



U.S. Department of Agriculture
Office of Agreements and Scientific Affairs
Foreign Agricultural Service
1400 Independence Avenue S.W., Room 4133-S
Washington, DC 20250

July 6, 2011

RE: Doc. 2011-8587 Filed 04/12/2011

On behalf of the Rainforest Alliance (RA) and the Sustainable Agriculture Network (SAN), we are pleased to submit the following comments to the U.S. Department of Agriculture (DOA or “Department”) regarding the Guidelines for Eliminating Child and Forced Labor in Agricultural Supply Chains. These comments respond to the Department’s Federal Register notice published on April 12, 2011.

First and foremost, we wish to express appreciation to the DOA for the opportunity to be part of this process. The Rainforest Alliance offers its perspectives on the current situation, and on the important role DOA can perform in recognizing existing credible third-party performance-based standards as meeting DOA guidelines addressing child and forced labor in agricultural supply chains.

The Rainforest Alliance is an international, not-for-profit organization committed to environmental development, conserving biodiversity and ensuring sustainable livelihoods by transforming land use practices, business practices and consumer behavior. It was founded in 1987, works in more than 75 countries, and maintains offices in 10 countries on four continents. To achieve its mission, the Rainforest Alliance partners with numerous multilateral donors and governmental entities across the globe, including the United States Agency for International Development, United Nations Development Program, United Nations Environment Program, GIZ (Germany), DFID (UK), JICA (Japan) and numerous others.

The Rainforest Alliance is a leader in the sustainable certification of agriculture, forestry and tourism operations worldwide. Farm and forestry operations that meet Rainforest Alliance’s comprehensive guidelines balancing ecological, economic and social considerations can earn the [Forest Stewardship Council](#) label and/or [Rainforest Alliance Certified™](#) seal of approval. The Rainforest Alliance Certified seal is a guarantee to consumers that products meet our criteria for sustainability. Certification is a strictly voluntary, transparent, non-governmental process. Further information about the Rainforest Alliance can be found at www.rainforest-alliance.org.

The Rainforest Alliance's agriculture program supports the international secretariat of the [Sustainable Agriculture Network](#) (SAN), a coalition of leading conservation groups that seeks to transform the environmental and social conditions of agriculture through the implementation of sustainable farming practices. The SAN develops, manages and owns the Sustainable Agriculture Standard. The conservation and rural development groups that comprise the SAN understand local culture, politics, language and ecology and are trained in auditing procedures according to internationally recognized guidelines. The SAN currently includes members in Brazil, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Honduras, India, and Mexico.

Since 1992, more than 800 certificates for more than 80,000 farms - including small family farms of cooperatives, as well as plantations - in 30 countries have met the SAN standards on over a million acres of land, benefitting more than a million farm workers and their families, as well as certifying more than 150 million acres of forestland. Principle agricultural commodities/crops include cocoa, coffee, tea, sugar, oil palm, pineapple, cut flowers, citrus and cattle.

The Rainforest Alliance is one of seven pioneer organizations dedicated to achieving the highest standards for credible behavior in ethical trade by complying with the [International Social and Environmental Accreditation and Labelling](#) (ISEAL) Code of Good Practice for Setting Social and Environmental Standards. The ISEAL Code of Good Practice is the international reference for setting credible voluntary social and environmental standards. It is referenced by a range of governmental and inter-governmental guidelines as the measure of credibility for voluntary social and environmental standards. Further information about the ISEAL Alliance is available at www.isealalliance.org

In the Department's request for comment three areas of focus are highlighted:

a) How do the guidelines compare to current practices for companies, industry groups, and certification/accreditation organizations that are interested in making use of these guidelines? What challenges do you see for incorporating the guidelines into existing or new programs? Are there additional market-based incentives or government actions that would help in overcoming these challenges?

The Foundation Elements of the Guidelines are already reflected in the SAN standards (see annex 1). SAN standards have been adopted by leading agribusiness companies in efforts to address a range of land-management and social issues in a holistic manner rather than isolating single issues. The environmental and social issues related to farming in the developing world are complex and intertwined, requiring an integrated approach.

The DOA could recognize Rainforest Alliance/SAN standards as already meeting key elements of the Department's guidelines. This action would aid in driving the industry to continue to expand sourcing of product from farms that have been certified as sustainably managed. Market demand and product premiums provide an important incentive to producer organizations, and are often a major driver in their application of best practices. For example, Guidelines section II. Company Program Elements, A. Foundation Elements align with existing Rainforest Alliance/SAN standards (see Annex 1), which additionally define specific activities in which minors may or may not engage, and include criteria to address education and health care.

The SAN certification system is ISO 65 compliant. The SAN Standards were reviewed by Dorianne Beyer, a member of the SAN International Standards Committee, and a founding member of the Advisory Board for Social Accountability International, as well as member of the Consultative Group to Eliminate the Use of Child Labor and Forced Labor in Imported Agricultural Products. Her report concluded that the fundamental ILO Conventions are substantially covered by the SAN standards. The Standards are moreover adapted for application to specific crops and countries through a multi-stakeholder interpretation process (<http://sanstandards.org/sitio/subsections/display/12>). In cocoa, the SAN has published such guidelines for Ghana (2009) and Côte d'Ivoire (2008). The interpretation of child labor is dealt with in these documents, considering the local legal and government authority framework.

The core elements of the program are described below as they relate to work with cocoa farmers in Côte d'Ivoire.

Auditing

The Rainforest Alliance/SAN certification system adheres to rigorous criteria for training and accreditation of auditors. Candidates are screened for technical competence and knowledge of local contexts and languages. Auditors and lead auditors who are nationals of Côte d'Ivoire have been accredited. Auditors have standard techniques for verifying compliance with the Standard, principally: observation, interviewing and cross referencing information given. They require evidence of training provided and the list of participants at the training. They speak to a selection of farmers and workers. If auditors suspect that children are being brought in to help at harvest times, they may visit the local school to check attendance records. The independent study undertaken in 2009 in Côte d'Ivoire recorded a 20% higher school attendance on Rainforest Alliance Certified farms than on the control group farms, suggesting that the training and auditing systems are having a positive effect on the issue (see Annex 2).

During a typical cocoa audit, much of the first day is spent reviewing the internal control system, or internal auditing structure. The paperwork is oftentimes reviewed during the evenings, so that the bulk of the time during an audit can be spent talking with farmers and community members. For a group of cocoa farmers, typically the audit process is extended to 4 to 5 days or longer, depending on the size of the group. In cocoa, the audits are typically carried out during the harvest season, as this is the time of greatest activity and when child labor and other issues would be most prevalent.

While the external audit of farms takes place once each year, physical inspections also occur periodically during the year by the certified group's internal auditors. Moreover, Rainforest Alliance has found from experience that the best assurances that no child labor is present on certified farms is likely to come from the orientation process during training and the peer pressure in a group certification system, where a group would fail an audit if any member fails to comply with the critical criteria 5.8 on child labor and 5.10 on forced labor.

Internal Control System

Each cooperative or producer group will have an internal control system team composed of one Group Administrator and at least 3 field officers. The Group Administrator is the coordinator of

the certification program. He/she is also the document clerk, and establishes a weekly planning of work for each of the field officers. This consists of generally 2 trainings per week with an average group size of 25 farmers. On the other days, the field officers visit farms to review and follow the progress of farmers. Each field officer has an average working area of about 100 farmers.

The Internal Control System is an internal auditing system. During internal inspections, field officers are rotated and may not audit farmers of their own area. Internal inspections reports are submitted to an Approvals Committee responsible for determining which areas are approved without conditions, approved under specific conditions, or excluded. Farmers who have Non-Conformities (NC) are given a sheet of NC notification and a several days to correct them. Following the correction period, a Farmer/Field Officer visits the area to review the non-conformities and ensure appropriate corrective actions have been taken. This is a necessary action before the committee takes the final decision to include a farm in its application for a certification audit.

Child Labor Curricula

Working with the Rainforest Alliance/SAN certification system provides access to training that prepares a producer group for the audit. The training program for cocoa farmers in West Africa incorporates orientation on child labor through an interactive exercise to engage and educate the farmers. Questions addressed to farmers include:

1. Why do some people use their children to work on cocoa farms?
2. Do you know of cases of children working on cocoa farms? What are the effects on the children?
3. What can be done to avoid child labor on cocoa farms?

Following this is a process of identification of the hazards and risks in cocoa farms which are detrimental to children's health and safety. Here the trainers introduce the concept of child labor, its causes and consequences. For instance:

- The difference between light/casual work performed by children as part of training them for life (socialization), and actual child labor;
- Due to accidents, compensation rates can be higher when children are employed, and productivity may also be affected by relying on children;
- Legal framework and requirements - Child labor is prohibited by international and national laws;
- Market impacts - Producers may find it difficult to market their produce due to the global cocoa initiative against child labor;
- Clear communication of goal of training program - The aim is clean, good quality cocoa free of child labor;
- Reporting chains - If there is any evidence of a situation involving child labor, it must be reported to the proper authorities, internally and externally.

One of the goals of the child labor curricula is to sensitize participants to economic, physiological, physical, psychological, social, and emotional impacts of child labor on children, families, communities and countries. It is critical for the farmers to fully understand the whole suite of issues and impacts in order to actually make the changes and eliminate child labor. At the

conclusion of the training, the trainers will discuss how the child labor issue and other critical criteria will cause the farm to fail an audit and also discuss the commercial impacts of child labor, failing audits, etc.

Child Labor Found During Audits

In one case of child labor discovered by a lead auditor in Côte d'Ivoire, the auditor questioned the child about school and schooling and the child responded that he could not reply now because "others were around." In this case, the first step taken by the auditor was to note it in the field report. He then reviewed the findings with the management and with the partner of the farm in Abidjan. He indicated in his report that the boy was sent by a family member to work there for the week, and concluded it was essentially an issue of understanding, and emphasized the need for additional training and support.

While the farm in question failed the audit, the solution was to provide additional education and training on the issue of the failure to correct the situation rather than simply failing a farm without making efforts to remediate the situation. Typically, when violations of any sort are found, it is usually because an individual in the group responsible for a portion of the training has failed to communicate those portions of the training in one way or another. Typically, when a farm fails one criterion completely, there are usually other non-compliances/failures as well.

Audit Confidentiality

One challenge that the proposed guidelines would face in recognizing the Rainforest Alliance/SAN certification system is the suggestion that "Each verifier auditing companies to the Guidelines should provide the public a list of companies under review, approved, suspended, and/or withdrawn." The audit process is confidential. A list of producer groups succeeding in the audit is public and kept updated; but there is no public list of audits in preparation or suspended and there is no mechanism to isolate the child labor criteria except in the detailed confidential audit report; hence if a group ceased to be certified, there is no way to conclude whether this is for a non compliance with a critical criterion, or which criterion that may be or whether the group discontinued its interest in voluntary certification for some other reason.

Preparing for audits may also entail commercial confidentiality. A company may not wish it to be known by its competitors that it is entering into a certification system, as that may reveal confidential information about its marketing strategy.

b) Are there areas of the guidelines that need to be more fully developed in order to: 1) make them useful for a particular industry; 2) increase public confidence in the integrity of programs that utilize the guidelines or 3) adequately address victim protection concerns?

Rainforest Alliance's experience of companies operating in the West African cocoa sector is that they are engaged to a significant level in "engaging with governments, international organizations, and/or local communities to promote the provision of social safety nets that prevent child and forced labor and provide services to victims and persons at risk." Since the signing of the Harkin- Engel protocol, companies have supported international initiatives that provide education at community levels in Côte d'Ivoire and Ghana and host government programs to implement monitoring systems. The Guidelines' approach of focusing on essential

elements for credible, up-to-date monitoring and verification systems rather than prescribing specific detailed steps seems realistic. Companies are very mindful of their reputations as responsible corporate citizens and use their knowledge of the particular industry and consultation with concerned governments and experts to develop appropriate and practical responses. The cocoa industry has demonstrated its capacity to work at an industry level, with major companies combining their efforts through their industry associations, especially the World Cocoa Foundation, and other concerted initiatives. It is important that any new guidelines are realistic in their expectations of how much an industry can actually control and what responsibility lies with host governments and communities to create an economic system that is free of child labor. It could be counter-productive if guidelines generated additional costs for companies that limited their capacity to invest in existing program that are having positive results.

c) What additional steps by the U.S. Government would be helpful to aid entities in adopting and implementing the guidelines?

Based on the above observation, Rainforest Alliance would consider US government investments in supporting effective programs at government and community levels would facilitate developing agricultural supply chains that are free of child and forced labor. The industry and public have been sensitized to this issue; no company can disregard it but the capacity of companies to address the problem is necessarily limited by the nature of rural production systems where no monitoring system can ever be adequate to cover hundreds of thousands of villages that depend on cocoa for their livelihoods. Building further capacity for local management of educational and monitoring systems and placing emphasis on addressing the problem at source as well as in the supply chain would seem to be valuable.

Yours sincerely,



Ana Paula Tavares
Sr. Vice President
Rainforest Alliance

Annex 1.

The following is the section of the SAN standards and criteria that relates directly to child labor and forced labor. These criteria are a subset of a larger set of standards covering a range of social and environmental issues.

The weblink for the complete SAN Sustainable Agriculture Standard is

<http://sanstandards.org/sitio/subsections/display/9> or

<http://sanstandards.org/userfiles/file/SAN%20Sustainable%20Agriculture%20Standard%20July%202010.pdf>.

Critical criterion 5.10 refers to forced labor.

5.10 *Critical Criterion.* Any type of forced labor is prohibited, including working under the regimen of imprisonment, in agreement with International Labor Organization (ILO) Conventions 29 and 105 and national labor laws. The farm does not withhold any part or all of workers' salaries, benefits or any rights acquired or stipulated by law, or any of the workers' documents, in order to force them to work or stay on the farm, or as a disciplinary action. The farm does not use extortion, debt, threats or sexual abuse or harassment, or any other physical or psychological measure to force workers to work or stay on the farm, or as a disciplinary measure.

Critical criterion 5.8 prohibits contracting minors beyond 15 years:

5.8 *Critical Criterion.* It is prohibited to directly or indirectly employ full- or part-time workers under the age of 15. In countries where the ILO Conventions have been ratified, the farm must adhere to Convention 138, Recommendation 146 (minimum age). Farms contracting minors between the ages of 15 and 17 must keep a record of the following information for each minor:

- a. First and last name.
- b. Date of birth (day, month and year).
- c. First and last name of parents or legal guardian.
- d. Place of origin and permanent residence.
- e. Type of work carried out on the farm.
- f. Number of hours assigned and worked.
- g. Salary received.
- h. Written authorization for employment signed by parents or legal guardian.

Workers between 15 and 17 years old must not work more than eight hours per day or more than 42 hours per week. Their work schedule must not interfere with educational opportunities. These workers must not be assigned activities that could put their health at risk, such as the handling and application of agrochemicals or activities that require strong physical exertion.

Criteria 5.9 and 5.19 add other elements about child activities on farm:

5.9 When applicable laws permit, minors between 12 and 14 years old may work part-time on family farms, only if they are family members or neighbors in a community

where minors have traditionally helped with agricultural work. The schedule for these minors including school, transportation and work must not exceed ten hours on school days or eight hours on non-school days, and must not interfere with educational opportunities. The following conditions must be fulfilled:

- a. These workers must have the right to one rest day for every six days worked and rest breaks during the workday the same as or more frequently than contracted workers.
- b. They must not form part of the farm's contracted workforce.
- c. They must not work at night.
- d. They must not handle or apply agrochemicals or be in areas where they are being applied.
- e. They must not carry heavy loads nor do work that requires physical exertion unsuitable for their age.
- f. They must not work on steep slopes (more than 50% incline) or in high places (ladders, trees, roofs, towers or similar places).
- g. They must not operate or be near heavy machinery.
- h. They must not do any type of work that may affect their health or safety.
- i. They must get periodical training for the work they do.
- j. They must be under the supervision of a responsible adult in order to guarantee that they understand how to do their work safely.
- k. Transportation must be provided to and from home if workers have to travel in the dark or in conditions that put their personal safety at risk.

5.19 In those regions or countries where families traditionally harvest specific crops and where national laws do permit it, minors can participate in harvesting under the following conditions:

- a. The farm must have identified and monitor those harvest working conditions that have impacts on the health and physical and mental well-being of minors, and must take special measures to eliminate or mitigate those impacts.
- b. Harvest activities must not interfere with the minors' education obligations.
- c. Minors must not carry large or heavy (no more than 20% of a minor's body weight) loads.
- d. Minors must not work on pronounced slopes (no more than 50%), near steep cliffs or drop-offs, or on high surfaces.
- e. Minors must always be accompanied by one of their parents, a legal guardian, or an adult authorized by a parent or guardian. In the latter case, the farm must have written authorization from the minor's parents or legal guardian. Minors must not walk alone through the plantation.
- f. Minors must be remunerated in cash for their labors.
- g. The farm must take measures to reduce the participation of minors in agricultural activities. These measures must include the installation and maintenance of schools, nurseries or day care, or paying parents or other audits to care for children instead of harvesting.
- h. The farmer must ensure that everyone who participates in the harvest knows the conditions set forth in this criterion and must take the necessary measures to guarantee compliance.

Additionally, 5.17 addresses education of children:

5.17 The farm must have mechanisms to guarantee access to education for the school-age children that live on the farm. Schools established and administered by certified farms must have the necessary resources, personnel and infrastructure to be able to provide an educational experience that complies with national legal requirements.

And 5.16 addresses access to medical services:

5.16 All workers and their families must have access to medical services during working hours and in case of emergency. When legislation requires, farms must contract the services of a doctor or nurse with the necessary equipment to provide these services.

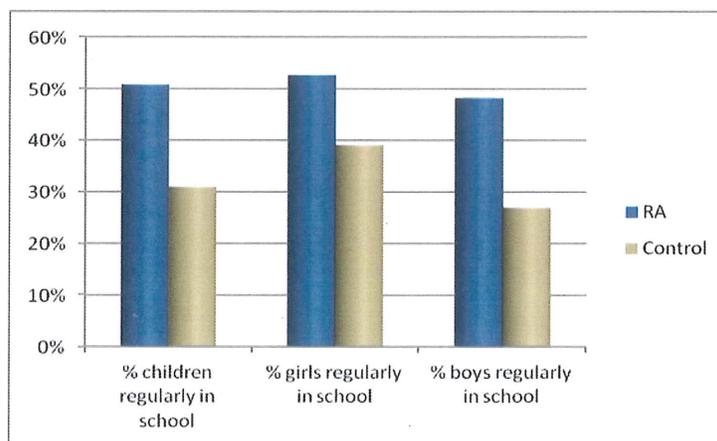
Annex 2: COSA study findings

The Sustainable Commodity Initiative is a joint initiative managed by the International Institute for Sustainable Development (IISD) and the United Nations Conference on Trade and Development (UNCTAD). It has developed a methodology for evaluating the costs and benefits of certification, known as COSA (Committee on Sustainability Assessment; www.sustainablecommodities.org/cosa).

In 2009, Rainforest Alliance partnered with COSA to conduct a study on Rainforest Alliance Certified cocoa farms in Côte d'Ivoire. The process was managed locally by Cabinet d'Etudes, Formation, Conseils, Audits (CEFCA), and enumerators from ANADER were trained to undertake the questionnaires. This first study presents a baseline, undertaken very early in the certification process. Rainforest Alliance plans to repeat the survey in 2011 to obtain a picture of the changes.

Between August and October 2009, 197 farms in Côte d'Ivoire were surveyed. Of these, 102 farms were Rainforest Alliance certified - the "treatment group" - and 95 farms were not. The uncertified farms were selected for having similar characteristics as the certified farms, and form the "control group". At the time of the sampling, the majority of the farms in the treatment group had only recently become certified (within the last two years) and some were still in the process of finalizing their certification.

Certified farms displayed a 20% higher rate of regular school attendance for children than the controls. Overall, girls revealed greater increases in school attendance on the Rainforest Alliance treatment farms than boys, although both girls and boys revealed improved school attendance rates. Children may not work on Rainforest Alliance certified farms during school hours.



COSA findings on school attendance