



COCOA CLINIC

Issues affecting Responsible Cocoa Production

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ROAD MAP

	INTRODUCTION
PART A	PRICE CONCERNS
PART B	ENVIRONMENTAL CONCERNS CONCERNS
PART C	HUMAN RIGHTS CONCERNS

INTRODUCTION

Recap

Last Meeting:

- Introduction to the Legal and Institutional Framework for Production and Trade of Cocoa

Today

We will consider:

1. 3 main issues arising from the production and export of Cocoa beans.
 - a. Price Concerns
 - b. Environmental Concerns
 - c. Human Rights Issues (Child Labour)

Backdrop

Article 3 – Zero Draft EU Regulation

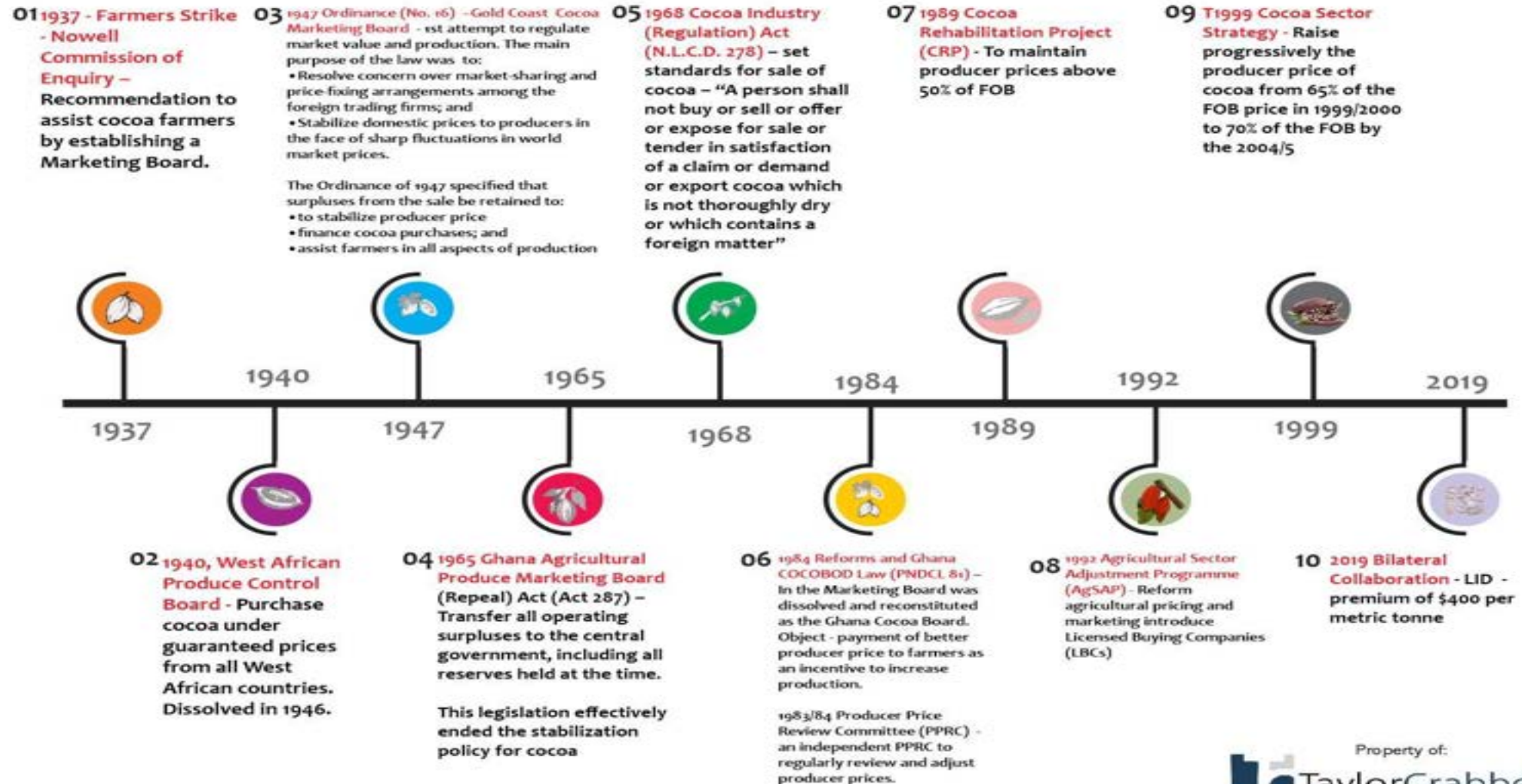
Relevant commodities and products as set out in Annex I shall not be placed or made available on the Union market unless:

- a) **they are deforestation-free;** and
- b) **they have been produced in accordance with the laws and regulations of the country of production.**

PART A

PRICE CONCERNS

Legislative History – Producer Price of Cocoa determination



Observations from the Reforms

- Sector reform programmes and strategies have been aimed at passing on a significant share of export prices to farmers.
- The 70% of the FOB price - this was gross until the 2001/02 crop season but changed to a net concept.
- What are your own observations? – Positive or Negative?



Challenges

- Wide disparity between pricing of cocoa beans on international market and revenue of farmers
 - Africa's cocoa producing companies capture just **3%** of global chocolate industry revenue every year
 - Farmgate price= **70%** world market price
- Producer Price Review Committee(PPRC) determines annual prices in Ghana
 - Prices are fixed annually at the start of the cocoa harvesting season in October.
 - no room for negotiation by the farmers & no benefit from international price increases within the season.
- COCOBOD sole exporter of Ghana's cocoa
 - Use of LBCs and PBCs
 - Use of Net FoB controversial
 - Deductions before a share is allocated to producer



LID – Challenge

- Government of Ghana and Cote d'Ivoire introduced the Living Income Differential (LID) in 2019
 - \$400 per metric tonne to be charged on export price of cocoa from the 2020/21 crop
 - To increase the revenue of farming families to achieve a living income
 - To allow the creation of a stabilization fund to guarantee a fixed price of \$1820 to farmers

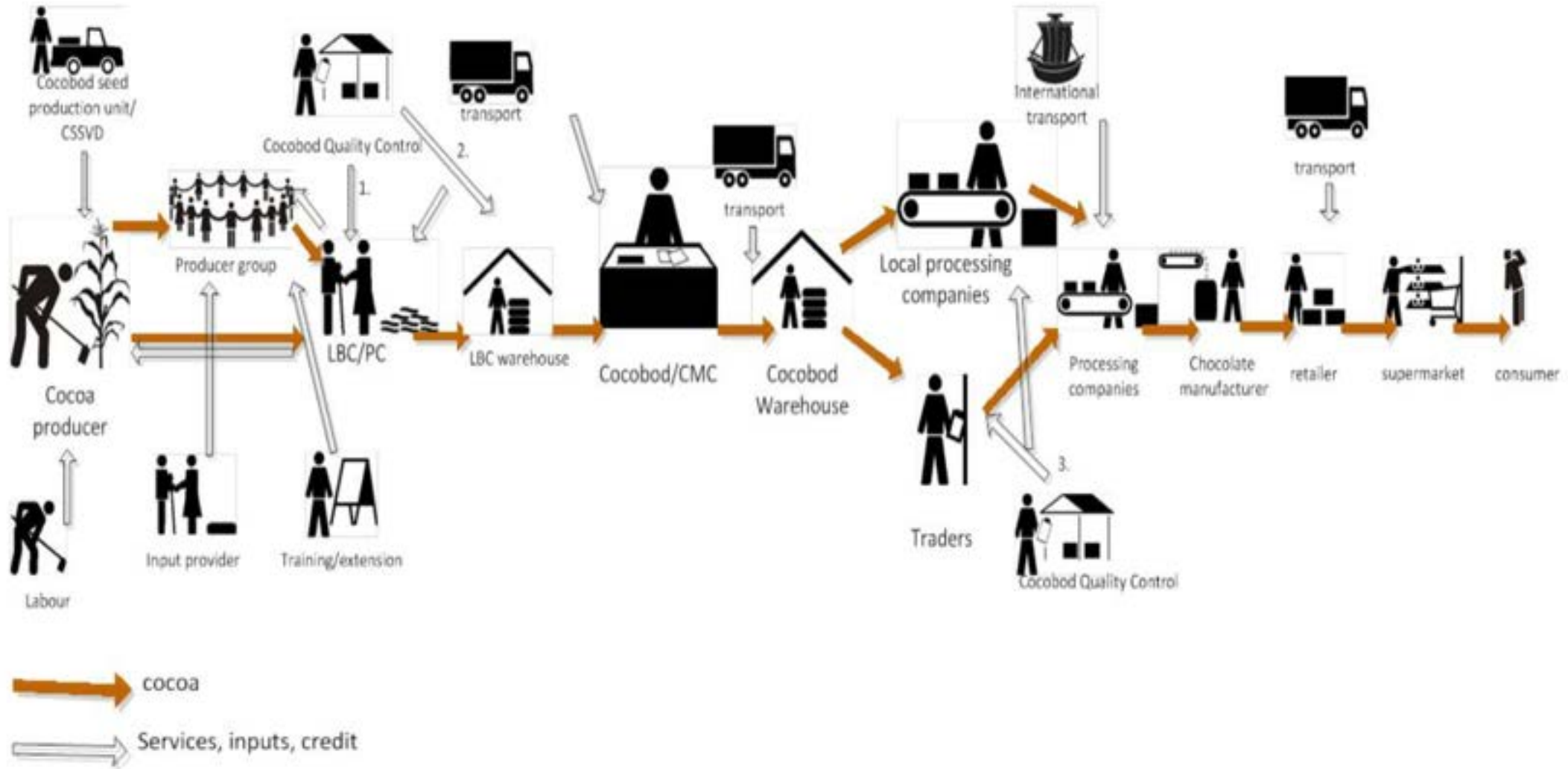
Challenges:

- Lack of transparency in collection and use of LID
- Doubts on farmers being ultimate beneficiaries of LID
- Fear of buyers shifting to other producing countries



Figure 1 The cocoa chain in Ghana

What influences Price



Picture Credit: *Incentives for sustainable cocoa production in Ghana Moving from maximizing outputs to optimizing performance* by Anna Laven and Marije Boomsma May 2012

Opportunities

- Higher prices for farmers is mechanism to tackle deforestation from agric expansion
 - Availability of capital to invest in farm inputs for increased yields
 - Increased yields will reduce need to create new farms at the expense of forests
- Need for reform of COCOBOD's institutional arrangement and policy framework on farmgate prices





Recommendations

Producer –Country Intervention on Price Concerns

- a. Export price regimes e.g LID
 - a. Setting prices of exports to ensure farmers receive equitable benefits
 - b. This must be considered within the WTO trading rules that prohibit discrimination in favour of commercial considerations only.
- b. Partnership agreements

Bilateral arrangements which capture environmental and human rights concerns to improve sustainable production as a condition for increase market access, premium prices and capacity building. (e.g. VPA for FLEGT)

Consumer-country intervention on Price

- Introduction of import taxes to reward exporter countries

Recommendations

International Commodity agreements

- OPEC-like arrangement at international level
- Such an arrangement should be framed on addressing environmental concerns using price as a mechanism
- For effectiveness, producer country options should be taken in concert with other producer countries with concurrence of buyers.



PART B

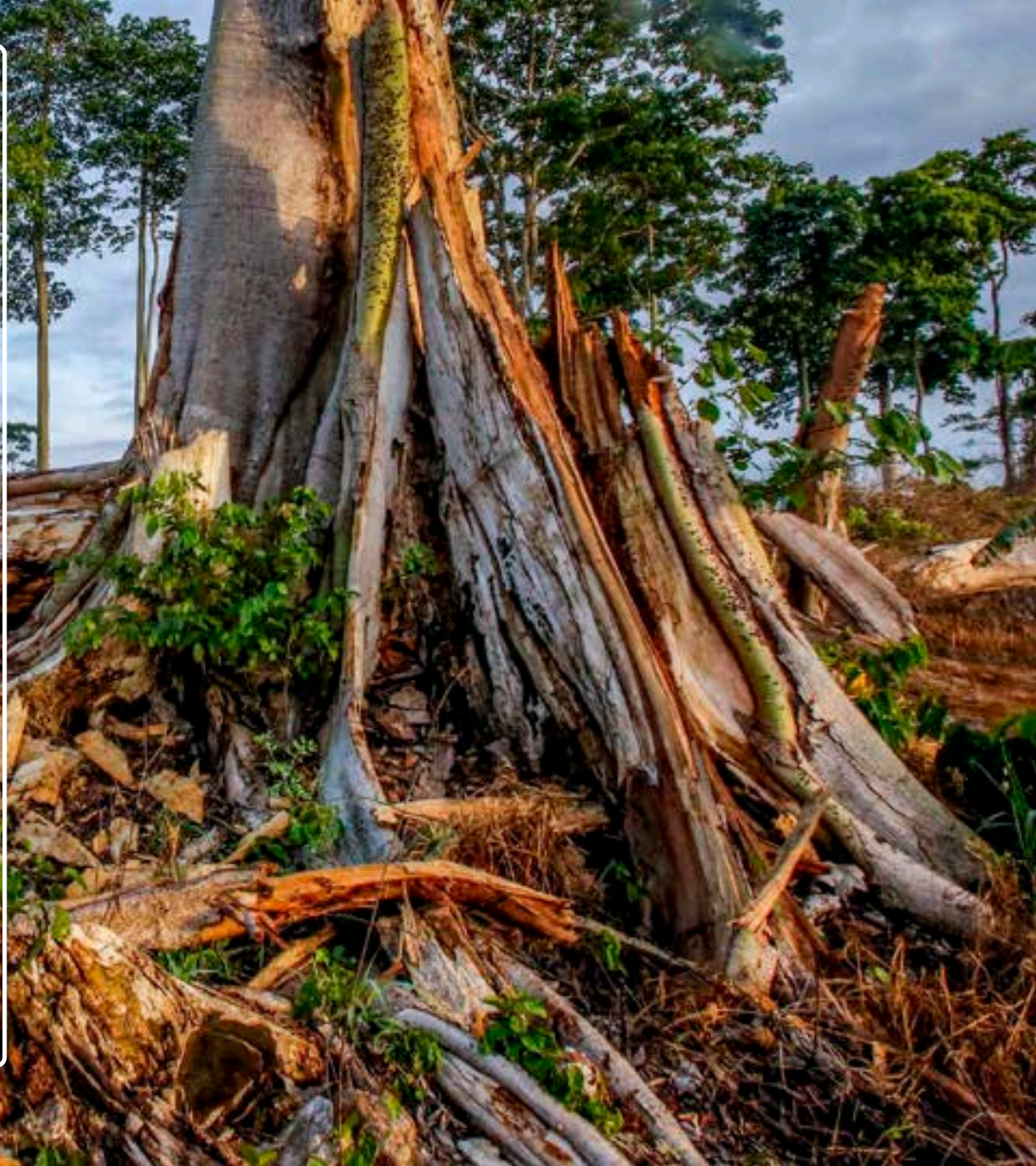
ENVIRONMENTAL CONCERNS

Backdrop

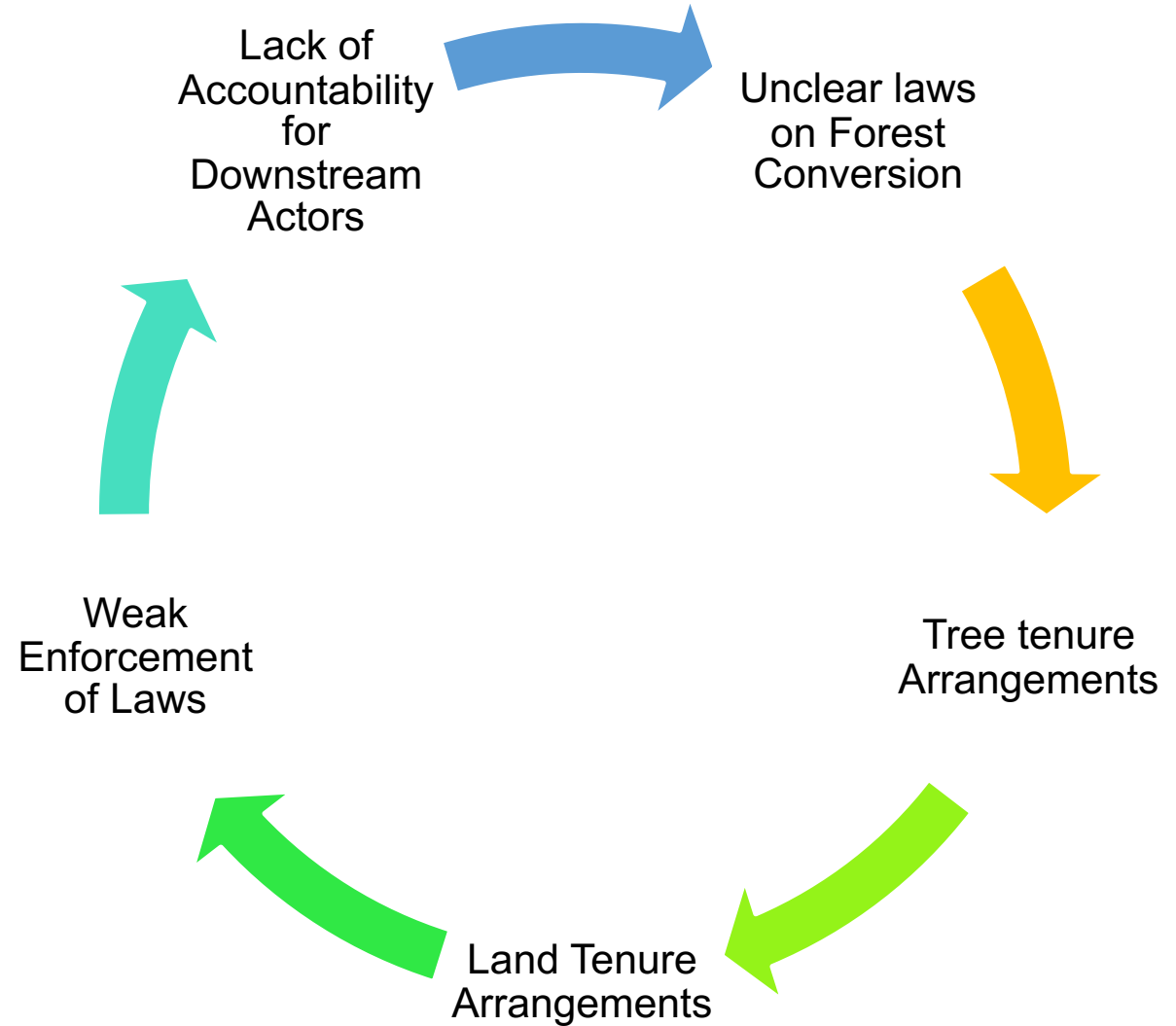
“deforestation-free” commodity or product means a relevant commodity or product which was ***produced in a way that has neither caused nor contributed to deforestation or forest degradation*** after 31 December 2020,

Challenges

- Cocoa forest landscape (CFL) has one of the highest rates of deforestation rates (app 3.2% per annum)
- Deforestation is primarily driven by low yielding and expansive agriculture
 - Agriculture = app 83% of deforestation in CFL
 - Cocoa farming= App 1/3 of land deforested for agriculture
- National Output has declined since Mid-nineties
 - High Tech programme created more challenges
 - More expansion
 - GFZ lost an average of 138,624 ha each year (2005-2009)
- Till about 2017, National Policies were directed exclusively at production neglecting sustainability
 - Ghana Cocoa Forest REDD+ Programme (GCFRP),2017
 - Ghana Climate Smart Cocoa Production Standard (GCSCPS)



Causal Factors



Tree Tenure

- No incentive of Farmers to nurture trees
 - Ownership of naturally occurring trees separate from the land (belong to the state)
 - No economic rights/benefits when they are legally harvested by others.
 - Potential hazard on their farms
 - **Perverse incentive** to remove trees from the farming system.
- **Recommendations**
 1. Align land ownership with tree ownership
 2. Reform benefit – sharing arrangements to include tree nurturers /tending toll
 3. Establish a framework for Agroforestry (Tree Register)
 4. Use of Community Based Natural Resource Management(CBNRM) in awarding timber rights

Land Tenure

- Weak ownership of most smallholder cocoa farmers
 - Majority of Ghana's cocoa is grown within the GCFRP area by about 800,000 smallholder farm families.
 - Most are migrant farmers
 - Customary tenure arrangements disincentivises replacement of old cocoa trees and encourages creation of new farms
 - Abunu & Abusa
 - Lack of proprietary rights excludes them from any potential benefits from trees harvested
 - Lack of access to credit facilities
 - Low yields = new farms
- **Recommendations**
 1. Reform customary land tenure arrangements
!!!Freedom of Contract
 2. Increase access to land interest registration by farmers
 - a. Access to collateral for credit
 - b. Include both farmers and land owners in all benefit-sharing reforms on trees

Unclear Forest Laws

- Ghana's laws do not explicitly exclude forest conversion
 - Mainly set out purposes for forest creation
 - Gov. policy documents provide conflicting insights on activities permitted in forest reserves
 - FC authorises access to forest resources on adhoc basis.
 - Risks creating further inconsistency
- **Recommendations**
 1. Provisions on Forest Conversion should be introduced and should specify/enhance:
 - a. Activities permitted in forest reserves (mining & agriculture)
 - b. Regulations for forest conversion (limiting such endeavours to areas of minimal forest cover)
 - c. Coherence across mining, forestry, agricultural and land laws
 - d. Introducing rehabilitation as condition for any forest conversion

Weak Enforcement of Laws

- Lack of resources for effective surveillance & prosecutions
- Conflicting interests of Gov. agencies in addressing encroachment of forest reserves and protected areas for cocoa farms
 - Cocobod needs to meet production targets
 - FC mandated to protect forest reserves and protected Areas

Recommendations

1. Provide legal backing for CBNRMs (CREMAs and HIAs)
 - a. Establish a Legal framework that ensures
 - i. Accountability
 - ii. Transparency
 - iii. Inclusion
 - iv. Monitoring and evaluation
 - v. Reporting
2. Improve access to information
 - a. Availability
 - b. Accessibility

Lack of Accountability for Downstream Actors

- No consequences for buyers that source from illegal cocoa farms
- Lack of common definition of sustainability across sector
- Absence of national monitoring systems to check sustainability and legality of the source of cocoa
- The current certification and standard schemes are **voluntary** and defaulters do not immediate consequences. (AF, Landscale, GCSCPS)

- **Recommendations**

1. Need to transition from voluntary commitments to mandatory systems that puts responsibility on both producer and consumer countries with consequences for non-compliance
 - a. Create legality standard with **third-party verification** using lessons from FLEGT VPA
 - i. **Legality definition for cocoa?**

PART C

HUMAN RIGHTS CONCERNS- CHILD LABOUR

Backdrop

Article 3

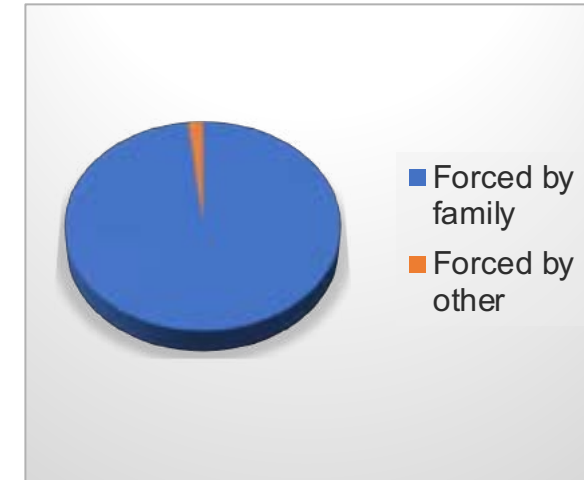
Prohibition

Relevant commodities and products as set out in Annex I shall not be placed or made available on the Union market unless:

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Challenges

- Recent statistics indicate that child labour remains rife in Ghana's cocoa sector
 - 668,000 children were in child labour, 632,000 performing hazardous tasks (2018 Global Slavery Index)
 - 98.02 % were forced to work by family members
 - Illegal to engage a child (below 18 years) in hazardous work (Act 651)
 - Forced labour is criminal (Act 651)
 - **But**, Cocoa farming is labour intensive in Ghana, common for family of farmer to be involved in the process to reduce labour cost
 - General and broad legal definitions in Ghana's laws don't permit nuanced examination and peculiarities in sector. This **contributes** to high statistics



A young child is seen in a forest setting, carrying a large white sack over their shoulder. The ground is covered with fallen leaves and cocoa pods. The child is looking off to the side with a determined expression.

Definitions

“A young person shall not be engaged in a type of employment or work likely to expose that person to physical or moral hazard.”

Sec 58 of of Labour Act, 2004 (Act 651)

“A person shall not engage a child in exploitative labour.”

Sec 87(1) of of Children’s Act, 1998 (Act 560)

Definitional Elements

- ❑ **YOUNG PERSON**
- ❑ **CHILD**
- ❑ **MORAL HAZARD**
- ❑ **PHYSICAL HAZARD**
- ❑ **EXPLOITATIVE LABOUR**





Recommendations

Legislative Interventions

- Amendment of child labour definition to include sector specific exceptions
- Legal categorization of what constitutes hazardous work
 - HAF not captured in law; affects its efficacy

Additional Steps

- Effective monitoring and enforcement of legislation
 - Strengthen responsible agencies
- Awareness creation and public education to change social norms
- Adopt an integrated approach to include viewpoints of children and families in solutions

DISCUSSION TIME



Thank You

