

Testimony of the National Confectioners Association of the United States

My name is Larry Graham. I am the President of the National Confectioners Association (NCA). Founded in Chicago in 1884, the National Confectioners Association represents more than 650 companies that manufacture, supply and market the vast majority of chocolate, cocoa and non-chocolate products in the United States. In September 2001, along with the World Cocoa Foundation, NCA was a signatory of the Protocol for the Growing and Processing of Cocoa Beans and Their Derivative Products in a Manner that Complies with ILO Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor – referred to as the Harkin / Engel Protocol or The Protocol. As a signatory, the NCA has been an active participant in a coalition of chocolate and cocoa processing and manufacturing companies and trade associations representing the North American and European chocolate and cocoa industry. This coalition has been working with NGOs, the Governments of Côte d'Ivoire and Ghana, and the U.S. Government to meet the commitments agreed to in the Protocol.

Today, I will describe the industry's activities under the Protocol and their relevance to the Department of Labor's responsibilities under the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005. My comments today are limited to cocoa production in the Côte d'Ivoire and Ghana.

Subparagraph (c) of Section 105 of the TVPRA requires the Department, acting through the Bureau of International Labor Affairs (ILAB)

to develop and make available to the public a list of goods from countries that the Bureau of International Affairs has reason to believe are produced by forced labor or child labor in violation of international standards.

Subparagraph (d) requires ILAB:

to work with persons who are involved in the production of goods on the list described in subparagraph (c) to create a standard set of practices that will reduce the likelihood that such persons will produce goods using the labor described in such subparagraph.

The legislative history to these provisions is scant, but the House Committee on International Relations explained the intent behind the provisions as follows:

The Committee believes that public-private partnerships are essential to combat the scourge of forced and child labor and encourages such partnerships. Private industry, both domestic and foreign, must be vigilant to ensure that none of its products are created by or use imports from forced or child labor.

Rept. 109-317, Part I, at 23.

In 2000 and again in 2001, reports emerged that children were working in hazardous conditions and being trafficked to work on cocoa farms in West Africa. In partnership with labor experts, including the International Labor Organization, and non-governmental organizations, the chocolate and cocoa industry worked with Senator Tom Harkin and Representative Eliot Engel from the United States Congress to develop the Protocol agreement to ensure that cocoa is grown responsibly and without the worst forms of child labor as defined by the International Labor Organization's Convention 182.

The Protocol outlined six major steps designed to address this important issue. In signing the Protocol, industry committed to executing each of these steps:

- Making a public statement of need for and describing the terms of an action plan
- Forming Multi-sectoral Advisory groups
- Making a joint statement on child labor that would be witnessed by the ILO in Geneva
- Creating a Memorandum of Cooperation which would form a broad consultative group
- Establishing a Joint Foundation to sustain efforts to eliminate the worst forms of child labor in the growing of cocoa beans

- Develop and implement credible, mutually acceptable, voluntary, industry-wide standards of public certification

The chocolate and cocoa industries have completed the first five of these protocol commitments. Today I would like to focus my comments on the progress being made to establish a certification process in the cocoa sectors of Côte d'Ivoire and Ghana – and explain why the progress made in establishing this process is a clear and sound reason that cocoa should not be placed on the list of goods from countries that are produced by child labor or forced labor.

With reference to certification, while the Protocol defined the “destination”, there was far less clarity around how to get there. It is fair to say that no other industry had ever attempted to report on or address labor conditions across an entire agricultural sector in the developing world. Most existing programs focused on labor practices in factories or at a finite number of work sites. In the cocoa sectors of Côte d'Ivoire and Ghana, it is estimated that there are more than 1.5 million cocoa farms stretching across tens of thousands of square miles, in some of the world's most remote, rural areas – each one typically producing very small amounts of cocoa in a family farm environment.

Recognizing the challenges involved, the chocolate and cocoa industry identified the need for outside expertise to deal with the complex labor issues found in rural West Africa. While the industry was united in its commitment, it lacked the knowledge and experience to ensure that efforts would help – and not inadvertently harm – cocoa farmers and their families.

Following the signing of the Protocol, it was essential to gain greater insight into the realities of cocoa farming in West Africa by fielding an independent, comprehensive survey. Under the leadership of the United States Agency for International Development (USAID), the International Labour Organization (ILO), and the International Institute for Tropical Agriculture

(IITA), researchers visited farm communities to learn more about the issues facing cocoa farming families.

The survey found that “(R)ecruitment and employment of both children and adults from outside the family as permanent, salaried workers was relatively uncommon.”

At the same time, the survey highlighted the economic and social challenges facing cocoa farming communities, and the need to help cocoa farming families earn more for their crop and gain greater access to education for their children.

In addition, that initial survey also documented that children were working in unsafe conditions on cocoa farms. In particular, the report highlighted that too many young children were using machetes in an unsafe manner, carrying heavy loads and/or taking part in the application of pesticides. These conditions fall within the category of Worst Forms of Child Labor.

With data from the IITA survey in hand, the chocolate and cocoa industry focused on three key areas.

First, as part of a broader commitment to the social and economic development of West African cocoa farming communities, industry, working in partnership with developmental experts including USAID, initiated efforts that would improve the quality of life for children, families and villages in the cocoa sector in the near term. This work addressed both labor practices and broader, related issues such as improving farm family incomes and access to education.

The reach and impact of these efforts was (and is) enhanced through “public-private partnerships,” organized between industry associations, individual companies and a range of interested institutions. This combination of public and private expertise has brought greater energy, reach and, ultimately, tangible benefits to farmers and their families.

While industry is involved in many effective “public private partnerships”, one successful example I will mention is helping cocoa farmers earn more for their crop. The Sustainable Tree

Crops Program's "Farmer Field Schools" teach farmers how to grow cocoa more productively and profitably through effective growing techniques and by helping farmers to organize into cooperatives. The more than 76,000 farmers trained through the schools have seen incomes increase by 20 – 55 percent. At the same time, these "schools without walls" help raise awareness of the need to protect children from potentially unsafe working conditions on cocoa farms. An expansion of this effort will help educate 150,000 total farmers by 2010. Another initiative, ECHOES, a partnership with USAID, the World Cocoa Foundation and chocolate companies, seeks to provide quality, relevant and accessible education to cocoa communities in Ghana and Côte d'Ivoire. All together, more than 340,000 children will have benefited by September 2009.

Second, as called for in the Protocol, industry joined with civil society to form a foundation, the International Cocoa Initiative (ICI). Established in 2002, the ICI has become a leading vehicle to promote responsible labor practices on cocoa farms by serving as a clearing house for best practices and conducting community based pilot programs. The ICI employs a community engagement and empowerment approach that works with community members to tackle labor practices and related issues such as school attendance. It is now active in at least 154 communities in Ghana and 88 communities in Côte d'Ivoire. Supported by individual chocolate and cocoa industry members, ICI efforts are led by a board composed of industry and civil society representatives.

Third, industry together with the governments of Côte d'Ivoire and Ghana and other civil society partners began work on what has become a robust, credible process for cocoa farming certification, one that is already making a positive, lasting impact in the lives of children and adults in the cocoa farming sectors of Côte d'Ivoire and Ghana. Both countries are using the initial survey results to better target and strengthen their remediation efforts (for example, instituting community based child monitoring systems at the district level in Ghana). As in other areas, the participation of

partners in the development of certification was essential, bringing expertise, credibility, and the involvement of institutions best suited to address labor and related issues on cocoa farms. Dozens of experts, representing many organizations, worked together to develop the certification process. As sovereign nations, the Governments of Ghana and the Côte d'Ivoire are the true owners of the certification process, with community leaders and experts in such important areas as child labor, migration and agriculture providing critical technical assistance.

Over time, based on extensive consultation, agreement around the key issues emerged, and a strategy for certification came together. Today, the certification process for cocoa farming is based on 4 inter-related elements:

- Because of the very large number of farms and their remote locations, data collection is conducted using a carefully designed sampling procedure that provides a statistically representative view of child and adult labour practices at the community and farm level
- Transparent, publicly available annual reporting on the findings from the data collection, and on what must be done to address the issues raised in the report
- Remediation – a range of programs to improve the well-being of children and address the issues identified in the data collection process
- Independent verification of the certification process

These elements work together to drive continuous improvement in the well-being of children, families and cocoa farming communities across the cocoa sectors of Côte d'Ivoire and Ghana. It is important to note that this approach is a sector wide process of certification which in this context is not used to label product attributes. The effort is directed towards all families in the sector – not to a small, selected group of farms. To do otherwise – to select specific regions or farms to be certified while ignoring others – would ultimately be divisive and is not sustainable.

I would also like to note that on March 19th of this year, industry received a letter from the offices of Senator Harkin and Congressman Engel indicating their “support for the certification currently committed to and being implemented by industry”.

Obviously, the involvement of Governments of Ghana and Côte d'Ivoire was, and continues to be, central to improving conditions on cocoa farms. They alone can pass and enforce laws addressing child labor, tackle broad, country-wide economic and social issues including education, and drive a sustained effort to enhance the well-being of their citizens on cocoa farms.

In 2000, the government of Ghana ratified ILO Convention 182, a milestone international agreement on child labor. The government of the Ivory Coast did the same in 2002.

Shortly thereafter, both Ghana and the Ivory Coast began working with industry and other experts to address labor issues in their respective nation's cocoa sector. Each country established a task force to tackle child labor issues, and each began work on a certification system for cocoa farming. At this time, each country has a National Plan of Action to address child labor issues in the country – with specific programs that impact children on cocoa farms.

The government of Ghana passed several laws to improve the well-being of children, including mandating compulsory, free primary education and establishing a school “hot meals” program. The country's government brought together government officials, NGO representatives, ILO representation, academics and representation from industry in the National Committee on the Elimination of Child Labor to manage the country's efforts to eliminate child labor from all sectors of the economy, by 2015.

As a major first step in the implementation of certification, the Government of Ghana released its first cocoa farming certification report in April 2007. This pilot survey and report covered approximately 12 % of the cocoa production area in the country and set the stage for a much larger survey. The field work for that larger survey, covering more than 50% of the cocoa growing area of Ghana was completed in December 2007. The public reporting of that information is expected before the end of this month. [Timing to be updated prior to testimony]

While the pilot survey results are not representative of practices across the entire cocoa sector, it is noteworthy that the data from the pilot study indicated the following highlights regarding cocoa farming in Ghana:

- Cocoa farming is essentially a family activity. 84% of the children who live on cocoa farms live there with one or both parents. Those who are not with their parents are typically with another family member – an Aunt, Uncle, Brother or Sister.
- 91% of the children interviewed indicated that they were enrolled in school – a very high level for a rural region of Africa and 71% indicated that they had attended school on every day in the previous week.
- In terms of children working, it is true that children are helping their parents in many aspects of work on the family cocoa farm. The survey indicates that in all too many cases, children are taking part in activities that are considered dangerous – and therefore represent working in the Worst Forms of Child Labor.

Children working in the worst forms of child labor are a great concern for the Government of Ghana, for industry and most importantly, as we have learned from our work in cocoa growing communities, it is a concern for the parents and children on these farms.

In Côte d'Ivoire, a prolonged period of civil strife limited the country's work on cocoa certification in the early years of our effort. In 2007, however, the government expanded its work and carried out a pilot survey – similar to the one done the previous year in Ghana. That survey covered approximately 10 % of the cocoa growing areas of that country. The report of that survey was issued publicly in November 2007. Key findings in that pilot survey report are:

- As in Ghana, farming is most typically done in a family setting. 71% of the children indicated that they were living on the farm with one or both parents – while 97% indicated that they were on the farm with a relative.
- In terms of education, this is a very challenging situation. Only 54% of the children surveyed reported that they were in school.
- In terms of working, children reported that they were helping their parents or relatives in many aspects of the farm work and all too often were performing dangerous work – i.e. they were taking part in the Worst Forms of Child Labor.

These results point to several challenges that the Government of Côte d'Ivoire and industry are committed to tackling.

The Côte d'Ivoire has also undertaken a much larger survey of farming practices. A region covering more than 75% of their cocoa production was surveyed during the months of December 2007 through March 2008, a time when the crop harvest was underway. These extensive results are expected to be publicly reported by end of this month. **[Will be updated prior to testimony]**

In both surveys, small numbers of children were found living outside of a direct family relationship. This situation is viewed as an indicator, but not necessarily as proof of trafficking. Industry has been clear on this situation: we abhor any form of trafficking and support the Governments in their efforts to address this issue. Through the International Cocoa Initiative, programs have been and are being carried out to train officials and communities to identify trafficked children and prosecute those who are responsible. We applaud those efforts and continue to seek ways to eliminate this absolutely unacceptable and illegal activity.

Additionally, information from the surveys indicates that challenges exist in each country relative to the overall quality and value of education – especially in rural communities. This situation certainly requires greater attention from all stakeholders.

The certification process is beginning to show the value of its separate elements: the importance of a representative data collection activity, the interest generated by public reporting of this information in a transparent, candid manner and the need for remediation efforts that address the issues existing in the field. The industry looks forward to seeing the results of the recently completed, more extensive surveys, as this information will further guide the efforts of all partners working in the cocoa sectors of these two countries.

The key remaining activity in terms of having a completed certification process in place is the independent verification of the data collection process. Verification is important as it will lend the highest level of credibility to the certification process. Verifiers will also provide the governments with specific recommendations for improving future surveys and remediation activities.

After several delays, the process of verification is now making substantial progress. In January of this year, a nine member board representing a range of civil society participants, the governments of Côte d'Ivoire and Ghana and industry was formed. This International Cocoa Verification Board has selected a team of verifiers to work in country and evaluate the survey methodologies and comment constructively on the survey work done in each country. The Verification Board expects an interim verification report by mid-June from the Verifier team and a final report later in 2008.

[NOTE: this will need updated prior to May 28th]

As you know, the Department of Labor has a contract with Tulane University to study and report on the Harkin-Engel Protocol. While the first Tulane Report issued October 31, 2007 contained numerous suggestions and recommendations, the report reached the following conclusions, relevant to your proceedings today. The Tulane Report said:

The Harkin-Engel Protocol has stimulated regulatory reform, the creation of national child labor task forces and increased media attention to trafficking, forced labor and hazardous working conditions in Côte d'Ivoire and Ghana. It has encouraged the governments and cocoa organizations in both countries to support preventive and remedial action. The task forces in Cote d'Ivoire and

Ghana have piloted certification surveys monitoring systems and produced documents outlining strategies to combat WFCL.

The Protocol also required industry to establish and fund a joint foundation to oversee and sustain efforts to eliminate WFCL. This condition was met by the creation of the International Cocoa Initiative (ICI) with headquarters in Switzerland. The ICI has funded background surveys, orientation/sensitization programs and pilot projects to address WFCL in both countries. In 2007 the ICI set up a field office in Abidjan and plans to do the same in Accra. In addition to industry and ICI initiatives, individual cocoa/chocolate firms have funded education and other projects to improve conditions and services.

Among Tulane's preliminary conclusions were the following observations:

The Harkin-Engel Protocol, the ILO/IPEC initiatives and other events appears to have had a positive impact on the scale and pace of Industry, government and other institutional efforts to address the problem of WFCL in Cote d'Ivoire and Ghana. There has been a marked increase in investment, research papers and public awareness of child labor issues. The heightened public interest underscores the importance of the Protocol and the congressional mandate to verify progress towards the elimination of child labor in the cocoa/chocolate industry.

When issuing their first report, the Tulane researchers did not have available to them information on total industry expenditures under the Protocol. Those figures were recently compiled and showed that since January 2005, industry has spent more than US \$ 35 million in direct costs in achieving the goals of the Protocol.

In light of the efforts by the industry, producer governments and civil society partners, the question arises: what purpose is served if cocoa is included on the list of products that ILAB is now compiling pursuant to the TVPRA? The improvements in working conditions that Congress seeks under the TVPRA and the activities that listing of a product would trigger are currently underway and evidenced by the extensive efforts that have been described. Indeed, the industry and its partners have achieved exactly the type of public-private partnership envisioned by the House

International Relations Committee when the TVPA was enacted a few years ago. Listing cocoa at this time runs the very real risk of derailing the efforts currently underway.

Cocoa should not be on ILAB's list. If placed on the list it would serve as a discouragement to the cocoa producing country governments who have made a significant national commitment toward combating the worst forms of child labor, trafficking and forced adult labor. It would send the wrong message to industries and others who work in partnership with them. Indeed, it would lead to the logical question, "if cocoa is on the list despite the enormous resources devoted by the industry, governments and NGO partners, why mount such an effort"?

To be sure, the industry started our efforts before this list was contemplated. Our work to eliminate the worst forms of child labor and forced labor in the cocoa supply chain will continue. But, we respectfully maintain that if the list is to have credibility, and be consistent with its statutory purpose, cocoa should not be included.

Thank you.