

Cocoa Research

Briefing 1: Legal & institutional framework
for cocoa production & trade in Ghana

Contents

List of abbreviations	3
Chapter 1 – Introduction	4
1. Background.....	4
Chapter 2 – Sources of Law in Ghana	5
1. Constitution of the Republic of Ghana, 1992 and the Regulation of Land Use	7
2. Primary Legislation.....	7
a. Land Act, 2020 (Act 1036).....	7
b. Land and Spatial Planning Act, 2016 (Act 925)	7
c. Plants and Fertilizer Act, 2010 (Act 803)	7
d. Ghana Cocoa Board Act 1984 (PNDCL 81)	8
3. Other Legislations	8
a. Labour Act, 2003 (Act 651).....	8
b. Children’s Act, 1998 (Act 560).....	8
4. General International Initiatives and Treaties	8
a. Cocoa and Forest Initiative	8
b. International Covenant on Economic, Social and Cultural Rights.....	9
c. International Covenant on Civil and Political Rights	9
d. Convention on the Rights of the Child	9
e. Convention on the Rights of Persons with Disabilities.....	9
f. Conventions of the International Labour Organization on labour.....	9
g. ILO Convention No. 138, Minimum Age	10
h. ILO Convention No. 182 on the Worst Forms of Child Labour.....	10
i. African Charter on the Rights and Welfare of the Child.....	10
5. Developments in Cocoa Production that could reflect in Future Legislation.....	10
a. Ghana Climate-Smart Cocoa Production Standard (GCSCPS).....	10
b. African Regional Standard for Sustainable Cocoa (ARS 1000).....	11
Chapter 4: Institutions relevant to the production and trade of cocoa in Ghana	11
1. Ghana Cocoa Board (COCOBOD).....	11
2. Ministry of Food and Agriculture.....	12
3. Ministry of Lands and Natural Resources	12

4.	Forestry Commission	12
5.	Environmental Protection Agency	13
6.	Land Use and Spatial Planning Authority	13
7.	Bushfire Control Sub-Committees of District Assemblies.....	14

ANNEX 1- ADDITIONAL DETAILS ON THE LEGAL AND INSTITUTIONAL FRAMEWORK FOR COCOA PRODUCTION AND TRADE	15
------------------------------------------------------------------------------------------------------------------	-----------

List of abbreviations

COCOBOD	Ghana Cocoa Board
EPA	Environmental Protection Agency
FC	Forestry Commission
FERCs	Forests and Ecosystem Risk Commodities
GCFRP	Ghana Cocoa Forest REDD+ Programme
GoG	Government of Ghana
GCSCPS	Ghana Climate-Smart Cocoa Production Standard
HFZ	High Forest Zone
ICCO	International Cocoa Organization
LBCs	Licensed Buying Companies
LID	Living Income Differential
LUSP	Land Use and Spatial Planning Authority
MESTI	Ministry of Environment, Science, Technology and Innovation
MLNR	Ministry of Lands and Natural Resources
MOFA	Ministry of Food and Agriculture
PBC	Produce Buying Company
PPRC	Producer Price Review Committee

Chapter 1 – Introduction

1. Background

Cocoa is a very important commodity to Ghana. It is a multi-billion industry and a crucial sector in Ghana's economy.¹ In 2019, Ghana exported about USD 2.29 billion in cocoa products, which accounted for more than 14 per cent of its overall exports.² Ghana is the second largest producer of cocoa in the world, second to Cote d'Ivoire. Together, both countries produce about 60 per cent of the cocoa that sustains the USD 130 billion global chocolate industry.³ Cocoa production is also providing a source of income to over 800,000 smallholder farm families who make up about 60 percent of Ghana's agricultural force.⁴ Ghana's cocoa industry is heavily controlled by Government. The industry is mainly run by a government agency called Ghana Cocoa Board (COCOBOD). COCOBOD is involved in all steps of cocoa production, from providing inputs to farmers, to regulating who can purchase and export cocoa.⁵

Although cocoa is very essential to Ghana's economy there are challenges and grave threats to its sustainability. Many of the farmers and cocoa workers live in abject poverty. Less than 9% of cocoa farming households earn a living income.⁶ At the heart of the cause of this is the pricing of cocoa beans. It has been recently estimated that for farmers to earn a living wage, the farm-gate price as at 2020-21 must double from a price of USD 1,837 to USD 3,116 per metric tonne.⁷ This challenge is exacerbated by the recent low prices of the commodity and the recent COVID pandemic that has reduced global demand. The labor-intensive nature of cocoa production perpetuates the cycle of poverty. Because of the low earnings of cocoa farmer's, they are unable to employ the required labor. This then leads to them relying on their children for support on their farms.⁸ The result has been high statistics of child labor despite Ghana's

¹ Barima Akwasi Amankwaah, Glen Asomaning, Raymond A. Atuguba, Emmanuel Ayifah, Allie Brudney, Brian Citro, Charity Ryerson, Sandra Kwabea Sarkwah & Alexandra Tarzikhan, COCOBOD's Unrealised Potential: Promoting Human Rights, Welfare, and the Environment in Ghana's Cocoa-Growing Communities, Northwestern Pritzker School of Law Center for International Human Rights, University of Ghana School of Law, Corporate Accountability Lab & SEND Ghana (June 2021).

² Bank of Ghana. Annual Report 2019. Bank of Ghana, 2019, p. 17, <https://www.bog.gov.gh/wp-content/uploads/2020/06/AnnRep-2019.pdf>.

³ ICCO (2020): Quarterly Bulletin of Cocoa Statistics, Volume XLVI No.3, Cocoa Year 2019/20.

⁴ Barima Akwasi Amankwaah, *op.cit.*, p 18

⁵ *Ibidem*

⁶ Tyszler, Roger; Marcelo, Bymolt; Laven, Anna (2018): Analysis of the income gap of cocoa producing households in Ghana. Comparison of actual incomes with the Living Income Benchmark. URL: <https://www.kit.nl/wp-content/uploads/2019/01/Analysis-of-the-income.pdf>, checked on 07/20/2022.

⁷ Necessary Farm Gate Prices for a Living Income: Existing Living Income Reference Prices Are Too Low. Consultation Paper for the 2020 Cocoa Barometer, Voice Network, Jan. 2020, p. 2, <https://www.voicenetwork.eu/wp-content/uploads/2020/01/200113-Necessary-Farm-Gate-Prices-for-a-Living-Income-Definitive.pdf>; Reuters Staff. "UPDATE 1-Ghana Raises 2020/21 Cocoa Farmgate Price by 28%." Reuters, 24 Sept. 2020, <https://www.reuters.com/article/cocoa-ghana/update-1-ghana-raises-2020-21-cocoa-farmgate-price-by-28-idUSL5N2GL5J1>

⁸ Luckstead, Jeff, et al. "Estimating the Economic Incentives Necessary for Eliminating Child Labor in Ghanaian Cocoa Production." PLoS ONE, vol. 14, no. 6, June 2019, p. 2, <https://doi.org/10.1371/journal.pone.0217230>; Final Report: 2013/14 Survey Research on Child Labor in West African Cocoa Growing Areas. Payson Center for International Development, Tulane University School of Public Health, July 2015, p.73, https://www.dol.gov/sites/dolgov/files/ILAB/research_file_attachment/Tulane%20University%20-%20Survey%20Research%20Cocoa%20Sector%20-%2030%20July%202015.pdf.

several international and legislative commitments to the eradication of child labour. Further, Ghana's cocoa forest landscape (approximately 5.9 million Ha) has been identified to contribute about a third of land deforested for agriculture with the rate of deforestation estimated to be proceeding at an alarming rate of 3.2% per annum.⁹ Owing to cocoa farming degrading the soil¹⁰ and the farmgate price of cocoa beans not being competitive, farmers are incentivised to repeatedly cut further into the forest to obtain new land for cocoa farms to sustain their livelihoods.

Ghana's cocoa sector is heavily regulated. Although the trade and export of cocoa beans are well regulated and the prescriptions in law are effectively enforced by COCOBOD, the regulation of production of cocoa beans is relatively lax. Whereas the regulation of the sale and export of cocoa beans is primarily the duty of COCOBOD, there are several institutions that have roles to play in Cocoa production. Also, some of the institutions involved in regulating cocoa production have conflicting mandates. For example, while the Forestry Commission (FC) has the mandate to protect Ghana's forest estate and prevent the encroachment of cocoa farms into forest reserves and protected areas, COCOBOD is driven by cocoa production targets, and there have been allegations of COCOBOD providing infrastructure and extension services to farmers that have illegally encroached forest reserves and protected areas. This encourages more illegal farms. There are also reports of COCOBOD actively resisting efforts of the FC to cut down cocoa trees in Forest Reserves, as it would reduce national production levels.

The aim of this first briefing in a series of publications on cocoa production and trade is to present a descriptive overview of the laws and institutions involved, both directly and indirectly in the production and trade of cocoa in Ghana. Chapter 2 presents the sources of legislation in Ghana i.e. norms that are enforceable in the courts of law. Chapter 3 provides a descriptive and summarised overview of legislation that have an effect on cocoa production and trade and Chapter 4 provides a description of the institutions involved in Cocoa production and trade. A more detailed description of the laws and institutions are provided in the Annex of this report.

Chapter 2 – Sources of Law in Ghana

Law refers to a regime that orders human activities and relations through systematic application of the force of politically organized society whereas policies are general principles by which the Government of Ghana is guided in its management of public affairs and cannot be enforced in the courts of law. The sources of law in Ghana can be found in chapter four of the 1992 Constitution. These are listed in an

⁹ Ghana's Cocoa Forest REDD+ Programme, 2017

¹⁰ Amponsah-Doku, Betty & Daymond, Andrew & Robinson, Steve & Atuah, Laura & Sizmur, Tom., "Improving soil health and closing the yield gap of cocoa production in Ghana – A review", 2021, Scientific African. 15. e01075. 10.1016/j.sciaf.2021.e01075.

almost hierarchical order with the 1992 Constitution at the apex. The **Constitution** declares itself as the supreme law of the land and consequentially all laws which are inconsistent with its provisions are void to the extent of the inconsistency. The Constitution provides a broad framework for government and makes provisions for the regulation and utilization of natural resources.

Next in the hierarchy are **enactments from Parliament**. These provide much detail for the framework set for natural resources. The next on the list are Legislative Instruments (**Regulations**) which complement the Acts of Parliament and operationalize them with finer details. The laws that existed prior to the 1992 Constitution are continued in force as existing laws. These include written and unwritten laws and military decrees. The validity of the existing laws is also subject to their consistency with the Constitution. The final source of law at the base of the hierarchy is the **common law**. The Constitution defines the common law to include the principles of common law and equity as inherited from Great Britain and the customary laws as are applicable to communities in Ghana.

For treaties and international agreements, the Constitution of Ghana in Article 75 outlines the processes for their execution and implementation in Ghana. The Constitution in Article 75 (2) makes it clear that treaties, agreements, or conventions executed by or under the authority of the President must be ratified by Act of Parliament or a resolution of Parliament supported by the votes of more than one-half of the members of Parliament after the requisite Cabinet approval. As a dualist state, the Republic is required to assent to a treaty internationally and then proceed to ratify the treaty, in accordance with the Constitution. Two steps are required, the international intervention followed by the domestic process to transform the treaty from international law to domestic legislation. Treaties executed and not ratified by the Parliament of Ghana are not enforceable in the courts of Ghana.¹¹

In Ghana, policies provide the framework through which the Executive branch of Government indicates its intention in a particular area of national life. As they are merely guides to the actions of Government, they are generally not enforceable. For this work, the national policies in the production and trade of cocoa beans were not considered. The next sections will provide a summary of relevant laws and regulations that pertain to cocoa production in Ghana.

Chapter 3 - Existing national legal framework concerning agriculture (cocoa) in Ghana

This chapter provides an overview of the legislation related to cocoa production and trade in Ghana. A much more detailed discussion on the provisions of these legislations is provided in Annex 2 of this report

¹¹ See the Supreme Court of Ghana decision in the case of The Republic v High Court (Commercial Division), Accra, Ex Parte Attorney-General, NML Capital Ltd. 1st Interested Party; Republic of Argentina, 2nd Interested Party

1. Constitution of the Republic of Ghana, 1992 and the Regulation of Land Use

The 1992 Constitution does not expressly regulate land use in Ghana. The Constitutional provisions provide a broad framework on the management of land in Ghana and places limitations on the managers of land in terms of sale and management. The Constitution deals with the subject of land in chapter twenty-one which is headed Lands and Natural Resources. The Constitution also provides for the establishment of Natural Resource Commissions, including the Forestry Commission, to regulate the utilisation of these resources.

2. Primary Legislation

a. Land Act, 2020 (Act 1036)

The Land Act, 2020, Act 1036 regulates land acquisition, interest, transfer, and all other issues relating to land in Ghana. It revises, harmonises, and consolidates all laws on land for sustainable land administration and management as well as effective and efficient land tenure.

b. Land and Spatial Planning Act, 2016 (Act 925)

The object of this Act is for sustainable development of land and human settlement through decentralized planning system. The Act establishes processes to regulate national, regional, districts and local spatial planning, and generally to provide for spatial aspects of socio-economic development. The Act also establishes the Land Use Spatial Planning Authority (LUSPA). LUSPA's mandates include "ensuring the control of physical development in less controlled but sensitive areas such as forest reserves through collaborations with relevant agencies". The Act provides a framework for the preparation of zoning schemes affecting agriculture, environment, creation of green belts, conservation, national, regional, district and local parks. LUSPA is required to issue guidelines in respect of zoning schemes affecting agriculture. But it appears this has yet to be done. In practice, there is rarely zoning of agricultural lands.

c. Plants and Fertilizer Act, 2010 (Act 803)

This act is in five parts, aimed at providing plant protection, seeds and fertilizer control, and establishes management provisions on other plant related matters. The Act also establishes the Plant Protection and Regulatory Services Directorate that issues import permit, certificates, inspect consignments of plant, train and develop staff and disseminates information about plant quarantine. It also establishes Plant Protection Advisory Council, whose function is to develop and promote a national plant protection system, co-ordinate public and private sector participation in plant protection, examine complaints, keep records, and handle other related matters.

d. Ghana Cocoa Board Act 1984 (PNDCL 81)

This Act establishes the Ghana Cocoa Board (COCOBOD) as a successor to the Ghana Cocoa Marketing Board. Its objectives are to encourage the cultivation of cocoa, coffee, and shea; to initiate programmes aimed at controlling pests and diseases of cocoa, coffee and shea and purchase, import, undertake as well as encourage the manufacture, distribution and marketing of inputs used in the production of these crops. It further seeks to promote and encourage scientific research to improve the quality and yield of cocoa, coffee, shea, and other tropical crops, regulate the marketing and exportation of the named crops while promoting their general wellbeing. The Act creates no obligations for COCOBOD on sustainability.

3. Other Legislations

a. Labour Act, 2003 (Act 651)

The Labour Act regulates labour, employers, trade unions and industrial relations and establishes the National Labour Commission. The National Labour Commission is to facilitate and settle industrial disputes as well as promote conducive industrial environment for employment sustainability and growth. The Act makes provision for the maximum working hours, overtime work, paid leave for pregnant and nursing mothers, and safety at work. The Act prohibits the employment of young people in hazardous work either physical or moral and the minister determines the content of hazardous work.

b. Children's Act, 1998 (Act 560)

The Children's Act provides for the rights of the child, maintenance and adoption, labour, and apprenticeship as well as all matters relating to the general well-being of children. The Act defines a child as a person below the age of 18 years and stipulates that in any matter relating to a child, the best interest of the child must be paramount. The Act prohibits engaging children in exploitative labour. The act further prohibits the engagement of a child in night work. However, a child of thirteen years may be engaged in light work.

4. General International Initiatives and Treaties

a. Cocoa and Forest Initiative

The initiative was signed in 2017 between the Government of Ghana and major cocoa and chocolate companies. Its main objective is the commitment to no longer convert forest land for cocoa production, thus breaking the link between cocoa production and deforestation. The CFI framework focuses on the conservation of national parks and forest lands as well as restoration of forest that have been degraded by cocoa farm encroachment, sustainable intensification, and diversification of income in order to increase

farmers' yields and livelihood, to grow "more cocoa on less land" and thereby reduce pressure on forests, as well as engagement and empowerment of cocoa-growing communities, in particular, mitigation of the social impacts and risks of land-use changes on affected cocoa farmers and their communities.

b. International Covenant on Economic, Social and Cultural Rights

Ghana ratified the International Covenant on Economic, Social and Cultural Rights on 7th September 2000. The convention recognises the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions. State parties are required to take appropriate steps to ensure the realization of this right.

c. International Covenant on Civil and Political Rights

Ghana ratified the International Covenant on Civil and Political Rights on 7th September 2000. According to this Convention, all persons have the right to freely determine their political status and freely pursue their economic, social, and cultural development. State parties are required to protect the civil and political rights of persons in their countries.

d. Convention on the Rights of the Child

This Convention sets out the civil, political, economic, social, health and cultural rights of children. It defines a child as any human being under the age of eighteen (18) years. State parties are required to put in measures to safeguard the rights of children as prescribed by the convention. Ghana ratified this convention on 5th February 1990.

e. Convention on the Rights of Persons with Disabilities

Countries to the Convention are to develop and carry out policies, laws and administrative measures for securing the rights recognized in the Convention and abolish laws, regulations, customs and practices that constitute discrimination on the basis of disability and guarantee equal protection for persons with disability. Ghana ratified this convention on 31st July 2012.

f. Conventions of the International Labour Organization on labour

The Convention is aimed at promoting opportunity for women and men to obtain decent and productive work in conditions of freedom, equity, and dignity. There are eight fundamental conventions covering areas that are considered fundamental principles and rights at work including: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

g. ILO Convention No. 138, Minimum Age

This Convention requires member states to abolish all acts of child labour within their national territory. States must fix a minimum working age in their countries and communicate it to the International Labour Organisation. Also, the convention forbids children from doing work that is dangerous, unhealthy, or bad for their morals. Children are, however, allowed to work in schools for “vocational” or technical education or in other training institutes. Ghana ratified this convention on 6th June 2011. It appears these requirements have been satisfied by sections 87-92 of the Ghanaian Children’s Act 560 as amended which was passed in 1998.

h. ILO Convention No. 182 on the Worst Forms of Child Labour

The Convention requires states to prohibit and eliminate the worst forms of child labour. It defines a child as anyone who is under the age of 18. It further defines ‘worst forms of child labour’ as the

- a) selling or buying a child like a thing; or using a child as a slave or a soldier;
- b) using a child sexually, for example in prostitution or pornography.
- c) using a child for a crime, for example drug trafficking, or begging.
- d) work that is dangerous, unhealthy, or bad for morals.

Ghana ratified this convention on 13th June 2000. The requirement has been satisfied by section 87 of the Ghanaian Children’s Act, 1998, Act 560 as amended.

i. African Charter on the Rights and Welfare of the Child

This Charter is the African Regional agreement that sets out the civil, political, economic, social, health and cultural rights of children. It also defines a child as any human being under the age of eighteen years. Members States who are party agree to put in measures to safeguard the rights of children as prescribed by the Charter. Ghana ratified this Charter on 10th June 2005. It came into force on 29th November 1999.

5. Developments in Cocoa Production that could reflect in Future Legislation

a. Ghana Climate-Smart Cocoa Production Standard (GCSCPS)

The GCSCPS has been developed by COCOBOD in coordination with the Forestry Commission but has yet to be implemented. It was published in 2020. The GCSCPS is a standard for climate-smart cocoa production and expands the focus of certification from farm level efforts to include landscape-level actions.

COCOBOD and FC agreed to work together since 2017 towards the adoption of good practices for enhanced productivity, adaptation, and mitigation of the adverse effects of climate change on cocoa and forest landscapes. GCSCPS aims to facilitate the adoption of site-specific sustainable practices that ensure higher yields, conservation, protection, management, and use of cocoa landscape resources for better living standards. The standard also contains best management practice criteria and metrics for climate-smart landscapes.

The GCSCPS standard is however not intended to be a carbon foot printing or life cycle analysis methodology nor a carbon neutral module or label and does not attempt to generate carbon offsets. Its mission is to promote a healthy cocoa landscape through sustainable practices which will lead to increased yields and improved livelihoods in the face of climate change.

b. African Regional Standard for Sustainable Cocoa (ARS 1000)

Côte d'Ivoire and Ghana within the framework of the African Regional Standards Organization (ARSO) have also been working towards the establishment of an African Regional Standard for sustainable cocoa (ARS 1000). ARS 1000 has yet to be implemented. The objective of ARS 1000 is to establish a common standard for sustainable cocoa production, applicable to all cocoa value chain actors, that can act as an alternative to the existing proliferation of voluntary sustainability programmes and third-party certification schemes which, according to the two producing countries, have not had a tangible impact on farmers' revenues or living standards. It is expected that voluntary initiatives will not be eliminated but will have to meet the requirements set by the ARS 1000 and obtain approval from the regulator when establishing criteria that go beyond ARS 1000.

Chapter 4: Institutions relevant to the production and trade of cocoa in Ghana

1. Ghana Cocoa Board (COCOBOD)

The cocoa industry in Ghana is primarily regulated by the Ghana Cocoa Board (COCOBOD). The mandate of the Board includes:

- encouraging the production of cocoa, coffee and sheanuts;
- regulating the marketing and export of cocoa, coffee and sheanuts;
- initiating programmes aimed at controlling pests and diseases of cocoa, coffee and sheanuts;

- and purchasing, marketing and exporting cocoa, cocoa products, coffee, sheanuts and shea-butter produced in Ghana.

COCOBOD is also involved in:

- the determination of the prices to be paid to producers for their cocoa, coffee and sheanuts;
- the establishment of purchasing and marketing organisations and the regulation of the mode of operation of the organisations,
- and the provision of seedlings, credit and other facilities to cocoa, coffee and sheanuts farmers to plant new farms or rehabilitate old ones or redeem pledged farms.

Legislation is silent on COCOBOD having a duty to ensure or take measures that production of cocoa is done sustainably.

No person may purchase cocoa in Ghana except through COCOBOD. Furthermore, no person shall market or export any cocoa unless it is cocoa which is the property of COCOBOD or it is cocoa which has been graded and sealed, the export of which has been authorised in writing by the certifying authority of the COCOBOD.

2. Ministry of Food and Agriculture

The Ministry of Food and Agriculture (MOFA) is the most important institution for agriculture in Ghana. The Ministry is the lead agency and focal point for developing and executing policies and strategies for the agriculture sector within the context of a coordinated national socio-economic growth and development agenda. It also performs regulatory functions. By virtue of the recent Ghana Cocoa Board (Amendment) Act which amended the definition of minister in section 39 of PNDCL 81, the Ministry of Food and Agriculture now formally exercises supervision or regulatory oversight over COCOBOD.

3. Ministry of Lands and Natural Resources

The Ministry of Lands and Natural Resources (MLNR) is the leading state institution for making and implementing government policy on lands, forestry, and mineral resources. The Minister of MLNR has ministerial responsibility for the Forestry Commission and has the mandate to give it directions in writing on matters of policy.

4. Forestry Commission

The Forestry Commission (FC) established by the Forestry Commission Act, 1999 (Act 571) is one of the natural resources commissions of Ghana and is under the general policy supervision of the MLNR. FC is

responsible for the regulation of the utilization of forest and wildlife resources, the conservation and management of these resources and the coordination of policies related to them.

FC has the mandate to:

- properly plan for the protection, harvesting and development of forest and wildlife resources in a sustainable manner.
- monitor the condition and extent of the nation's forest and wildlife resources.
- control the harvesting of forest and wildlife products.
- make recommendations to the Minister on the granting of timber rights and wildlife licences.
- advise the Minister on forest and wildlife policy with regard to management practices that sustain resources and improve productivity.
- liaise with national and international bodies and organizations on forestry and wildlife conservation and utilization
- and expand the country's forest cover.

Currently, FC together with COCOBOD is implementing the Ghana Cocoa Forest REDD+ Programme (GCFRP), a sub-national commodity-based emission reductions programme. Using a climate-smart cocoa production strategy, the GCFRP aims to significantly reduce emissions driven by deforestation and forest degradation, while improving smallholder farm families livelihoods through substantial yield increases and other benefit-sharing arrangements.

5. Environmental Protection Agency

The Environmental Protection Agency (EPA) has the primary duty of regulating the environment and ensuring the implementation of government policies on the environment. Particularly for cocoa, the EPA may ensure that the guidelines for the application of fertilizers and agrochemicals are in line with best practices to prevent the contamination of water bodies as well as protect the environment. The EPA Act also establishes the Hazardous Chemicals Committee which monitors the use, sale, manufacture, exportation, and importation of hazardous chemical and COCOBOD has a representative as a member of this committee. Also, EPA is responsible for regulating the import, manufacturing, distribution, advertisement and sale of pesticides and the licensing of pesticides dealers in Ghana.

6. Land Use and Spatial Planning Authority

The Land Use and Spatial Planning Authority (LUSPA) was established to provide for the sustainable development of land and human settlements through a decentralized planning system; ensure judicious

use of land; and create an enabling environment for District Assemblies to better perform the spatial planning and human settlements management functions.

In addition to other duties, LUSP is required to:

- control the physical development in uncontrolled or less controlled but sensitive areas such as forest reserves, nature reserves, wildlife sanctuaries, green belts, coastal wetlands, water bodies, water catchment areas, mining areas, open spaces and public parks.
- ensure that the exploitative use of natural resources for agriculture, mining, industry, and other related activities do not adversely impact on human settlements
- and oversee the implementation of approved policies regarding spatial planning and physical development within the country.

The Authority is also mandated to provide guidelines in respect of zoning schemes affecting agriculture. However, these guidelines have yet to be produced. Land use planning in Ghana is generally concentrated in the urban areas with much focus on human settlement planning (residential, industrial, and commercial) to the neglect of land use planning for agriculture and agroforestry at the rural areas.

7. Bushfire Control Sub-Committees of District Assemblies

The Control and Prevention of Bush Fires Act, 1990 (PNDCL 229) establishes a Bushfire Control sub-committee in each district assembly.

The mandate of the sub-committee includes the drawing-up for the consideration of the District Assembly of the appropriate by-laws to ensure adequate prevention, control, and monitoring of bushfires, specifying the periods in the year within which the burning of farm slash, grass, herbage and dead wood shall be prohibited and setting up town, area and unit bushfire control committees which shall direct the activities of the town, area or unit fire volunteer squads. The sub-committee is also required to compile data on the bushfire outbreaks and offences within the district. Bushfire is one of the key challenges for sustained production in cocoa. Thus, the sub-committee is mandated to provide period(s) where the burning of farm slash, grass, herbage dead wood is prohibited, draw up district burning programme and educate residents of the district on the hazards of uncontrolled fires.

ANNEX 1- ADDITIONAL DETAILS ON THE LEGAL AND INSTITUTIONAL FRAMEWORK FOR COCOA PRODUCTION AND TRADE

Legal Framework

The 1992 Constitution

The Constitution provides for Land in chapter twenty-one which is headed Lands and Natural Resources. A careful reading of the chapter would indicate three categories of lands. Public Lands, Stool Lands and Non-Public/Stool Lands.

Public lands refer to lands held by the state. They are also described as state lands. They comprise lands that were vested in the state or acquired in the public interest before the Constitution came into force and land the state has compulsorily acquired after the coming into force of the Constitution. Public lands are vested in the President to hold in trust for the people of Ghana. This means that the President is the custodian of public lands. Public lands are managed by the Lands Commission. The Lands Commission is responsible for the day-to-day management and utilisation of public lands.

The second category of land is stool land. These are lands that are under the control of the traditional authorities. The Constitution vests stool lands in the occupant of the stool on behalf and in trust for the stool in accordance with customary law and usage. Stool lands are managed by traditional authorities with state oversight. The occupant of the stool is responsible for management and utilisation of stool land. The development or transfer of stool lands, however, must receive approval from the Regional Lands Commission. Also, the revenue from any transfer of stool land must go to the Office of the Administrator of Stool Lands (OASL). The OASL receives revenue, creates an account to manage the revenue and distributes the revenue on behalf of a stool in accordance with law. There is a constitutional restriction on the creation of a freehold interest however so described on stool lands. This means that the highest interest a person can acquire in a stool land is a leasehold interest.

The third category of lands are lands that are not public or stool lands. In Ghana, families, corporations and individuals can also own land. These lands are managed by the entities themselves or by contract. Beyond the rules for public and stool lands, the Constitution also provides a legal regime that affects these types of lands. This includes the rules of acquisition of land by non-citizens (foreigners). The Constitution provides that a foreigner can only hold a maximum fifty-year (50-year) leasehold interest of land. This is gleaned from the fact that a foreigner is prohibited from acquiring a freehold interest in land and any leasehold interest held by a foreigner that exceeds fifty years is automatically curtailed to fifty years.

In Ghana, ownership of land does not equate to control and management of the natural resources found on the land. In the case of trees, the Concessions Act, 1962 (Act 124) vests naturally-occurring timber trees in the President in trust for the stools concerned irrespective of who owns the land.

The Constitution provides that the State can compulsorily acquire land belonging to a person, subject to law. The State can only compulsorily acquire land from a person if the acquisition is necessary in the interest of defence, public safety, public order, public morality, public health, town and country planning or the development or utilisation of the property to promote public benefit.

The Land Act, 2020 (Act 1036)

According to the Act 1036 there are six types of interest in land. These are the allodial, customary law freehold, the common law freehold, usufructuary interest, leasehold interest, and customary tenancy.

The **allodial title** is the highest interest in land and may be acquired by compulsory acquisition, conquest, discovery and settlement by pioneers, gift, purchase, or agreement. Ownership can also be acquired by either the state, a stool or skin, clan, family, or an individual.

In respect of **customary freehold**, the interest is absolute and can be acquired by a person or group of persons from the stool or skin, clan or family that holds the allodial title. This type of interest is inheritable and alienable without the consent of the stool or skin, clan, or family. The law prohibits non-citizens from the acquisition of customary law freehold interest.

A **common law freehold** is held free from obligations of any other person and inheritable and alienable but subject to the interest of the state, stool or skin, clan or family which holds the allodial title. However, creation of this form of interest is now prohibited.

The **usufructuary** interest is acquired in the exercise of a right as a subject of stool or skin, or clan or family by way of a grant or through settlement for a period of not less than 50 years by person or group of persons who are not indigene of the land but acquired the land with permission from the allodial title holders. This interest is essentially use-rights and can last perpetually if the holder of this interest acknowledges the title of the allodial holder and performs all the customary services due from the subject to the stool/family when called upon.

The leasehold relates to interest acquired for a fixed period from the original title holder and ownership reverts to the initial holder after expiry of period.

There is also the customary tenancy which is established by agreement between the allodial or the usufruct, the customary freehold holder, or the common law freehold. It may involve the payment of rent, sharing of produce of a farm or physical partition or severance of the farm or land.

The Lands Act also recognises Customary Tenancies as interests in land. There are two popular customary arrangements: Abunu and Abusa. Abunu can be classified as a “Tenant” farmer. Land rights are gained through a land agreement whereby a stranger or migrant or (in rare occasions) an indigene, acquires land for farming. The landlord provides uncultivated land to the farmer to clear and grow agreed upon cash crops (generally cocoa). The abunu farmer clears the land and establishes a cocoa farm. Once the cocoa matures sufficiently (five to seven years), the farm is split into two and the landlord keeps half and the abunu farmer keeps the other half. An abunu farmer may bequeath his interest in the farm and rehabilitate their farm (cut and replant cocoa). This often requires the consent of the landowner, but landlord consent is not universally required across Ghana. Also, the tenant farmer acquires no interest in the land. So long as the land is maintained as a cocoa farm, abunu tenure rights continue in perpetuity. Abunu can be regarded as tenancy as the closest English equivalent, but abunu rights are different from a common law tenant.

Under Abusa (Caretaker), the landowner establishes a farm and a sharecropper or caretaker is hired to maintain the farm. In return for their labor the abusa farmer receives one-third of the cocoa yield. There is flexibility on how the remaining two-thirds is divided – this may all go to the landowner who is responsible for inputs, or one-third may go to the landowner and one-third be allocated to purchase inputs. The caretaker may be fired on short notice and does not have any rights to the land being farmed. According to the GCRFP Emission Reductions Programme Document (ER-PD), the vast majority of Ghanaian cocoa

is grown within the GCFRP area by about 800,000 smallholder farm families and Customary tenancy arrangements are widespread.

Land and Spatial Planning Act, 2016 (Act 925)

The object of this Act is for sustainable development of land and human settlement through decentralized planning system. By this, the Act establishes processes to regulate national, regional, districts and local spatial planning, and generally to provide for spatial aspects of socio-economic development.

The Act establishes the Land Use Spatial Planning Authority (LUSPA), funded by a Fund of the same name. One of the Authority's aims is to "ensure the control of physical development in less controlled but sensitive areas such as forest reserves through collaborations with relevant agencies". It further provides that Spatial Planning Committees, Councils and Authorities should coordinate planning at a regional and district levels. Spatial Development Frameworks at national, regional and district levels, all of which include a strategic environmental assessment are also contained in this act and introduces sections on structure plans, local plans, zoning schemes and permits.

The Act provides a framework for the preparation of zoning schemes affecting agriculture, environment, creation of green belts, conservation, national, regional, district and local parks. LUSPA is required to issue guidelines in respect of zoning schemes affecting agriculture. But it appears this has yet to be done. In practice, there is rarely zoning of agricultural lands. Also, the object of the National Spatial Development Framework prepared by LUSPA is the judicious use of land but the definition of "judicious use" and/or the criteria and metrics of judicious use have not been prescribed in law.

Plants and Fertilizer Act, 2010 (Act 803)

Act 803 is in five parts. It aims at providing plant protection, seeds, and fertilizer control, and establishes management provisions on other plant related matters. The first part provides for the efficient conduct of plant protection, to prevent the introduction and spread of plant pests, regulate the import, and facilitate the export of plants and plant materials. It introduces measures such as the issuing of import permits, certifications, inspection, and examination of plants for maximum protection. Additionally, it establishes the Plant Protection and Regulatory Services Directorate that issues import permit, certificates, inspect consignments of plant, train and develop staff, disseminates information about plant quarantine and co-operate with member countries on the international plant protection convention. It further establishes Plant Protection Advisory Council, whose function is to develop and promote a national plant protection system, co-ordinate public and private sector participation in plant protection, examine complaints, keep records, and handle other related matters.

The second part seeks to regulate and monitor the exportation, importation, and commercial transaction in seeds. It defines the processes of registration, conditions and renewals and establishes a National Seed Council whose function is to formulate policies, monitor the supply of seed, develop procedures, prescribe standards for seeds, prescribe procedures for accreditation and other as prescribed by the act.

The third part provides for the control and regulation of fertilizers. This has to do with the regulations on the importation, manufacturing, and distribution of fertilizers. It empowers the minister to inspect the fertilizer to ensure compliance. It also establishes the inspection fund, which are used for financing activities of the regulatory division, research, and other purposes by the regulatory division. Various councils that are established under this part include The National Fertilizer Council, which also creates the

Ghana Fertilizer Advisory Committee, the Pesticide and Fertilizer Regulatory Division, which comprises of two main units: the Administrative Service Unit and the Inspection Service Unit.

The fourth part of the act establishes the plants and fertilizer fund, and its objects are to provide financial resources as required by the act.

The fifth part stipulates the powers given to the minister to assign function to government officials and other directors and to make regulations to ensure the efficient and effective enforcement of the provisions of the act.

Ghana Cocoa Board Act 1984 (PNDCL 81)

This Act establishes the Ghana Cocoa Board (COCOBOD) as substitute to the Ghana Cocoa Marketing Board. Its objectives are to:

- encourage the cultivation of Cocoa, coffee and shea.
- initiate programmes aimed at controlling pests and diseases of cocoa, coffee, and shea
- and purchase, import, undertake as well as encourage the manufacture, distribution and marketing of inputs used in the production of these crops.

It further seeks to promote and encourage scientific research to improve the quality and yield of cocoa, coffee shea and other tropical crops, regulate the marketing and exportation of the named crops while promoting their general wellbeing.

The COCOBOD, thus, determines the prices to be paid to producers of cocoa, coffee, and shea, takes the necessary steps to pay for cocoa beans, coffee and shea purchases from producers and is also mandated to provide seedlings, credit and any other facilities to cocoa, coffee and shea farmers to enable them to establish new farms or rehabilitate old ones as well as redeem pledged farms.

In respect of purchases, cocoa can only be purchased by a person or an organisation who are authorized by the board or the Board's wholly owned subsidiary buying company. These are referred to as Licensed Buying Companies (LBCs). Also, the act prohibits all other persons from marketing and exporting cocoa unless certified to do so by COCOBOD.

The Act also establishes the administration of COCOBOD and its financial provisions as well as empowers the board to appoint heads of its subsidiaries such as the Produce Buying Company Limited, the Cocoa Research Institute of Ghana, the Cocoa Marketing Company (Ghana) Limited, COCOBOD Plantations Limited, the Cocoa Processing Company and other divisions.

Labour Act, 2003 (Act 651)

The Labour Act seeks to regulate labour, employers, trade unions and industrial relations as well as establish the National Labour Commission. The main function of the National Labour Commission is to facilitate and settle industrial disputes as well as promote conducive industrial environment for employment sustainability and growth. The Act gives the commission the power to make regulations to aid the exercise of its functions and thus the passing of the National Labour Commission Regulations, 2006 (L.I. 1822).

The maximum working hours of 8 hours is provided for in this Act. However, the minister may prescribe shorter hours of work for workers in jobs declared to be manual labour and in jobs that are likely to be injurious to health. The Act also makes provision for overtime to be paid when a worker must work outside the stipulated working hours. It further stipulates that workers are entitled to uninterrupted leave days and in situations where leave is interrupted, the worker in question must be paid. It expresses explicitly that, a contract to forgo one's leave is void and cannot be enforced.

The Act prohibits the employment of young people in hazardous work either physical or moral and the minister determines the content of hazardous work. In the event of the employment of a young person¹² in a non-hazardous work, his or her health status must be certified by a medical practitioner to ensure that they are medically fit for work.

Children's Act, 1998 (Act 560)

The Children's Act provides for the rights of the child, maintenance and adoption, labour and apprenticeship as well as all matters relating to the general well-being of Children. The Act defines a child as a person below the age of 18 years and stipulates that in any matter relating to a child, the best interest of the child must be paramount.

The engagement of a child in exploitative labour is prohibited by this Act and exploitative labour is defined as that which deprives the child of its health, education, or development. The Act further prohibits the engagement of a child in night work and defines night work as being between the hours of eight o'clock in the evening and six o'clock in the morning. However, a child of thirteen years may be engaged in light work. Light work has also been defined as that which is not harmful to the health or development of the child and does not affect the child's attendance at school or capacity of the child to benefit from schoolwork.

The Act also allows a child of 15 years to be fully employed. The work must, however, not pose danger to the health, safety, or morals of the child. It adds further that a person may be exposed to hazardous work only at the attainment of age 18. Additionally, a child can commence apprenticeship only on the attainment of age 15 or after the completion of basic education. By this Act, all are required to adhere strictly to the provision therein for the best interest of the child and any person who violates them commits an offence which is punishable by law.

General International Initiatives and Treaties

Cocoa and Forest Initiative

The initiative was signed in 2017 between the Government of Ghana and major cocoa and chocolate companies. Its main objective is the commitment to no longer convert forest land for cocoa production, thus breaking the link between cocoa production and deforestation.

The framework focuses on the conservation of national parks and forest lands as well as restoration of forest that have been degraded by cocoa farm encroachment, sustainable intensification, and

¹² Section 124 of the Children's Act, 1998 defines "young person" as a person of or above eighteen years who is under twenty-one.

diversification of income to increase farmers' yields and livelihood, to grow "more cocoa on less land" and thereby reduce pressure on forests, as well as engagement and empowerment of cocoa-growing communities. In particular, mitigation of the social impacts and risks of land-use changes on affected cocoa farmers and their communities. Its main function is to ensure that the eight-commitments signed by the CFI signatories are adhered to.

The 2020 annual report of the CFI indicates that there has been restoration of 225,833.9 ha of forest area within cocoa landscape; training of 44,200 farmers in Modern Tuagyan System (MTS); 4 updated management plans for forest reserves have been done and a national satellite monitoring framework has been developed. Also, cocoa and chocolate companies have distributed a total of 5 million forest trees since the programme began in 2018. Further, more than 256,000 farmers have been trained in climate smart cocoa practices and 185,000 farmers informed on forest policy. Finally, there has been heavy investment in traceability and almost 250,000 farms have been mapped in 2020, achieving 82% traceability.

Although a great initiative, the CFI is not legally binding and therefore it is a challenge to monitor or hold the actors accountable for commitments that have been made.

International Covenant on Economic, Social and Cultural Rights

Ghana ratified the International Covenant on Economic, Social and Cultural Rights on 7th September 2000. According to this Convention, all persons have the right to self-determination. State parties are required to ensure that all persons regardless of their sex are guaranteed equal rights to the enjoyment of all economic, social, and cultural rights. The economic rights guaranteed include the right to enjoy safe, just, and favourable conditions of work which provides remuneration that is fair. The convention also recognises the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions. State parties are required to take appropriate steps to ensure the realization of this right.

International Covenant on Civil and Political Rights

Ghana ratified the International Covenant on Civil and Political Rights on 7th September 2000. According to this Convention, all persons have the right to freely determine their political status and freely pursue their economic, social, and cultural development. State parties are required to protect the civil and political rights of persons in their countries.

Convention on the Rights of the Child

This Convention sets out the civil, political, economic, social, health and cultural rights of children. It defines a child as any human being under the age of eighteen (18) years. State parties are required to put in measures to safeguard the rights of children as prescribed by the convention. Ghana ratified this convention on 5th February 1990.

Convention on the Rights of Persons with Disabilities

The convention is a human right instrument that seeks to elaborate in detail the rights of persons with disabilities and set out a code of implementation. Countries to the Convention are to develop and carry out policies, laws and administrative measures for securing the rights recognized in the Convention and abolish laws, regulations, customs and practices that constitute discrimination on the basis of disability and guarantee equal protection for persons with disability. The convention also broadens the category of persons with disabilities and reaffirms that all persons with all types of disabilities must enjoy all human rights and fundamental freedoms.

Conventions of the International Labour Organization on labour

The conventions are aimed at promoting opportunity for women and men to obtain decent and productive work in conditions of freedom, equity, and dignity. These legal instruments are drawn up to set out basic principles and rights at work. There are eight fundamental conventions covering areas that are considered fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.

ILO Convention No. 138, Minimum Age

This Convention requires member states to abolish all acts of child labour within their national territory. States must fix a minimum working age in their countries and communicate it to the International Labour Organisation. Also, the convention forbids children from doing work that is dangerous, unhealthy, or bad for their morals. Children are, however, allowed to work in schools for “vocational” or technical education or in other training institutes. Ghana ratified this convention on 6th June 2011. It appears these requirements have been satisfied by sections 87-92 of the Ghanaian Children’s Act 560 as amended which was passed in 1998.

ILO Convention No. 182 on the Worst Forms of Child Labour

The Convention requires states to prohibit and eliminate the worst forms of child labour. It defines a child as anyone who is under the age of 18. It further defines ‘worst forms of child labour’ as the

- a. selling or buying a child like a thing; or using a child as a slave or a soldier.
- b. using a child sexually, for example in prostitution or pornography.
- c. using a child for a crime, for example drug trafficking, or begging.
- d. work that is dangerous, unhealthy, or bad for morals.

Ghana ratified this convention on 13th June 2000. The requirement has been satisfied by section 87 of the Ghanaian Children’s Act, 1998, Act 560 as amended.

African Charter on the Rights and Welfare of the Child

This Charter is the African Regional agreement that sets out the civil, political, economic, social, health and cultural rights of children. It also defines a child as any human being under the age of eighteen years. Members States who are party agree to put in measures to safeguard the rights of children as prescribed by the Charter. Ghana ratified this Charter on 10th June 2005. It, however, came into force on 29th November 1999.

Institutions relevant to the production and Trade of Cocoa in Ghana.

COCOBOD

The cocoa industry in Ghana is primarily regulated by the Ghana Cocoa Board (COCOBOD). COCOBOD was established under the Ghana Cocoa Board Act, 1984 (PNDCL 81) to replace the former the Ghana Cocoa Marketing Board. The objects of COCOBOD include:

- encouraging the production of cocoa, coffee and sheanuts,
- regulating the marketing and export of cocoa, coffee and sheanuts,
- initiating programmes aimed at controlling pests and diseases of cocoa, coffee and sheanuts
- and purchasing, marketing and exporting cocoa, cocoa products, coffee, sheanuts and shea-butter produced in Ghana.

The functions of COCOBOD include:

- the determination of the prices to be paid from time to time to producers for their cocoa, coffee and sheanuts,
- the establishment of purchasing and marketing organisations and the regulation of the mode of operation of the organisations,
- and the provision of seedlings, credit and other facilities to cocoa, coffee and sheanuts farmers to plant new farms or rehabilitate old ones or redeem pledged farms.

Legislation is silent on Cocobod having a duty to ensure or take measures that production of cocoa is done sustainably.

No person may purchase cocoa in Ghana except through COCOBOD. Furthermore, no person shall market or export any cocoa unless it is cocoa which is the property of COCOBOD or it is cocoa which has been graded and sealed, the export of which has been authorised in writing by the certifying authority of the Board.

In order to give effect to the rule above, a company wishing to engage in the external marketing or export of cocoa has to register with COCOBOD to be issued with a licence to export cocoa. The activities of private companies who are allowed by the Board to export part of the cocoa they purchase, are regulated by the Ghana Cocoa Board Export of Cocoa Regulations (2004). The regulations provide for the Operation Requirements of such companies, the export prices which are to be determined by the Export Sales Committee of COCOBOD and the operation of the Quality Control Division (QCD) of COCOBOD which ensures that cocoa for export meet all appropriate national and international quality standards.

In essence, COCOBOD has created a hybrid system whereby although all exports are controlled by the State, there are several companies which buy the crops in the areas where they are grown. The system has been said beneficial to all key players in the industry, that is, the State, the traders and the farmers.

The Cocoa Industry (Regulation) Act, 1968(N.L.C.D. 278) provides some rules concerning the cocoa industry in Ghana which are normally enforced through the regulatory functions of COCOBOD.

Accordingly, a person who wishes to sell, buy, offer, expose for sale or tender, or export cocoa is prohibited from doing so where the cocoa is not thoroughly dry or contains a foreign matter. Similarly, a person shall not transport cocoa which has not been thoroughly dried although this does not apply where the person is a grower of cocoa who is transporting cocoa belonging to that person from the land on which it was grown to the premises of that person for the purpose of fermenting and drying the cocoa.

Furthermore, a person shall not export or cause or permit to be exported or attempt to export cocoa unless the cocoa has been inspected by an inspector of COCOBOD and the inspector has affixed to each bag a seal and grade-mark.

Ministry of Food and Agriculture

The Ministry of Food and Agriculture (MOFA) is the most important institution for agriculture in Ghana. It is headed by a sector minister who is assisted by deputies. The Ministry is the lead agency and focal point for developing and executing policies and strategies for the agriculture sector within the context of a coordinated national socio-economic growth and development agenda. It also performs regulatory functions through its technical directorates.

By virtue of the recent Ghana Cocoa Board (Amendment) Act which amended the definition of minister in section 39 of PNDCL 81, the Ministry of Food and Agriculture now formally exercises supervision or regulatory oversight over COCOBOD. Formerly, the Minister of Trade and Industry exercised ministerial responsibility over COCOBOD, but that responsibility, in practice was nonetheless handled by the Minister of Food and Agriculture.

Ministry of Lands and Natural Resources

The Ministry of Lands and Natural Resources (MLNR) is the leading state institution for making and implementing government policy on lands, forestry, and mineral resources. MLNR is headed by a Minister of State and assisted by deputy ministers. MLNR provides ministerial supervision for the following state agencies the Minerals Commission; Forestry Commission; the Lands Commission and the Office of the Administrator of stool lands. The Minister of MLNR has ministerial responsibility for the Forestry Commission and has the mandate to give it directions in writing on matters of policy.

Forestry Commission

The Forestry Commission (FC) established by the Forestry Commission Act, 1999 (Act 571) is one of the natural resources commissions of Ghana and is under the general policy supervision of the MLNR. FC is responsible for the regulation of the utilization of forest and wildlife resources, the conservation and management of these resources and the coordination of policies related to them.

FC has the mandate to:

- properly plan for the protection, harvesting and development of forest and wildlife resources in a sustainable manner.

- monitor the condition and extent of the nation's forest and wildlife resources.
- control the harvesting of forest and wildlife products.
- make recommendations to the Minister on the granting of timber rights and wildlife licences.
- advise the Minister on forest and wildlife policy with regard to management practices that sustain resources and improve productivity.
- liaise with national and international bodies and organizations on forestry and wildlife conservation and utilization
- and expand the country's forest cover.

Currently the FC comprises the following divisions: Forest Services Division, Wildlife Division, Timber Industry Development Division, Forestry Commission Training Centre, and Resource Management Support Centre.

Currently, FC in collaboration with COCOBOD is implementing the Ghana Cocoa Forest REDD+ Programme (GCFRP). The GCFRP is a commodity-based emission reductions programme. Using a climate-smart cocoa production strategy, the GCFRP aims to significantly reduce emissions driven by deforestation and forest degradation, while improving smallholder farmers' livelihoods through substantial yield increases and other benefit-sharing arrangements. It is expected that the programme will make Ghana's cocoa and forestry sectors more resilient, while establishing a new asset class and revenue stream from climate-smart cocoa beans, validated against a landscape standard. In addition, several cocoa farms are in Forest Reserves called "admitted farms". These farms are regulated by the Forestry Commission to prevent further encroachment on the forested areas.

Environmental Protection Agency

The Environmental Protection Agency (EPA) was established by the Environmental Protection Agency Act, 1994 (Act 490). It has the primary duty of regulating the environment and ensuring the implementation of government policies on the environment. The EPA is the primary regulatory authority for Environmental Assessments (EAs) and the Government's agency for improving and protecting the environment. The Ministry of Environment, Science, Technology, and Innovation (MESTI) is responsible for giving the agency policy directions.

EPA has regional offices which serve as field operators of the Agency. These regional offices are mandated to carry out screening and review of EIAs at the regional level. There are cross-sectoral EIA Technical Review Committees set up in the regions, and at the national level, to support the EPA offices in the screening and reviewing of EA applications and reports. The committees make recommendations after their review and submit these to the headquarters for quality assurance and approval.

The Regional EPA offices also play a role in compliance monitoring, the approval of annual environmental reports and verification of environmental management plans. They are mainly involved in the EIA process through public participation and monitoring activities. EIAs for large-scale projects and high priority projects are directly under the responsibility of the Environmental Assessment and Audit Department located at the Head office of the EPA. The EPA has oversight on the enforcement and enactment of regulations for environmental protection and ensuring the commitment of institutions whose activities are likely to have an impact on the environment.

Particularly for cocoa, the EPA may ensure that the guidelines for the application of fertilizers and agrochemicals are in line with best practices to prevent the contamination of water bodies as well as protect the environment. The EPA Act also establishes the Hazardous Chemicals Committee which monitors the use, sale, manufacture exportation and importation of hazardous chemical and COCOBOD has a representative as a member of this committee. Also, EPA controls and manages the use, sale, and manufacture of pesticides in the country.

Land Use and Spatial Planning Authority

The Land Use and Spatial Planning Authority (LUSPA) was established by the Land Use and Spatial Planning Act, 2016 (Act 925). LUSPA was established to:

- provide for the sustainable development of land and human settlements through a decentralized planning system.
- ensure judicious use of land.
- and enhance the attainment of Ghana's decentralization programme
- and create an enabling environment for District Assemblies to better perform the spatial planning and human settlements management functions.

To achieve the above goals, LUSPA is required to control the physical development in uncontrolled or less controlled but sensitive areas such as forest reserves, nature reserves, wildlife sanctuaries, green belts, coastal wetlands, water bodies, water catchment areas, mining areas, open spaces and public parks; ensure that the exploitative use of natural resources for agriculture, mining, industry and other related activities do not adversely impact on human settlements and oversee the implementation of approved policies regarding spatial planning and physical development within the country. The Authority is also mandated to provide guidelines in respect of zoning schemes affecting agriculture. However, these guidelines have yet to be produced. Land use planning in Ghana is generally concentrated in the urban areas with much focus on human settlement planning (residential, industrial, and commercial) to the neglect of land use planning for agriculture and agroforestry at the rural areas.

The National Spatial Development Framework (2015 – 2035) produced by LUSPA emphasizes securing agriculture, where it has the capacity to remain strong and viable, by maintaining the maximum possible number of family farms, while at the same time ensuring that smaller farmers can supplement their farm income through off-farm work. Despite this and the goal of protecting land from threats of settlement development, there is no concrete action at the rural zone towards the protection of agriculture lands from settlement expansion. Urban sprawl is the order of the day. Zoning schemes would have to be prepared and approved if protection of agriculture and forestry landscapes from urban sprawl is to be realized.

Bushfire Control Sub-Committees of District Assemblies

The Control and Prevention of Bush Fires Act, 1990 (PNDCL 229) establishes a Bushfire Control sub-committee in each district assembly. The membership of the sub-committee is to be determined by the Assembly. The mandate of the sub-committee includes the drawing-up for the consideration of the District Assembly the appropriate by-laws to ensure adequate prevention, control, and monitoring of bushfires, specifying the periods in the year within which the burning of farm slash, grass, herbage and dead wood shall be prohibited and setting up town, area and unit bushfire control committees which shall direct the

activities of the town, area or unit fire volunteer squads. The sub-committee is also required to compile data on the bushfire outbreaks and offences within the district.

Bushfire is one of the key challenges for sustained production in cocoa. Thus, the sub-committee is mandated to provide period(s) where the burning of farm slash, grass, herbage dead wood is prohibited, draw up district burning programme and educate residents of the district on the hazards of uncontrolled fires.

Dennis Martey

In-Country Associate of Client Earth in Ghana & Managing Associate at TaylorCrabbe
dennis.martey@taylorcrabbegh.com

Raphaëlle Godts

Law & Policy Advisor
Climate and Forests Programme
rgodts@clientearth.org

Clement Kojo Akapame

In-Country Associate of Client Earth in Ghana & Partner at TaylorCrabbe
clement.akapame@taylorcrabbegh.com

Caroline Haywood

Senior Law and Policy Advisor
Climate and Forests Programme
chaywood@clientearth.org

www.clientearth.org



This publication has been funded with UK aid from the UK government. The information contained in this document is the sole responsibility of its authors and does not necessarily reflect the UK government's official policies.

This document was written for general information and does not constitute legal, professional, financial or investment advice. Specialist advice should be taken in relation to specific circumstances. Action should not be taken on the basis of this document alone. ClientEarth endeavours to ensure that the information it provides is correct, but no warranty, express or implied, is given as to its accuracy and ClientEarth does not accept responsibility for any decisions made in reliance on this document.

Brussels Beijing Berlin London Warsaw Madrid Los Angeles Luxembourg

ClientEarth is an environmental law charity, a company limited by guarantee, registered in England and Wales, company number 02863827, registered charity number 1053988, registered office 10 Queen Street Place, London EC4R 1BE, a registered international non-profit organisation in Belgium, ClientEarth AISBL, enterprise number 0714.925.038, a registered company in Germany, ClientEarth gGmbH, HRB 202487 B, a registered non-profit organisation in Luxembourg, ClientEarth ASBL, registered number F11366, a registered foundation in Poland, Fundacja ClientEarth Poland, KRS 0000364218, NIP 701025 4208, a registered 501(c)(3) organisation in the US, ClientEarth US, EIN 81-0722756, a registered subsidiary in China, ClientEarth Beijing Representative Office, Registration No. G1110000MA0095H836. ClientEarth is registered on the EU Transparency register number: 96645517357-19. Our goal is to use the power of the law to develop legal strategies and tools to address environmental issues.