (score out of 100/rank out of 180 countries)
0.759 (86)	3.3	4.6	2	67 (Partly free)	35 (Risk country)	39 (92/180)
State of Civic Space (ranking)	Ratification of ILO Core Conventions	ITUC Global Rights Index	Vulnerable employment (%)	Child labour (% ages 5–17)	Children’s Rights in the Workplace Index	ILO 11 Right of Association (Agriculture)
Obstructed	Yes	5 (No guarantee of rights)	46.7	n/a	3.5	Yes
ILO 97 Migration for Employment	ILO 99 Minimum Wage Fixing Machinery (Agriculture)	ILO 129 Labour Inspection (Agriculture)	ILO 131 Minimum Wage Fixing	ILO 141 Rural Workers’ Organisations	ILO 184 Safety and Health in Agriculture	
Yes	No	No	Yes	Yes	No	

*Sources: see previous section*

### *Social risks*

#### **Farmers’ income**

No up-to-date data is available relating to the income situation of cocoa farming families. No calculation of living income for the cocoa sector has been produced to date either, although this could be based on figures from the banana sector.

Due to a lack of data, it is not possible to assess whether low income in Ecuador’s cocoa farming industry results in a violation of Article 23 (3) of the Universal Declaration of Human Rights (UDHR), which calls for a living wage.

#### **Child labour**

The proportion of children who have to work has declined sharply in Ecuador over recent decades. However, the government has not had any kind of comprehensive survey carried out since 2012. Risks continue to exist in the informal sector and particularly also in agriculture.<sup>18</sup> Violations of ILO Core Conventions 138 and 182 on cocoa plantations are possible, but probably not widespread.

<sup>18</sup> See: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/ecuador>

### **Forced labour and human trafficking**

In Ecuador there is forced labour in individual cases; this involves both the local population and also migrants from neighbouring countries. There are also cases in the agricultural sector, although no cases have been documented in cocoa farming up to now (United States Department of State 2020).

### **Malnutrition**

No information is available on the food situation of cocoa cultivating families in Ecuador, meaning that it is not possible to conduct a risk assessment.

There is the risk of a violation of Article 11 of the UN's International Covenant on Economic, Social and Cultural Rights which guarantees the right to an adequate standard of living including adequate food.

### **Income of employees and tenants**

Investigations in other sectors, and particularly the banana sector, suggest that workers in the cocoa sector often fail to earn a living wage.

This is a violation of Article 23 (3) of the Universal Declaration of Human Rights and of Article 7 (a) of the UN's International Covenant on Economic, Social and Cultural Rights, which call for living wages.

### **Working conditions**

As a result of government requirements, staff usually receive written contracts; however, these workers usually only help out at short notice during peak work periods and are therefore not permanently employed (Cepeda et al. 2013).

### **Discrimination against women**

Women play an important role in cocoa farming in Ecuador and carry out a substantial amount of the work involved. However, women are not given adequate access to cooperatives, training and information about cultivating and marketing cocoa. In addition, they often have no influence regarding decision-making or the production and sale of cocoa (Ramos/Paez Valencia/Blare 2019).

There are risks relating to Article 23 (3) and Article 7 (a) of the International Covenant on Economic, Social and Cultural Rights and to ILO Core Conventions 100 and 111.

### **Freedom of association and the right to collective bargaining**

Many of the farmers are still not organised in any way. Workers on plantations are usually not members of a trade union or a group that represents their interests (Cepeda et al. 2013). This presents considerable risks as people without any representation have great difficulty in actively advocating for compliance with the rights granted to them.

### **Health and safety**

In the cocoa sector, a large number of pesticides are used which pose significant health risks. Often the users do not have sufficient knowledge and/or the necessary protective equipment to protect themselves effectively against the harmful effects of these pesticides.

This poses the risk of a violation of Article 7 (b) of the International Covenant on Economic, Social and Cultural Rights, which relates to safe and healthy working conditions, and of Article 12 (1) of the International Covenant on Economic, Social and Cultural Rights, which relates to physical and mental health.

### **Land rights**

With the exception of some individual cases, there are no known conflicts over land rights in Ecuador.

## *Environmental risks*

### **Deforestation/conversion of land**

Cocoa plantations in Ecuador have usually been established on land that was once primary forest. This presents the most serious ecological risk in cocoa farming (Mighty Earth 2017). The increase in cocoa farming in Ecuador has been a contributory factor in the deforestation and conversion of primary forests in many regions of the country.<sup>19</sup>

Deforestation intensifies the impact of global climate change at local level. However, forecasts for Ecuador suggest that cocoa cultivation could even benefit from changes in the climate (Jímenez Noboa 2011). On the other hand, the increase in El Niño and La Niña extreme weather events means there is a greater risk of crop failure.

### **Biodiversity**

In West Africa's cocoa sector, a large number of pesticides are used which have a very negative impact on biodiversity (PAN 2018). Although there is no data for Ecuador, it can be assumed that pesticides that have a negative impact on biodiversity are also used there.

### **Continuous updates**

The information presented is a snapshot. The UNGP call for any changes in the local situation to be recorded. The [CSR Risk Check](#) can currently be used for this because it is updated continuously.

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<sup>19</sup> See: <https://www.mightyearth.org/2018/02/12/kissed-by-deforestation/>

## 5.6 Peru

### Introduction

According to information from the United Nations Development Programme (UNDP), poverty rates in Peru have declined sharply over recent decades and are in the single-digit range. The development indicators for men and women have moved closer together. The Freedom House Index score is “free” due to the political situation in the country, but corruption is widespread according to Transparency International. amfori BSCI lists Peru as a risk country. Although Peru has signed the ILO’s Core Conventions, the International Trade Union Confederation (ITUC) categorises the country at the second lowest level and notes that there are systematic violations of the rights of workers. According to the UNDP, vulnerable employment is widespread and the level of child labour remains relatively high.

HDI (highest achievable value 1/rank out of 189 countries)	Population living below income poverty line of \$1.90 a day (PPP) (%)	Percentage of population in multidimensional poverty (%)	Gender Development Index (maximum value 1, lowest value 5)	Freedom House (score out of 100/status)	amfori BSCI (score out of 100/classification)	Corruption Perceptions Index (score out of 100/rank out of 180 countries)
0.777 (79)	2.6	7.4	2	71 (Free)	48 (Risk country)	38 (94/180)
State of Civic Space (ranking)	Ratification of ILO Core Conventions	ITUC Global Rights Index	Vulnerable employment (%)	Child labour (% ages 5–17)	Children’s Rights in the Workplace Index	ILO 11 Right of Association (Agriculture)
Obstructed	Yes	4 (Systematic violations of rights)	50.4	14.5	4.2	Yes
ILO 97 Migration for Employment	ILO 99 Minimum Wage Fixing Machinery (Agriculture)	ILO 129 Labour Inspection (Agriculture)	ILO 131 Minimum Wage Fixing	ILO 141 Rural Workers’ Organisations	ILO 184 Safety and Health in Agriculture	
No	Yes	No	No	No	No	

*Sources: see previous section*

### Social risks

#### Farmers’ income

Because many of the farmers in Peru cultivate crops on very small areas of land, their earnings from cocoa are often very low (Technoserve 2015). However, no current systematic survey of earnings in Peru’s cocoa sector has been available to date. There is also no calculation of living income, although the calculations for two rural regions could be used here.<sup>20</sup>

Due to a lack of data, it is not possible to assess whether low income in Peru’s cocoa farming industry results in a violation of Article 23 (3) of the Universal Declaration of Human Rights (UDHR), which calls for a living wage.

#### Child labour

The proportion of children who have to work remains relatively high. Risks continue to exist in the informal sector and particularly also in agriculture.<sup>21</sup>

Violations of ILO Core Conventions 138 and 182 are therefore not unlikely on cocoa plantations.

<sup>20</sup> See: <https://www.globallivingwage.org/countries/peru/>

<sup>21</sup> See: <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/peru/>



### **Forced labour and human trafficking**

In Peru there is forced labour in individual cases; this involves both the local population and also migrants from neighbouring countries. However, no cases have been documented in cocoa farming up to now (United States Department of State 2020).

### **Malnutrition**

No information is available on the food situation of cocoa cultivating families in Peru, meaning that it is not possible to conduct a risk assessment.

There is the risk of a violation of Article 11 of the UN's International Covenant on Economic, Social and Cultural Rights which guarantees the right to an adequate standard of living including adequate food.

### **Income of employees**

Surveys in other sectors, and particularly within the banana sector, suggest that workers usually fail to earn a living wage in the cocoa sector too.

This is a violation of Article 23 (3) of the Universal Declaration of Human Rights and of Article 7 (a) of the UN's International Covenant on Economic, Social and Cultural Rights, which call for living wages.

### **Working conditions**

A large proportion of workers in Peru have no written employment contracts and no social protection at all (UNDP 2020).

### **Discrimination against women**

Women play an important role in cocoa farming in Peru and carry out a substantial amount of the work involved. However, traditional gender roles mean that they are not given adequate access to cooperatives, training and information about cultivating and marketing cocoa. In addition, they often have no influence regarding decision-making or the production and sale of cocoa (Ramos/Paez Valencia/Blare 2019).

There are risks relating to Article 23 (3) and Article 7 (a) of the International Covenant on Economic, Social and Cultural Rights and to ILO Core Conventions 100 and 111.

### **Freedom of association and the right to collective bargaining**

Many of the farmers and plantation workers are still not organised in any way. Workers on plantations are usually not members of a trade union or a group that represents their interests (Technoserve 2015). This presents considerable risks as people without any representation have great difficulty in actively advocating for compliance with the rights granted to them.

### **Health and safety**

In the cocoa sector, a large number of pesticides are used which pose significant health risks. Often the users do not have sufficient knowledge and/or the necessary protective equipment to protect themselves effectively against the harmful effects of these pesticides.

This is a violation of Article 7 (b) of the International Covenant on Economic, Social and Cultural Rights, which relates to safe and healthy working conditions, and of Article 12 (1) of the International Covenant on Economic, Social and Cultural Rights, which relates to physical and mental health.

### **Land rights**

Violations of land rights are common in Peru, particularly where the construction of large mines is concerned. This is clear evidence that conflicts can arise when building large cocoa plantations, a number of which already exist in Peru (see next paragraph).

## *Environmental risks*

### **Deforestation/conversion of land**

Cocoa plantations in Peru have usually been established on land that was once primary forest. This presents the most serious ecological risk in cocoa farming (Mighty Earth 2017). The increase in cocoa farming in Peru has been a contributory factor in the deforestation and conversion of primary forests in many regions of the country.<sup>22</sup> During the establishment of one large plantation, the significant violations of the law that occurred during the clearing of primary forests made international headlines.<sup>23</sup>

Deforestation intensifies the impact of global climate change at local level.

### **Biodiversity**

In West Africa's cocoa sector, a large number of pesticides are used which have a very negative impact on biodiversity (PAN 2018). This will be no different in Peru's growing regions.

### **Continuous updates**

The information presented is a snapshot. The UNGP call for any changes in the local situation to be recorded. The [CSR Risk Check](#) can currently be used for this because it is updated continuously.

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<sup>22</sup> See: <https://www.mightyearth.org/2018/02/12/kissed-by-deforestation/>

<sup>23</sup> See: <https://maaproject.org/2020/cacao-tamshiyacu/>

## 5.7 Dominican Republic

### Introduction

According to information from the United Nations Development Programme (UNDP), poverty rates in the Dominican Republic have declined sharply over recent decades and are in the low single-digit range. The development indicators for men and women are almost the same. Nevertheless, the Freedom House Index score is only “partly free” due to the political situation in the country, and corruption is widespread according to Transparency International. amfori BSCI lists the state as a risk country. The Dominican Republic has signed the ILO’s Core Conventions and, according to information from the International Trade Union Confederation (ITUC), the Dominican Republic is performing relatively well. However, workers’ rights are still repeatedly violated and vulnerable employment remains widespread. The proportion of working children has fallen to a single digit percentage.

HDI (highest achievable value 1/rank out of 189 countries)	Population living below income poverty line of \$1.90 a day (PPP) (%)	Percentage of population in multidimensional poverty (%)	Gender Development Index (maximum value 1, lowest value 5)	Freedom House (score out of 100/status)	amfori BSCI (score out of 100/classification)	Corruption Perceptions Index (score out of 100/rank out of 180 countries)
0.756 (88)	0.4	3.9	1	67 (Partly free)	43 (Risk country)	28 (137/180)
State of Civic Space (ranking)	Ratification of ILO Core Conventions	ITUC Global Rights Index	Vulnerable employment (%)	Child labour (% ages 5–17)	Children’s Rights in the Workplace Index	ILO 11 Right of Association (Agriculture)
Narrowed	Yes	2 (Repeated violations of rights)	40.4	7	4.5	No
ILO 97 Migration for Employment	ILO 99 Minimum Wage Fixing Machinery (Agriculture)	ILO 129 Labour Inspection (Agriculture)	ILO 131 Minimum Wage Fixing	ILO 141 Rural Workers’ Organizations	ILO 184 Safety and Health in Agriculture	
No	No	No	No	No	No	

*Sources: see previous section*

### Social risks

#### Farmers’ income

No up-to-date data is available relating to the income situation of cocoa farming families. There is also no calculation of living income, although the surveys in the banana sector could be used here.<sup>24</sup>

Due to a lack of data, it is not possible to assess whether low income in the Dominican Republic’s cocoa farming industry results in a violation of Article 23 (3) of the Universal Declaration of Human Rights (UDHR), which calls for a living wage.

#### Child labour

The proportion of children who have to work has declined sharply in the Dominican Republic over recent decades. Risks continue to exist in the informal sector and particularly also in agriculture, and here also in the cocoa sector.<sup>25</sup> An older study reports on occasional cases of child labour in the cocoa sector (Berlan/Bergés 2013).

<sup>24</sup> See: <https://www.globallivingwage.org/living-wage-benchmarks/rural-dominican-republic/>

<sup>25</sup> See: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/dominican-republic>

Violations of ILO Core Conventions 138 and 182 on cocoa plantations are possible, but probably not widespread.

### **Forced labour and human trafficking**

In the Dominican Republic there are cases of forced labour; this involves both the local population and also migrants from neighbouring countries. The agricultural sector is also affected by this, although no cases have been documented in cocoa farming up to now (United States Department of State 2020).

### **Malnutrition**

No information is available on the food situation of cocoa cultivating families in the Dominican Republic, meaning that it is not possible to conduct a conclusive assessment of this.

There is a risk of a violation of Article 11 of the UN's International Covenant on Economic, Social and Cultural Rights which guarantees the right to an adequate standard of living including adequate food.

### **Income of employees**

Surveys within the banana sector suggest that workers in the cocoa sector probably do not earn a living wage.<sup>26</sup>

One risk is that farmers often employ day labourers during peak work periods. A substantial number of these come from Haiti and some do not have legal residency status. This means that they have very little bargaining power when it comes to enforcing adequate working conditions and living wages (Berlan/Bergés 2013).

This poses the risk of a violation of Article 23 (3) of the Universal Declaration of Human Rights and of Article 7 (a) of the UN's International Covenant on Economic, Social and Cultural Rights, which call for living wages.

### **Working conditions**

A significant number of employees work in vulnerable employment (UNDP 2020).

### **Discrimination against women**

Women play an important role in cocoa farming in the Dominican Republic and carry out a substantial amount of the work involved. However, gender roles mean that they are disadvantaged in many areas (Berlan/Bergés 2013).

There are risks relating to Article 23 (3) and Article 7 (a) of the International Covenant on Economic, Social and Cultural Rights and to ILO Core Conventions 100 and 111.

### **Freedom of association and the right to collective bargaining**

Many of the farmers and plantation workers are still not organised in any way. Workers on plantations are usually only temporarily employed (Berlan/Bergés 2013). This presents considerable risks as people without any representation have great difficulty in actively advocating for compliance with the rights granted to them.

### **Health and safety**

In the cocoa sector, a large number of pesticides are used which pose significant health risks. Often the users do not have sufficient knowledge and/or the necessary protective equipment to protect themselves effectively against the harmful effects of these pesticides. In the Dominican Republic, a number of crops are cultivated in accordance with organic farming principles, which significantly reduces these risks.

The inadequate use of pesticides is a violation of Article 7 (b) of the International Covenant on Economic, Social and Cultural Rights, which relates to safe and healthy working conditions, and of Article 12 (1) of the International Covenant on Economic, Social and Cultural Rights, which relates to physical and mental health.

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<sup>26</sup> See: <https://www.globallivingwage.org/countries/dominican-republic/>

**Land rights**

With the exception of some individual cases, there are no known conflicts over land rights in the Dominican Republic. However, many of the farmers do not have a registered land title (Berlan/Bergés 2013).

***Environmental risks*****Deforestation/conversion of land**

Cocoa plantations in the Dominican Republic have usually been established on land that was once primary forest. This presents the most serious ecological risk in cocoa farming (Mighty Earth 2017).

Deforestation intensifies the global impact of climate change.

**Biodiversity**

In West Africa's cocoa sector, a large number of pesticides are used which have a very negative impact on biodiversity (PAN 2018). This will be no different in the growing regions of the Dominican Republic which are not cultivated according to ecological principles.

**Continuous updates**

The information presented is a snapshot. The UNGP call for any changes in the local situation to be recorded. The [CSR Risk Check](#) can currently be used for this because it is updated continuously.



## 5.8 Nicaragua

### Introduction

The human rights situation in Nicaragua is difficult because of the political unrest in the country. According to information from the United Nations Development Programme (UNDP), poverty rates have declined over recent decades, but are still significantly higher than those in Latin America's other cocoa producing countries. The development indicators for men and women are identical. The Freedom House Index score is "not free" due to the political situation in the country, and corruption is extremely widespread according to Transparency International. amfori BSCI lists Nicaragua as a risk country. Nicaragua has signed the ILO Core Conventions. The International Trade Union Confederation (ITUC) is not categorising the country at present due to the turbulent political situation. According to the UNDP, vulnerable employment is widespread; information on the prevalence of child labour is not provided here, but other sources confirm this is very high (see below).

HDI (highest achievable value 1/rank out of 189 countries)	Population living below income poverty line of \$1.90 a day (PPP) (%)	Percentage of population in multidimensional poverty (%)	Gender Development Index (maximum value 1, lowest value 5)	Freedom House (score out of 100/status)	amfori BSCI (score out of 100/classification)	Corruption Perceptions Index (score out of 100/rank out of 180 countries)
0.660 (128)	3.2	16.3	1	30 (Not free)	17 (Risk country)	22 (159/180)
State of Civic Space (ranking)	Ratification of ILO Core Conventions	ITUC Global Rights Index	Vulnerable employment (%)	Child labour (% ages 5–17)	Children's Rights in the Workplace Index	ILO 11 Right of Association (Agriculture)
Repressed	Yes	No rating	40.9	n/a	5.1	Yes
ILO 97 Migration for Employment	ILO 99 Minimum Wage Fixing Machinery (Agriculture)	ILO 129 Labour Inspection (Agriculture)	ILO 131 Minimum Wage Fixing	ILO 141 Rural Workers' Organisations	ILO 184 Safety and Health in Agriculture	
No	No	No	Yes	Yes	No	

Sources: see previous section

### *Social risks*

#### **Farmers' income**

No up-to-date data is available relating to the income situation of cocoa farming families. No calculation of living income for families in the cocoa sector has been produced to date either, although surveys performed in rural Nicaragua could be used for the expenditure structures.<sup>27</sup> Due to a lack of data, it is not possible to assess whether low income in Nicaragua's cocoa farming industry results in a violation of Article 23 (3) of the Universal Declaration of Human Rights (UDHR), which calls for a living wage.

#### **Child labour**

The UNDP does not have any information on the proportion of children who have to work. The US Department of Labor puts the child labour rate of 10- to 14-year-olds at 47.7%, a very high figure. More than half of this work takes place in the agricultural sector.<sup>28</sup> This presents a high risk of violation of ILO Core Conventions 138 and 182.

<sup>27</sup> See: <https://www.globallivingwage.org/countries/nicaragua/>

<sup>28</sup> See: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/nicaragua>

### **Forced labour and human trafficking**

The US government gives Nicaragua the lowest rating for dealing with forced labour. This forced labour involves both the local population and also migrants from neighbouring countries. The agricultural sector is also specifically mentioned as a work area, although no cases have been documented in cocoa farming up to now (United States Department of State 2020).

### **Malnutrition**

No information is available on the food situation of cocoa cultivating families in Ecuador, meaning that it is not possible to conduct a risk assessment.

There is the risk of a violation of Article 11 of the UN's International Covenant on Economic, Social and Cultural Rights which guarantees the right to an adequate standard of living including adequate food.

### **Income of employees**

There is no information on whether workers in the cocoa sector earn a living wage.

Wages that are not a living wage violate Article 23 (3) of the Universal Declaration of Human Rights and Article 7 (a) of the UN's International Covenant on Economic, Social and Cultural Rights, which call for living wages.

### **Working conditions**

A large number of employees work in vulnerable employment (UNDP 2020).

### **Discrimination against women**

Women play an important role in cocoa farming in Nicaragua and carry out a substantial amount of the work involved. No studies are available that examine the specific situation of women in the cocoa sector.

It is therefore not possible to assess the risks relating to the violation of Article 23 (3) and Article 7 (a) of the UN's International Covenant on Economic, Social and Cultural Rights, and ILO Core Convention 100 and 111.

### **Freedom of association and the right to collective bargaining**

Many of the farmers and plantation workers are still not organised in any way. Workers on plantations are usually not members of a trade union or a group that represents their interests. This presents considerable risks as people without any representation have great difficulty in actively advocating for compliance with the rights granted to them.

### **Health and safety**

In the cocoa sector, a large number of pesticides are used which pose significant health risks. Often the users do not have sufficient knowledge and/or the necessary protective equipment to protect themselves effectively against the harmful effects of these pesticides.

This is a violation of Article 7 (b) of the International Covenant on Economic, Social and Cultural Rights, which relates to safe and healthy working conditions, and of Article 12 (1) of the International Covenant on Economic, Social and Cultural Rights, which relates to physical and mental health.

### **Land rights**

With the exception of some individual cases, there are no known conflicts over land rights in Nicaragua.

## *Environmental risks*

### **Deforestation/conversion of land**

Cocoa plantations in Ecuador have usually been established on land that was once primary forest. This presents the most serious ecological risk in cocoa farming (Mighty Earth 2017). Deforestation intensifies the global impact of climate change.

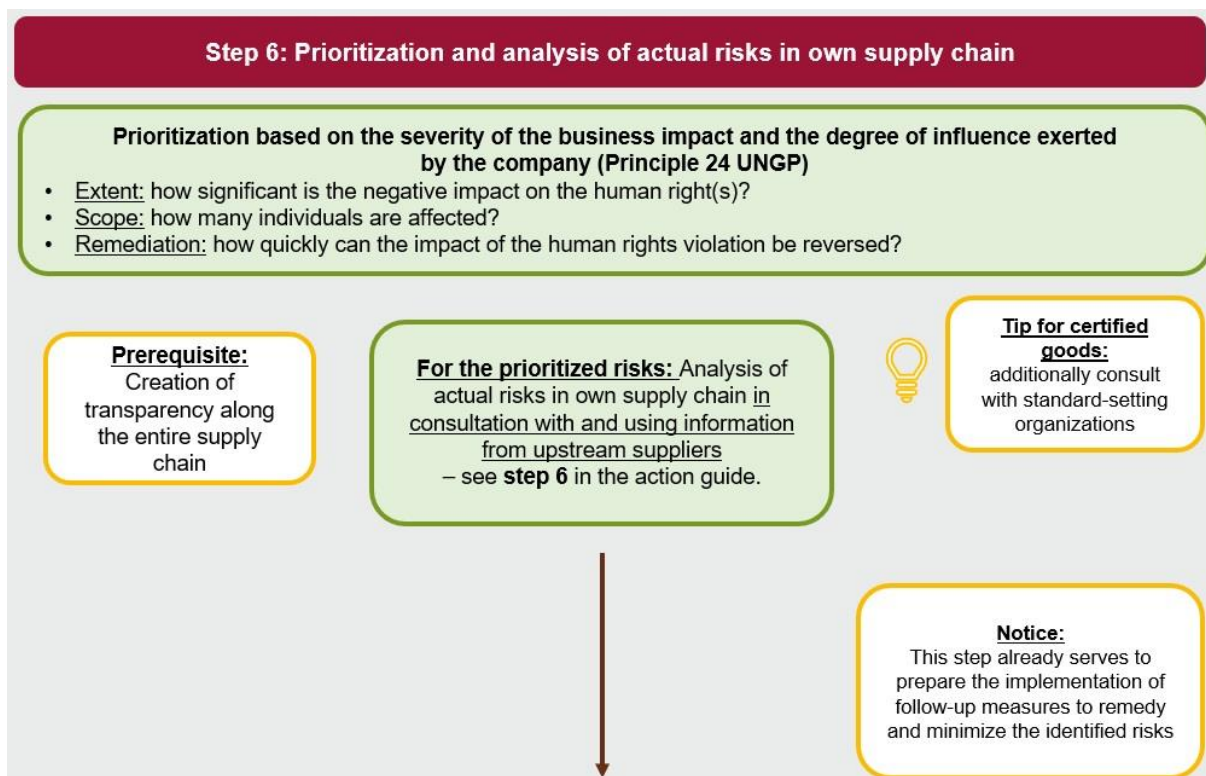
### **Biodiversity**

In West Africa's cocoa sector, a large number of pesticides are used which have a very negative impact on biodiversity (PAN 2018). This will be no different in Nicaragua's growing regions.

### **Continuous updates**

The information presented is a snapshot. The UNGP call for any changes in the local situation to be recorded. The [CSR Risk Check](#) can currently be used for this because it is updated continuously.

## Step 6: Prioritise risks within the company's own supply chain



Source: German Initiative on Sustainable Cocoa

Since every company has its own characteristic features in terms of different locations, suppliers and supplier countries, not every industry risk or country risk is necessarily consistent with the company-specific risk. Even in the high-risk cultivation countries, there may be regions where risks are significantly reduced thanks to well-organised cooperatives combined with social and ecological support measures. However, it is also possible that risks are much higher within a specific supply chain than the country data might suggest at first glance.

It is therefore important to compare the research findings obtained so far with the company's activities and to check whether the results of the industry-related and country-related research hold true in the individual supply chain. An exchange of information with internal departments (purchasing, compliance, quality management) and external stakeholders such as suppliers and farmers' organisations is helpful (see [SME Compass guidance](#)).

Very different challenges and risks may arise depending on the size of the company and supplier relationships. Small companies with direct supplier relationships can enter into discussions immediately with their suppliers and work on eliminating the risks. Companies with diverse, indirect supplier relationships could, on the other hand, be faced with the situation of being unable to address all the identified risks at the same time.

Companies should aim to identify and rectify all adverse human rights impacts. If there is insufficient capacity for a comprehensive approach, priorities must be set. Principle 24 of the UN Guiding Principles on Business and Human Rights addresses such situations and provides concrete guidance:

“Where it is necessary to prioritize actions to address actual and potential adverse human rights impacts, business enterprises should first seek to prevent and mitigate those that are most severe or where delayed response would make them irremediable” (UNDP 24).

This describes a multi-stage approach based on the severity of the human rights violations. The severity of the human rights violations needs to be determined in order to prioritise them.

Another factor that should be taken into account is the number of people who are affected by the human rights violations.

The [SME Compass](#) describes how companies can proceed in a multi-stage process. The assessment of human rights risks and environmental risks is based on two criteria: the severity of the (potential) negative impacts and the probability of occurrence. The severity is assessed by determining the scale, scope and irremediable character of a (potential) negative impact. There is no one-size-fits-all threshold to assess when an impact is severe. A (potential) negative impact on affected parties and the environment can also be severe if only one of the three dimensions of scale, scope and irremediability is classified as severe. Companies may have different risk assessments for different cocoa supply chains and thus make an individual assessment for each of its supply chains.

The severity of the (potential) negative impacts has a higher weighting in the prioritisation than the probability of occurrence. For example, if there is a risk of life-threatening working conditions due to a lack of fire protection measures, this matter must be pursued even if the probability of occurrence is low.

Information from the [UN Guiding Principles on Business and Human Rights](#) described in Step 2 provides guidance on assessing and prioritising risks. In particular, Principles 14 and 24 explain the UN’s framework of requirements for risk assessment and prioritisation.

## Understanding severity in practice 🔖

Dimension	Approaches and challenges	High severity example
Scale: How serious is the (potential) negative impact?	<ul style="list-style-type: none"> <li>- To what extent is a (potentially) affected person able to protect themselves?</li> <li>- How vulnerable are they to negative effects?</li> </ul>	<ul style="list-style-type: none"> <li>- Child labour in the mining sector at the extraction level</li> </ul>
Scope: How many (potentially) affected persons are there?	<ul style="list-style-type: none"> <li>- At the direct supplier level: number of employees</li> <li>- In the deeper supply chain: more challenging, the use of reports from NGOs can be helpful</li> </ul>	<ul style="list-style-type: none"> <li>- An entire production site</li> <li>- A local community</li> <li>- Individual case or entire group (e.g. factory workers)</li> </ul>
Irremediability: How difficult would it be to fix or prevent the (potential) negative impact?	<ul style="list-style-type: none"> <li>- Damage that cannot be repaired, technical requirements</li> <li>- Acceptance of the measures among those affected</li> </ul>	<ul style="list-style-type: none"> <li>- Irreversible damage (e.g. health burdens that massively affects the quality of life)</li> </ul>

Sources:  
 Study | Global Compact Network Netherlands, Oxfam, Shift | 2016 | [Doing business with respect for human rights: a guidance tool for companies](#) | p. 52 | [click here](#);  
 Study | The Danish Institute for Human Rights | 2016 | [Analysing Impacts Practitioner Supplement](#) | p. 8 ff. | [click here](#)

Source: Toolkits from the [SME Compass](#)



Other points of reference are provided by the brochure [Assessing Human Rights Risks and Impacts](#) published by the Global Compact Network Germany (DGCN), the German Institute for Human Rights and twentyfifty, which describes a step-by-step approach.

The [OECD Due Diligence Guidance for Responsible Business Conduct](#) (OECD 2018: 25–28; 61–73) contains a wide range of guidelines, and the [OECD-FAO Guidance for Responsible Agricultural Supply Chains](#) should also be consulted because it has been specifically written for agricultural supply chains.

Further literature and links can be found in the [Risk Analysis and Measures information package from the Helpdesk Business & Human Rights](#). The [Human Rights Impact Assessment Guidance and Toolbox \(HRIA\)](#) provided by the DIHR also explains what needs to be considered when assessing and prioritising risks.

The results of the risk analysis are the basis for comparing existing processes/measures, developing an action plan and implementing risk-based measures.

## Step 7: Local stakeholder involvement

### Procedure for companies

Once the risk analysis has been carried out, the responsible person in the company must initiate verification of the assessments together with stakeholders on site.



*Source: German Initiative on Sustainable Cocoa*

In the present study, basic risk data for the most important cocoa producing countries were compiled. The available analyses indicate a large number of risks, but now the company must verify in its own specific supply chain whether the risks actually exist in the respective location.

As explained in chapter 2.3, stakeholder involvement is of central importance. According to the United Nations, it is not sufficient for risk analyses to draw on internal or external expertise. Another key component is "meaningful consultations with potentially affected groups and other stakeholders under consideration, taking into account the size of the business enterprise and the nature and context of its operations" (DGCN 2014: 22).

This requires involving local farmers and their associations (such as cooperatives), intermediaries, employee unions where they exist, nongovernmental organizations, and other local key stakeholders.

This step is particularly important for small and medium-sized companies that handle relatively small quantities of cocoa. Otherwise, there is a risk of overlooking specific regional risks or even overstating risks. In Côte d'Ivoire, for example, it makes a big difference whether cocoa is bought in a region with long-established farmers who own their own land, or whether the cocoa comes from migrants who have to farm very small areas and do not have land titles. In the Dominican Republic, cocoa can come from small farmers who work on diversified land and have sufficient income, or from plantations where migrants from Haiti are exploited as labor.

If such processes have already been implemented by the suppliers of raw cocoa or processed cocoa products, the company should check whether the processes were sufficient.

# Annex A: Extract from the Act on Corporate Due Diligence in Supply Chains

Source: Act on Corporate Due Diligence in Supply Chains, 16.07.2021,  
URL: [https://www.bmas.de/SharedDocs/Downloads/DE/Internationales/act-corporate-due-diligence-obligations-supply-chains.pdf;jsessionid=2D7ABCA38494051BC0822F89F88E7251.delivery1-replication?\\_\\_blob=publicationFile&v=2](https://www.bmas.de/SharedDocs/Downloads/DE/Internationales/act-corporate-due-diligence-obligations-supply-chains.pdf;jsessionid=2D7ABCA38494051BC0822F89F88E7251.delivery1-replication?__blob=publicationFile&v=2)

## Section 2 Definitions

(1) Protected legal positions within the meaning of this Act are those arising from the conventions on the protection of human rights listed in nos. 1 to 11 of the Annex.

(2) A human rights risk within the meaning of this Act is a condition in which, on the basis of factual circumstances, there is a sufficient probability that a violation of one of the following prohibitions is imminent:

1. the prohibition of the employment of a child under the age at which compulsory schooling ends according to the law of the place of employment, provided that the age of employment is not less than 15 years, except where the law of the place of employment so provides in accordance with Article 2 (4) and Articles 4 to 8 of Convention No. 138 of the International Labour Organization of 26 June 1973 concerning Minimum Age for Admission to Employment (Federal Law Gazette 1976 II pp. 201, 202);

2. the prohibition of the worst forms of child labour for children under 18 years of age; in accordance with Article 3 of Convention No. 182 of the International Labour Organization of 17 June 1999 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Federal Law Gazette 2001 II pp. 1290, 1291) this includes:

a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom, as well as forced or compulsory labour, including the forced or compulsory recruitment of children for use in armed conflicts,

b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances,

c) the use, procuring or offering of a child for illicit activities, in particular for the production of or trafficking in drugs,

d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children;

3. the prohibition of the employment of persons in forced labour; this includes any work or service that is required of a person under threat of punishment and for which he or she has not made himself or herself available voluntarily, for example as a result of debt bondage or trafficking in human beings; excluded from forced labour are any work or services that comply with Article 2 (2) of Convention No. 29 of the International Labour Organization of 28 June 1930 concerning Forced or Compulsory Labour (Federal Law Gazette 1956 II p. 640, 641) or with Article 8 (3) (b) and (c) of the International Covenant of 19 December 1966 on Civil and Political Rights (Federal Law Gazette 1973 II pp. 1533, 1534);

4. the prohibition of all forms of slavery, practices akin to slavery, serfdom or other forms of domination or oppression in the workplace, such as extreme economic or sexual exploitation and humiliation;

5. the prohibition of disregarding the occupational safety and health obligations applicable under the law of the place of employment if this gives rise to the risk of accidents at work or work-related health hazards, in particular due to:

- a) obviously insufficient safety standards in the provision and maintenance of the workplace, workstation and work equipment;
  - b) the absence of appropriate protective measures to avoid exposure to chemical, physical or biological substances;
  - c) the lack of measures to prevent excessive physical and mental fatigue, in particular through inappropriate work organisation in terms of working hours and rest breaks; or
  - d) the inadequate training and instruction of employees;
6. the prohibition of disregarding the freedom of association, according to which
- a) employees are free to form or join trade unions,
  - b) the formation, joining and membership of a trade union must not be used as a reason for unjustified discrimination or retaliation,
  - c) trade unions are free to operate in accordance with applicable law of the place of employment, which includes the right to strike and the right to collective bargaining;
7. the prohibition of unequal treatment in employment, for example on the grounds of national and ethnic origin, social origin, health status, disability, sexual orientation, age, gender, political opinion, religion or belief, unless this is justified by the requirements of the employment; unequal treatment includes, in particular, the payment of unequal remuneration for work of equal value;
8. the prohibition of withholding an adequate living wage; the adequate living wage amounts to at least the minimum wage as laid down by the applicable law and, apart from that, is determined in accordance with the regulations of the place of employment;
9. the prohibition of causing any harmful soil change, water pollution, air pollution, harmful noise emission or excessive water consumption that
- a) significantly impairs the natural bases for the preservation and production of food,
  - b) denies a person access to safe and clean drinking water,
  - c) makes it difficult for a person to access sanitary facilities or destroys them or
  - d) harms the health of a person;
10. the prohibition of unlawful eviction and the prohibition of unlawful taking of land, forests and waters in the acquisition, development or other use of land, forests and waters, the use of which secures the livelihood of a person;
11. the prohibition of the hiring or use of private or public security forces for the protection of the enterprise's project if, due to a lack of instruction or control on the part of the enterprise, the use of security forces
- a) is in violation of the prohibition of torture and cruel, inhumane or degrading treatment,
  - b) damages life or limb or
  - c) impairs the right to organise and the freedom of association;
12. the prohibition of an act or omission in breach of a duty to act that goes beyond nos. 1 to 11, which is directly capable of impairing a protected legal position in a particularly serious manner, and the unlawfulness of which is obvious upon reasonable assessment of all the circumstances in question.

(3) An environment-related risk within the meaning of this Act is a condition in which, on the basis of factual circumstances, there is a sufficient probability that one of the following prohibitions will be violated:

1. the prohibition of the manufacture of mercury-added products pursuant to Article 4 (1) and Annex A Part I of the Minamata Convention on Mercury of 10 October 2013 (Federal Law Gazette 2017 II pp. 610, 611) (Minamata Convention);
2. the prohibition of the use of mercury and mercury compounds in manufacturing processes within the meaning of Article 5 (2) and Annex B Part I of the Minamata Convention from the phase-out date specified in the Convention for the respective products and processes;
3. the prohibition of the treatment of mercury waste contrary to the provisions of Article 11 (3) of the Minamata Convention;
4. the prohibition of the production and use of chemicals pursuant to Article 3 (1) (a) and Annex A of the Stockholm Convention of 23 May 2001 on Persistent Organic Pollutants (Federal Law Gazette 2002 II pp. 803, 804) (POPs Convention), last amended by decision of 6 May 2005 (Federal Law Gazette 2009 II pp. 1060, 1061), in the version of Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants (OJ L 169 of 26 May 2019 pp. 45-77), as last amended by Commission Delegated Regulation (EU) 2021/277 of 16 December 2020 (OJ L 62 of 23 February pp. 1-3);
5. the prohibition of the handling, collection, storage and disposal of waste in a manner that is not environmentally sound in accordance with the regulations in force in the applicable jurisdiction under the provisions of Article 6 (1) (d) (i) and (ii) of the POPs Convention.
6. the prohibition of exports of hazardous waste within the meaning of Article 1 (1) and other wastes within the meaning of Article 1 (2) of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989 (Federal Law Gazette 1994 II pp. 2703, 2704) (Basel Convention), as last amended by the Third Ordinance amending Annexes to the Basel Convention of 22 March 1989 of 6 May 2014 (Federal Law Gazette II pp. 306, 307), and within the meaning of Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste (OJ L 190 of 12 July 2006 pp. 1-98) (Regulation (EC) No 1013/2006), as last amended by Commission Delegated Regulation (EU) 2020/2174 of 19 October 2020 (OJ L 433 of 22 December 2020 pp. 11-19)
  - a) to a party that has prohibited the import of such hazardous and other wastes (Article 4 (1) (b) of the Basel Convention),
  - b) to a state of import as defined in Article 2 no. 11 of the Basel Convention that does not consent in writing to the specific import, in the case where that state of import has not prohibited the import of such hazardous wastes (Article 4 (1) (c) of the Basel Convention),
  - c) to a non-party to the Basel Convention (Article 4 (5) of the Basel Convention),
  - d) to a state of import if such hazardous wastes or other wastes are not managed in an environmentally sound manner in that state or elsewhere (Article 4 (8) sentence 1 of the Basel Convention);
7. the prohibition of the export of hazardous wastes from countries listed in Annex VII to the Basel Convention to countries not listed in Annex VII (Article 4A of the Basel Convention, Article 36 of Regulation (EC) No 1013/2006) and
8. the prohibition of the import of hazardous wastes and other wastes from a non-party to the Basel Convention (Article 4 (5) of the Basel Convention).

(4) A violation of a human rights-related obligation within the meaning of this Act is a violation of a prohibition stated in paragraph (2), nos. 1 to 12. A violation of an environment-related obligation within the meaning of this Act is a violation of a prohibition referred to in paragraph (3), nos. 1 to 8.

(5) The supply chain within the meaning of this Act refers to all products and services of an enterprise. It includes all steps in Germany and abroad that are necessary to produce the products and provide the services, starting from the extraction of the raw materials to the delivery to the end customer and includes

1. the actions of an enterprise in its own business area,
2. the actions of direct suppliers and
3. the actions of indirect suppliers.

(6) The own business area within the meaning of this Act covers every activity of the enterprise to achieve the business objective. This includes any activity for the creation and exploitation of products and services, regardless of whether it is carried out at a location in Germany or abroad. In affiliated enterprises, the parent company's own business area includes a group company if the parent company exercises a decisive influence on the group company.

(7) A direct supplier within the meaning of this Act is a partner to a contract for the supply of goods or the provision of services whose supplies are necessary for the production of the enterprise's product or for the provision and use of the relevant service.

(8) An indirect supplier within the meaning of this Act is any enterprise which is not a direct supplier and whose supplies are necessary for the production of the enterprise's product or for the provision and use of the relevant service.

## Annex B: Summary table country analysis

	HDI (HIGHEST ACHIEVABLE VALUE 1/RANK OUT OF 189 COUNTRIES) (1)	POPULATION LIVING BELOW INCOME POVERTY LINE OF \$1.90 A DAY (PPP) (%) (1)	PROPORTION OF POPULATION IN MULTIDIMENSIONAL POVERTY (%) (1)	GENDER DEVELOPMENT INDEX (MAXIMUM VALUE 1, LOWEST VALUE 5)	FREEDOM HOUSE (SCORE OUT OF 100/STATUS) (2)	AMFORI BSCI (SCORE OUT OF 100/CLASSIFICATION) (3)	CORRUPTION PERCEPTIONS INDEX (SCORE OUT OF 100/RANK OUT OF 180 COUNTRIES) (4)	STATE OF CIVIL SPACE (CLASSIFICATION) (5)	RATIFICATION OF ILO CORE CONVENTIONS (6)
COTE D'IVOIRE	0,538 (162)	28,2	46,1	5	44 (partly free)	32 (Risk country)	36 (Rang 104/180)	Repressed	Yes
GHANA	0,611 (138)	13,3	30,1	4	82 (free)	53 (Risk country)	43 (75/180)	Narrowed	Yes
CAMEROON	0,563 (153)	23,8	45,3	5	16 (not free)	14 (Risk country)	25 (149/180)	Repressed	Yes
NIGERIA	0,539 (161)	53,5	46,4	5	45 (partly free)	17 (Risk country)	25 (149/180)	Repressed	Yes
ECUADOR	0,759 (86)	3,3	4,6	2	67 (partly free)	35 (Risk country)	39 (92/180)	Obstructed	Yes
PERU	0,777 (79)	2,6	7,4	2	71 (free)	48 (Risk country)	38 (94/180)	Obstructed	Yes
DOMINIC. REP.	0,756 (88)	0,4	3,9	1	67 (partly free)	43 (Risk country)	28 (137/180)	Narrowed	Yes
NICARAGUA	0,660 (128)	3,2	16,3	1	30 (not free)	17 (Risk country)	22 (159/180)	Repressed	Yes
LIBERIA	0,480 (175)	40,9	62,9	5	60 (partly free)	24 (Risk country)	28 (137/180)	Obstructed	Not C100, C139
TOGO	0,515 (167)	49,8	37,6	5	43 (partly free)	24 (Risk country)	29 (134/180)	Repressed	Yes
SIERRA LEONE	0,452 (182)	40,1	57,9	5	65 (partly free)	29 (Risk country)	33 (117/180)	Obstructed	Yes
BOLIVIA	0,718 (107)	4,5	20,4	3	66 (partly free)	23 (Risk country)	31 (124/180)	Obstructed	Yes



	ITUC GLOBAL RIGHTS INDEX (7)	VULNERABLE EMPLOYMENT (%) (1)	CHILD LABOUR (% AGES 5-17) (1)	CHILDREN'S RIGHTS IN THE WORKPLACE INDEX (8)	ILO 11 RIGHT OF ASSOCIATION (AGRICULTURE) (9)	ILO 97 MIGRATION FOR EMPLOYMENT (9)	ILO 99 MINIMUM WAGE FIXING MACHINERY (AGRICULTURE) (9)	ILO 129 LABOUR INSPECTION (9)	ILO 131 MINIMUM WAGE FIXING (9)	ILO 141 RURAL WORKERS' ORGANISATIONS (9)	ILO 184 SAFETY AND HEALTH IN AGRICULTURE (9)
COTE D'IVOIRE	4 (Systematic violations of rights)	71,2	22,1	6,1	Yes	No	Yes	Yes	No	No	No
GHANA	2 (Repeated violations of rights)	68,7	19,9	4,5	Yes	No	No	No	No	No	Yes
CAMEROON	4 (Systematic violations of rights)	73,6	38,9	6,2	Yes	Yes	Yes	No	Yes	No	No
NIGERIA	4 (Systematic violations of rights)	77,6	31,5	5,9	Yes	Yes	No	No	No	No	No
ECUADOR	5 (No guarantee of rights)	46,7	n/a	3,5	Yes	Yes	No	No	Yes	Yes	No
PERU	4 (Systematic violations of rights)	50,4	14,5	4,2	Yes	No	Yes	No	No	No	No
DOMINIC. REP.	2 (Repeated violations of rights)	40,4	7	4,5	No	No	No	No	No	No	No
NICARAGUA	Kein Rating	40,9	n/a	5,1	Yes	No	No	No	Yes	Yes	No
LIBERIA	3 (Regular violations of rights)	77,2	14	5,5	No	No	No	No	No	No	No
TOGO	3 (Regular violations of rights)	80,9	22,6	5,1	Yes	No	No	Yes	No	No	No
SIERRA LEONE	4 (Systematic violations of rights)	86,1	25,2	6,3	No	No	Yes	No	No	No	No
BOLIVIA	4 (Systematic violations of rights)	63,2	n/a	5	No	No	No	Yes	Yes	No	No

#### Sources:

- (1) UNDP: Human Development Report 2020, <http://hdr.undp.org/>
- (2) Freedom House Index: <https://freedomhouse.org/countries/freedom-world/scores> (status: June 2021)
- (3) Amfori: [https://www.amfori.org/sites/default/files/amfori-2020-11-12-Country-Risk-Classification-2021\\_0.pdf](https://www.amfori.org/sites/default/files/amfori-2020-11-12-Country-Risk-Classification-2021_0.pdf)
- (4) Transparency International: <https://www.transparency.de/cpi/> (status: January 2021, information for 2020)
- (5) CIVICUS: <https://www.civicus.org/index.php/state-of-civil-society-report-2020#> (status : June 2021)
- (6) ILO Kernnormen: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLXPUB:10011:0::NO::P10011\\_DISPLAY\\_BY,P10011\\_CONVENTION\\_TYPE\\_CODE:1,F](https://www.ilo.org/dyn/normlex/en/f?p=NORMLXPUB:10011:0::NO::P10011_DISPLAY_BY,P10011_CONVENTION_TYPE_CODE:1,F)
- (7) ITUC: [https://www.ituc-csi.org/IMG/pdf/ituc\\_globalrightsindex\\_2020\\_en.pdf](https://www.ituc-csi.org/IMG/pdf/ituc_globalrightsindex_2020_en.pdf)
- (8) UNICEF/Global Child Forum: <https://www.childrensrightsatlas.org/country-data/workplace/>
- (9) ILO : <https://www.ilo.org/dyn/normlex/en/f?p=1000:12001:::NO:::>

# Annex C: Flowchart for the preparation of the risk analysis for the cocoa sector

**Step 1: Build up knowledge of the international and national requirements from which the obligation to prepare a risk analysis is derived**

See step 1 in the action guide

**Step 2: Orientation to existing guides for creating a risk analysis**

See step 2 in the action guide

**Step 3: Identification of the origin of the cocoa used**

Do I know the origin of my cocoa beans? (See step 3 in the action guide)

**Yes** (e.g. direct reference, identity preserved, "information preserved")

**No** (e.g. Mass Balance, Segregated)

**Tip for certified goods:** additionally consult with standard-setting organizations

Consultation with upstream suppliers: Do they have information on the origin of the cocoa that they share with me?

**Yes**

**No**

Has the upstream supplier performed all required due diligence measures (5 core elements) for its entire procurement and can provide me with written evidence of these?

**Yes**

**No**

Regular review of the plausibility of the statements

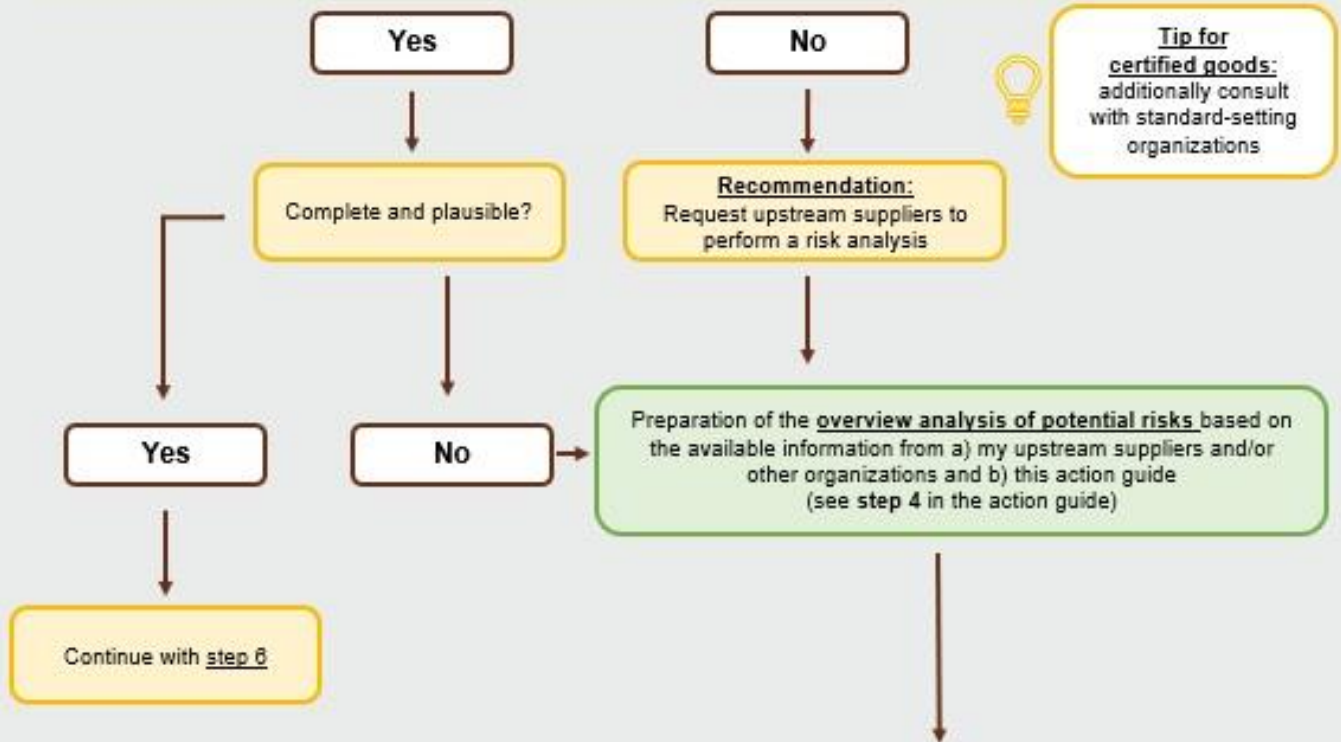
**Recommendation:**

- Negotiate new sourcing model if necessary and narrow down origin of cocoa.
- In the future, link the selection of upstream suppliers to corresponding information.

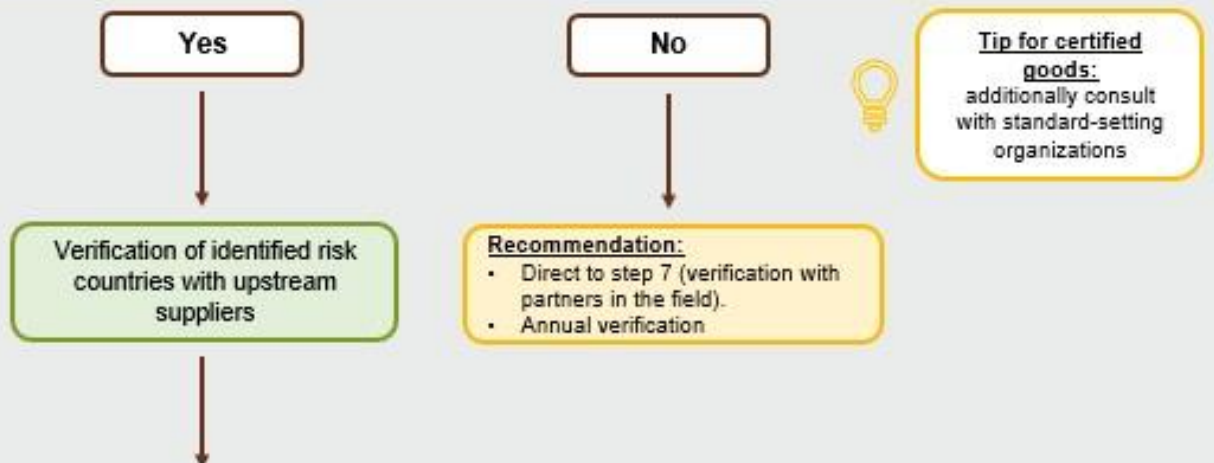


#### Step 4: Overview analysis of potential risks for the identified countries of origin

Do I have information on risks from upstream suppliers or other organizations, or have they already conducted risk analyses and are willing to share them with me?



Have countries of origin with serious risks of human rights violations been identified?



#### Step 5: Detailed country-specific analysis of potential risks for the identified risk countries

Preparation of the detailed country-specific analysis of potential risks per identified risk country based on the available information from a) my upstream suppliers and/or other organizations and b) the present action guide (see step 5 in the action guide)

## Step 6: Prioritization and analysis of actual risks in own supply chain

Prioritization based on the severity of the business impact and the degree of influence exerted by the company (Principle 24 UNGP)

- Extent: how significant is the negative impact on the human right(s)?
- Scope: how many individuals are affected?
- Remediation: how quickly can the impact of the human rights violation be reversed?

**Prerequisite:**  
Creation of transparency along the entire supply chain

**For the prioritized risks:** Analysis of actual risks in own supply chain in consultation with and using information from upstream suppliers – see **step 6** in the action guide.



**Tip for certified goods:** additionally consult with standard-setting organizations

**Notice:** This step already serves to prepare the implementation of follow-up measures to remedy and minimize the identified risks

## Step 7: Verification of the risk analysis with partners on site

Verification of risk analysis with farmer organizations and NGOs in cocoa producing countries, with support from:

- German Initiative on Sustainable Cocoa (GISCO) / PRO-PLANTEURS
- Standard setting organizations
- Pre-suppliers with projects/direct local contacts

Source: German Initiative on Sustainable Cocoa



## Annex D: Definition of traceability

*Quelle: Technical Brief on Cocoa Traceability in West and Central Africa; [Cocoa-Traceability-Study Highres.pdf \(idhsustainabletrade.com\)](#)*

**Conventional** - conventional cocoa is sourced without conforming to any of the traceability requirements of ‘mass balance’, ‘segregated’, or ‘identity preserved’ as defined below

**Mass balance** - The mass balance system monitors the trade of conforming cocoa throughout the entire supply chain. This system requires transparent documentation and justification of the origin and quantity of conforming cocoa purchased by the first buyer. The mass balance system allows mixing conforming and nonconforming cocoa in later stages of the cocoa value chain (e.g. transport, processing, manufacturing). Cocoa value chain actors can sell a certain mass of conforming cocoa, or an equivalent volume of conforming cocoa-containing products, to the extent that the actual volumes of sales of conforming products are tracked and audited through the value chain, and provided that these volumes do not exceed the cocoa bean equivalents of conforming cocoa bought at origin. (Definition drafted using elements borrowed from ISO-CEN and Fairtrade)

**Segregated** - As with the mass-balance system, segregation requires transparent documentation and justification of the origin and quantity of conforming cocoa purchased by the first buyer. Conforming cocoa must be segregated from nonconforming cocoa, including during transport, storage, processing cocoa, and manufacturing of cocoa-containing products. Segregation allows mixing cocoa from different origins, to the extent that all cocoa being mixed qualifies as conforming cocoa as per the certification standard or verified company scheme being applied. The cocoa value chain actors must demonstrate that they have taken the required measures to avoid mixing conforming with nonconforming cocoa. (Definition drafted using elements borrowed from ISO-CEN and Rainforest Alliance).

**Identity preserved** - Identity preserved is the highest traceability type. There is no mixing of conforming cocoa, either with non-conforming cocoa, or with cocoa from other origins. If a ‘single origin’ is set at cooperative level or by cocoa-producing area (combining different cooperatives), then conforming cocoa from this broader origin may be combined. In other words, the “identity preserved” system meets all requirements of “segregated cocoa”, but it does not allow mixing of cocoa from different origins.

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