DIRECTORATE-GENERAL FOR EXTERNAL POLICIES

POLICY DEPARTMENT

European Parliament

ANNEX TO THE STUDY

EU development cooperation and ethical certification schemes: impact, transparency and traceability

Letters from Fairtrade International and the authors of the study

EP/EXPO/DEVE/FWC/2019-01/LOT3/R/03

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Introduction

Following the publication by the European Parliament of the study on 'EU development cooperation and ethical certification schemes: impact, transparency and traceability' in July 2020, Fairtrade International wrote to the European Parliament to say that the study contained 'incomplete, inaccurate and misleading' information. The authors of the study subsequently responded to Fairtrade's letter, writing that the report was based on 'independent research'. The authors addressed their response to the Trans European Policy Studies Association (TEPSA), the contractor for the study in question.

The European Parliament has decided to publish, in agreement with Fairtrade International and the authors of the study, the exchange of letters, providing additional arguments and information about the case, as an annex to the original study. With this complementary publication, the General Secretariat of the European Parliament seeks to provide transparency about the case and the different and divergent viewpoints presented, without taking any side in the dispute.

22 January 2021

[redacted]
European Parliament
Directorate-General for External Policies of the Union
[redacted]
www.europarl.europa.eu

Subject: Fairtrade response to and request for correction re: *EU development cooperation and ethical certification schemes: impact, transparency and traceability* (published Sept 2020, commissioned by the EP DEVE)

[redacted]

We read with interest the recently published report, *EU development cooperation and ethical certification schemes: impact, transparency and traceability*, authored by Enrique Uribe Leitz and François Ruf.

Fairtrade values research, analysis, and even criticism that highlight the challenges faced by farmers and workers in cocoa production and contribute to better livelihoods for farmers and workers.

However, we are concerned that the report cited above includes incomplete, inaccurate and misleading information about Fairtrade. Particularly as EU policy makers may use this report as the basis for decisions that will directly impact the lives of cocoa farmers, we believe it is essential to correct the record on a number of important points about the cocoa landscape, and Fairtrade specifically.

In addition, while the data chosen to include in the report seem to be inordinately related to Fairtrade to the exclusion of other schemes, the report often describes the challenges of certification in a generalized way. This could lead to assumptions that all schemes are the same in these areas, which is not the case.

Our comments concern four major areas, which are detailed in the accompanying annex:

- Sharing of confidential information for two cocoa producer organizations, with identifying information for one of the organizations
- Speculation and conclusions presented with outdated, limited, or no evidence

Fairtrade International
Bonner Talweg 177 | 53129 Bonn | Germany
Phone +49 (0) 228-949 23 0 | Fax +49 (0) 228-242 17 13
E-Mail info@fairtrade.net | www.fairtrade.net
Fairtrade Labelling Organizations International e.V. German Register of Associations, No. VR 7795

- Overly generalized statements about certification
- Inaccurate or incomplete information about Fairtrade

Three staff from Fairtrade organizations were interviewed by the researchers in April 2020. We appreciate this involvement, and openly acknowledge where there are still challenges to overcome for Fairtrade cocoa producers. However, in most cases no questions, assumptions or allegations related to the problematic points above were shared with Fairtrade interviewees at any time during the process, so that inaccuracies could be corrected or claims of fraud could be investigated according to our procedures. This represents a troubling missed opportunity if the goal of the study was to present the Development Committee with the most accurate portrayal of the certification sector in cocoa, including Fairtrade, and to benefit farmers. Still, to be clear, we would not provide a response to the report if we were confident that the information on which it is based was complete and accurate as relates to Fairtrade.

Overall, the report highlights many structural issues that must be addressed so that farmers and workers can earn decent livelihoods. Fairtrade is clear that sustainability schemes can play an important role but cannot, on their own, resolve issues such as child labour, deforestation and extreme poverty. We do not discount the report's recommendations – such as investing in research, enhancing traceability and transparency, evaluating due diligence legislation approach, leading on forest preservation approaches and regulations, and urging the European Commission to improve the availability of data about its support for certification schemes.

We agree with a central tenet of the report: that the chocolate industry lacks transparency, traceability and accountability for the problems in the industry from which it profits. We respectfully submit that this is the appropriate focus of the EU. Significant progress to address the harms caused by the current structure of trade in the jurisdiction of the EU and contributing to the GDPs of EU member states can be achieved through regulation. It is much easier for the researchers to pull apart the business plans and reports of a small farmer cooperative, and lay blame at certifications that attempt to strengthen and structure transparency of cooperatives, than it is to introduce Human and Environmental Rights Due Diligence regulation that will encompass retailers, brands and traders that also harnesses the collective power of consumption of cocoa in Europe and incorporates living income as a human right. However, none of the inequities described in the report will be fully addressed if this is not done.

In fact, Fairtrade, along with a sizeable proportion of the industry itself, has been calling for EU regulation of the cocoa sector, as an important complement to sustainability schemes. A recently published paper commissioned by Fairtrade on policy options for achieving living incomes for cocoa farmers goes further in identifying a mix of policies, both in cocoa producing countries as well as consuming countries and chocolate companies, that could lead to systemic issues being addressed at national and international levels where they can have the most impact in enabling a decent livelihood for all cocoa farmers.

Fairtrade International
Bonner Talweg 177 | 53129 Bonn | Germany
Phone +49 (0) 228-949 23 0 | Fax +49 (0) 228-242 17 13
E-Mail info@fairtrade.net | www.fairtrade.net
Fairtrade Labelling Organizations International e.V. German Register of Associations, No. VR 7795

Fairtrade remains committed to strengthening the Fairtrade system and advocating for collaborative solutions in challenging environments in the global South for the benefit of all farmers and agricultural workers. Fairtrade will continue to request fair and balanced representation of our organization and of the work we do to ensure producers' voices are heard, respected, and amplified in the supply chain.

We respectfully request the following:

- That the report is corrected to address the inaccuracies identified by Fairtrade;
- Wherever the report is published, online or offline, that the Fairtrade response is also prominently published;
- If the report is circulated to individuals, that they also be provided with Fairtrade's response via a link or other method.

We look forward to your response and follow-up actions related to this request. We stand ready for any clarification or question. Thank you in advance for your attention and consideration.

Sincerely,

Jon Walker
Senior Advisor, Cocoa
Fairtrade International
j.walker@fairtrade.net

Fairtrade International
Bonner Talweg 177 | 53129 Bonn | Germany
Phone +49 (0) 228-949 23 0 | Fax +49 (0) 228-242 17 13
E-Mail info@fairtrade.net | www.fairtrade.net
Fairtrade Labelling Organizations International e.V. German Register of Associations, No. VR 7795

Annex

Fairtrade response to details of the report *EU development cooperation and ethical certification schemes: impact, transparency and traceability*

Fairtrade International has reviewed the above report, authored by Enrique Uribe Leitz and François Ruf, and published in September 2020 as a product commissioned on behalf of the European Parliament Development Committee (EP DEVE).

We have documented the following four areas of concern in the report, and present them here with details.

1. Sharing of confidential information from two cocoa producer organizations, with ability to identify one of the organizations
2. Speculation and conclusions presented with outdated, limited, or no evidence
3. Overly generalized statements about certification
4. Inaccurate or incomplete information about Fairtrade

1. Sharing of confidential information from two cocoa producer organizations, with identifying information for one of the organizations

1.1. Confidential information published

The authors published the Fairtrade Premium Development Plans for two Fairtrade certified cocoa cooperatives. The authors reproduced the first cooperative's 2017-2018 plan in Annex I (p. 75), and two years of plans from the second cooperative, in Annex II (2017-2018, p. 76) and Annex III (2018-2019, p. 77). The second cooperative's alleged self-evaluation report from the Fairtrade Premium Development Plan from 2017-2018 is included in Table 4 (p. 46-49).

On page 44 the authors state that these documents are confidential, but obtained from disaffected employees. It is unclear whether the cooperatives gave permission or had a right of reply:

> *"These 'development plans' and 'premium budgets' are confidential and are normally kept away from researchers. Our approach consisted of conducting interviews with cooperative officials, a few of which we found out to be disappointed with various operational difficulties. In time we managed to open up the conversation a little so as to obtain some information about these 'development plans' and 'premium budgets'."*

1.2. Identification of one cooperative

In Annex II the authors disclose the identity of the second cooperative by leaving the name in the narrative section of the budget. Again, it is unclear if this was done through an oversight, or purposefully and with the consent of the cooperative.

1.3. Incorrect/incomplete data

Because the cooperative was (presumably accidentally) identified, FLOCERT can confirm that the second cooperative's Fairtrade Premium Development Plan for 2017-2018 (Annex II) and their self-evaluation (Table 4) are both different from the documents that were signed and stamped as approved by the cooperative's Annual General Meeting that FLOCERT has on file. This points to the possibility that the information was supplied based on drafts, not official and authorized final version of the content.

It is perhaps noteworthy that the authors refer to "remarkably explicit" tables (p.50) in describing the Premium use self-evaluation, with no comment on the transparency within the cooperative that this implies. The fact that these documents are required only by Fairtrade certification, demonstrate the kind of administration and recording of Premium expenditure that they bemoan is absent.

1.4. Cooperatives' certification status not checked

The second cooperative has been decertified since June 2019, due to non-compliance with several criteria of the Fairtrade Standards. They are still not certified, following the denial of their reapplication in December 2019. While the specific reasons are confidential, it is misleading to present their Fairtrade Premium Development Plan and self-evaluation as representing appropriate Premium use when they were decertified during the time period. It is possible to find all Fairtrade certified entities on FLOCERT's public website.

1.5. Conclusion and proposed remedy

The authors provide an object lesson as to why confidentiality of farmers' information should be observed: to protect the reputation of these businesses from false accusations and misinterpretation of their data. However, the inclusion of this information has provided the opportunity to clarify the level of detail that Fairtrade producer organizations plan and report.

We propose that the authors confirm that they have obtained consent from the cooperatives to include their data – including in the case of the second cooperative, the identifiable information – or remove it from the report. If the decertified cooperative agrees to their information being published, the report should make clear the cooperative is no longer Fairtrade certified.

2. Speculation and conclusions presented with outdated, limited or no evidence

While we appreciate that the authors had a very broad topic and presumably limited budget and time period, we find that at times their assertions are based on outdated, limited or no concrete evidence. Certainly there is room for contextualization, however in a research paper, more is usually expected in terms of data or observations to support what may be conditions or assumptions that are no longer valid.

Some examples are shared below.

2.1. Only Fairtrade data are used to illustrate the point of growth in certified cooperatives, yet Fairtrade actions related to the same are not included and neither is specific feedback from Fairtrade to the researchers on steps Fairtrade has taken on the increase in certified cooperatives.

The report only includes a detailed bar graph of numbers of Fairtrade producer organizations (p. 6) to illustrate that certification is expanding, which was also by extension an assumption and critique that the rapid expansion is fed by newly created cooperatives which only form in order to access certification and associated "certification rent". The researchers note that many cooperatives are poorly run and not democratically governed.

No data on other schemes are included despite the researchers acknowledging this:

> *"As an example, we see below the increase in Fairtrade certified producer organisations in Côte d'Ivoire (...). Bearing in mind that Fairtrade is not the most commonly used certification scheme (that being UTZ), this gives a good indication of the 'boom' in cooperatives in Côte d'Ivoire as a means of accessing certification systems. This is relevant for this study, since it points towards a credibility issue behind the explosion of cooperatives" (etc). (p. 16)*

The researchers were made aware, verbally and in writing, that Fairtrade has been concerned about the rate of increase in Fairtrade coops in Côte d'Ivoire in recent years that has not matched the rate of sales growth of Fairtrade cocoa. A number of changes were introduced to the Fairtrade Standard for Small-scale Producer Organizations (2019, requirement 1.1.4) and the Fairtrade Cocoa Standard (2019, requirement 1.1.1 on market potential) to bring a balance between supply and demand. In addition, as of June 2020, a cooperative can only gain new Fairtrade certification for cocoa if it has a commitment from a buyer to purchase cocoa on Fairtrade terms for a two-year period. Traders are subject to the same requirement.

The researchers did not include this in the report although it indicates a response to a critique that they used Fairtrade data only to make.

Fairtrade also introduced a requirement in 2019 clarifying that cooperative members must have made a democratic and informed decision to join Fairtrade (SPO Standard, 1.1.5).

2.2. Criticism of cooperatives' dependency on 'certification rent' (premiums), lack of information on what is being done to address it and other options

Related to 2.1. above, it is to be expected that cooperatives seek to become certified in order to increase their earnings from cocoa. In Fairtrade's system, this include the Fairtrade Premium, which is currently $240/tonne.

> *"However, if a cooperative stops receiving 'certification rent', its survival is immediately threatened, because the resultant premiums are essential for the survival of cooperatives. Cooperative dependency on certification funds calls into question certification schemes' claims to provide a 'sustainable standard'." (p. 16)*

Unfortunately, the researchers did not raise this point during interviews, as it is worthy of discussion. Broadly, Fairtrade is comfortable with the concept of Fairtrade Premiums being used to strengthen cooperatives as long as it is agreed at the cooperatives General Assembly. We agree that long-term reliance on Fairtrade Premiums for cooperative operational costs is not wise.

As part of Fairtrade's work in West Africa, Fairtrade has been monitoring the expenditure of Fairtrade Premium on cooperatives' running costs. Our published research has identified 23% of Fairtrade Premium annually is spent on running costs (Fairtrade West Africa Cocoa Programme (WACP) Monitoring Report, 2020, p. 23). Reducing operational reliance on Fairtrade Premium is part of the planned work of the WACP.

A relevant workstream for the European Union to fund could be how coops in general could fund themselves and diversify their incomes, since the margins from selling cocoa are low.

2.3. Criticism that certification increases burden on cooperatives, requiring staffing

> *"Many farmer groups are now being forced to bear the cost of new employees out of their 'regular business', which is in turn having an adverse effect on their financial situations." (p. 27)*

Indeed, a certain level of staffing is required to manage the internal control systems, which the researchers in general would seem to support as contributing to transparency and accountability to cooperatives' members.

Fairtrade Africa works with a number of cooperatives to identify trainers who provide additional support to their members. These trainers are also resourced in terms of logistics and an allowance as top-up to their salaries to enable them do this work to serve their members. In our view, this enhances service delivery at the community level at all times, and this officer becomes the closest technical person members can rely on. Fairtrade Africa gives backstopping to this trainer whenever necessary.

In addition, cooperatives do their own assessment before engaging additional staff. The number of staff depends on its total membership, their current sales (revenue) and additional projects being run within the organizations. In Fairtrade Africa's experience, cooperatives normally add staff when convinced that they have the requisite revenue to pay without having any negative effect on their finances.

2.4 . Claim that certification schemes are misrepresenting impact and/or self-commissioned research is designed to be overly positive

This claim is made several times in the report, such as:

"Even according to their more recent discussions about the 'systemic impact' that certification systems have, not much attention is being paid to the unintended and negative aspects that result from these systems. We see the root cause of this 'systemic positive evidence creation' in the way that ISEAL and its members work around fulfilment of the impacts code. (...) They have been very successful in promoting positive results." (p. 36)

"At present, the reality of producers seems far away from what consumers believe when buying UTZ/RA or Fairtrade cocoa (Lemeilleur et al., 2015; Uribe Leitz & Ruf, 2015, 2019). As elaborated in Chapter 5, for the past 10 years a dominant discourse maintained by statistical studies financed by the industry and/or certification agencies have created a rather positive image of certification and its impacts at farm level. It is now time to consider reality on the ground." (p. 45)

"The heart of the problem with cocoa certification is that the consumer is led to believe something that does not occur in practice, or merely exists on the surface. The topics of the environment, child labour or a living income are marketing mechanisms in the global north but not a 'sustainable' practice in the countries of origin. For more than 10 years, the 'virtual' has prevailed over the 'real' and certification has boomed. The stories we heard were told in politically correct terms, presenting what certification could or should have been as opposed to what it really is." (p. 56)

A number of research organizations including CEVAL, Overseas Development Institute, KIT, ICRAF, True Price, the Committee on Sustainability Assessment (COSA), GeoTraceability, CIFOR, LISIS, VU (University in Amsterdam) have conducted and are conducting independent research on Fairtrade whose conclusions and recommendations we have welcomed to improve our interventions towards empowering producers.

Most notably in recent years, we published a study that found that 58% of Fairtrade Ivorian cocoa farmers live in extreme poverty. This study provided the basis for developing a Fairtrade Living Income Reference Price for cocoa in Côte d'Ivoire.

Fairtrade International remains the most researched certification scheme, with several EU universities in Belgium, the Netherlands, Germany among others having Fairtrade as a research topic as part of its Masters and PhD studies. Again, Fairtrade welcomes this independent academic scrutiny and recommendations which inform our global plans and ongoing measures to adapt and improve our services to producer organizations. We publish our research ethics policy and research agenda on our website so that independent researchers can see where we are focusing, and where additional study may be beneficial. We also publish our Theory of Change (currently under review) so that anyone interested can see the pathways to impact that we focus on. We look forward to publishing our updated Theory of Change next year, including refinements based on an extensive mapping of 150 studies used to validate Fairtrade's impact and clarify pathways to the change we seek.

Our communications also consistently highlight the ongoing challenges such as poverty, child labour and lack of equality, and how Fairtrade contributes but is not alone solving these complex problems.

2.5. Two Premium Development Plan examples are said to represent the general situation

Continuing with the example of the Fairtrade Premium Development Plan information from point 1 above, the authors quite remarkably claim that, despite these being the only two examples to which they gained access, "*the examples selected here present an accurate and genuine illustration of the* *general situation at farm level."* (p. 44). Especially given that the reports do not even appear to be the final official versions, it is an unfortunate claim.

2.6. Presumption that differences between Fairtrade Development Plan and self-evaluation indicate fraud

The Development Plan is a budget that is approved before the season and reflects the envisaged sales based on already signed contracts for the main season (Oct-Feb) and speculation on the smaller season (April to August). One of the unfair trading practices that the Fairtrade Trader Standard tries to address is huge variance between the tonnage bought from individual coops from year to year and harvest to harvest (for instance 4.1.8, requiring at least two-year commitments). But coops certified beyond this cannot be sure of the percentage of total production that will be sold.

The conclusion that money has been misappropriated or line items deliberately underspent if the self-evaluation does not match the Development Plan, however, is unfounded. Each Fairtrade Development Plan should be checked against a report at the following General Assembly on actual expenditure **and** actual income. FLOCERT can indeed do this via Fairtrace, which auditors check prior to audits. Under-expenditure may be because sales and therefore Fairtrade Premium earnings were less than budgeted.

2.7. Specific insinuation of fraud in Fairtrade Premium use and distribution

The researchers review the Fairtrade Premium Development Plans and self-evaluation report in order to uncover inappropriate uses of the funds. The analysis comprises several pages of speculation (p. 50-54) and are worth noting in detail to illustrate incorrect assumptions.

We acknowledge that non-compliances are possible, despite West African cocoa producer organizations receiving audits about once per year on average. We take these very seriously, and invite anyone with information about possible violations of standards to report it through FLOCERT's confidential allegation mechanism for further investigation. We are not aware that the researchers did this with any of the allegations in this report, despite several oral and written requests to do so in prior years.

2.7.1. Section 7.1 on child labour (school approach and school kits, p. 50)

This section questions the purchasing of school kits rather than building schools, which, as the researchers acknowledge, requires enough students and available teachers. School kits are supplied not to all children in a community, but to children in families who cannot afford stationery to remove this barrier to attendance (the referenced document explains 200 children are beneficiaries). It is a common intervention for vulnerable children. Building classrooms closer to villages is another common child-labour related intervention. Normally this is for foundation-phase children who cannot walk to the main school, so the teacher, rather than the children, does the traveling. Older children can walk longer distances and therefore can, and do, walk to schools some distance away. But it is of course not sensible to build classrooms or schools without teachers, hence the school kits may be deemed the best use of funds in the circumstances by the cooperatives at their General Assemblies.

The official Fairtrade Premium report from the second cooperative also shows that the planned activity was not yet conducted because less than the budgeted 20.5 million XOF were paid into the Fairtrade bank account. In other words, less Premium was available than expected due to lower sales on Fairtrade terms than were expected and the activity was not yet able to be financed.

In addition, the report citing the leaked NORC report, prior to its publication, as evidence of certifications' lack of impact in reducing child labour, is inappropriately laying the responsibility for this at the feet of certifications. The NORC report, which has now been published, does not analyse the impact of certification. By contrast, the NORC report makes the case that child labour is a complex problem requiring multiple complementary solutions. The researchers have quoted a report to support their own conclusions when the report they quote does not comment on certification. This is unfortunate.

This topic comes up again a few pages later in the Discussion section, when the researchers state:

> "*if the General Assemblies could have been made to work with reasonable democratic management, a solution would have been found and after over a decade of Fairtrade premiums totalling XOF millions at farm level, some improvement should by now be visible. Unfortunately, this is not the case, leaving the farmers with cheap 'school kits' to be used as justification of premium expenses." (p. 55)*

The report ignores the examples of cooperatives that have built schools, teachers' housing and paid school or university fees for members and for children in the community. We readily agree, and publish data on an annual basis, that not all cooperatives are able to sell significant amounts of their harvest on Fairtrade terms, and therefore have fewer resources than others. However, it is misleading to claim that the only investment after decades has been "cheap 'school kits'."

2.7.2 Sections 7.4 and 7.5 on zero deforestation and agroforestry

The researchers criticize that the two examples of Fairtrade Premium Development Plans they include in the report don't include any budget lines related to zero-deforestation or reforestation / agroforestry.

Addressing deforestation is not often a line item in Premium budgets because it a broad topic well beyond the scope of individual cooperatives and often dealt with by massively funded programmes such as the Cocoa & Forests Initiative. The absence or nature of the Premium planned expenditure on deforestation does not reflect that the cooperative is unaware of or does not prioritise these issues. Replanting is also funded by traders, as mentioned in Section 7.5, providing further rationale as to why Premium funds are not always spent on this. That said, we have included some items for consultation related to deforestration and agroforestry in our current review of the Fairtrade Cocoa Standard.

In addition, the researchers note:

> *"...[A] recent tendency is for exporters and/or certification agencies to withdraw the certified status from cooperatives that are too close to a classified forest, because they receive proof that parts of the plantations encroach upon classified forests. Hence, the most frequent reaction is for one cooperative to join forces with another cooperative further away from the classified forest and share the premium." (p. 51-52)*

Indeed, encroaching on national protected lands is illegal and against the Fairtrade Standards. FLOCERT is expected to decertify cooperatives who violate these. Coops close to protected forests are not decertified for being close to the forest alone. They are decertified if their traceability system does not ensure segregation of member and non-member cocoa at delivery depot because the risk of illegal cocoa entering the certified supply chain is then too high to control.

What the researchers describe would not help to mask illegal cocoa in cooperatives. The encroaching members moving to another coop would have the same result if they do not move their farms out of the protected area. If the members who are not near or in a protected forest join another cooperative, with better traceability systems, this addresses the risk and non-compliance and is totally acceptable in our view. It is unclear what is meant by "sharing the premium", since Premium cannot be commuted to another cooperative.

2.7.3. Section 7.6 on economy of the certified cooperative

The researchers question expenditure related to organizational costs or strengthening, perhaps indicating a lack of understanding of how cooperatives function or what the Fairtrade Standards allow, which we could have clarified if asked.

2.7.3.1 Premium distributed as cash to producers

> *"Premiums to the producers are declared as XOF 65 million, so theoretically around the 25% expected. However, through multiple cross-checks, we have also discovered that very few cooperatives actually pay these premiums in full. (…) In this particular case, we note a somewhat disturbing coincidence: the amounts in the three lines 'input subsidies', 'construction of a central store' and 'employee wages' also amount to XOF 65 million. Cross-referencing this finding with statements from the former ADG, there remains a possibility that the premium was in fact used to finance all or part of these three items." (p. 52)*

The researchers have made this claim before. Ruf has been repeatedly asked, orally and in writing, to assist Fairtrade in uncovering wrongdoing by identifying the cooperatives where this has happened. All requests have either been refused or ignored.

See section 4.2 below for more detail on the claim about Premium required to be allocated along certain specified percentages.

In addition, a common error that runs through Ruf's research is that all cocoa produced (or all Premium budgeted) is due and should be received and therefore what is not reported is misappropriated. FLOCERT is able to consult its database, Fairtrace, which includes all transactions by the producer, exporter and importer, including the date of the contract. As Fairtrade standards require payment of Premium within 15 days or transfer of ownership, and in Côte d'Ivoire, exporters pay Premium on the beans to be used as Fairtrade on delivery, FLOCERT knows exactly how much Premium is due to the co-op and when for the main and smaller season. This is the amount that must be reported in at the next General Assembly against the earlier budget. Failure to account for this leads to a non-conformity as do claims on expenditure reported to the General Assembly that have not occurred in reality.

Where the members do decide on cash distribution of the Premium, receipts are mandatory and linked to volumes delivered. Farmers don't always keep their receipts and are often confused about which premium amount relates to what payment/scheme, especially if they participate in multiple brand/trader/third party schemes. This is however not a barrier to FLOCERT checking the records at delivery depot level (volumes and national price payment per farmer) and relating these to total beans delivered pre farmer and then sold as FT to realise the FT premium paid by the exporter to the coop.

If there is then a cash payment out of Premium (again, not always 25% and not always delivered to all farmers if a certain quality of cocoa was all that was used as Fairtrade), these rules of cash distribution must be documented and approved by the General Assembly and more specific questions about additional payments to farmers are verified in audit interviews.

2.7.3.2 Environmental activities

> *"In the case of the first cooperative, what is presented under the heading of strengthening the organisation (the purchase of a truck and the rental of an office) amounts to XOF 44 million or 17 % of the budget. However, under the headings 'environmental activities' and 'community activities', we find the construction of a central store, the repair of a vehicle and the salaries of employees. These curious environmental activities bring the budget for strengthening the cooperative to XOF 105 million, or 41 % of the bonus budget. It would be fascinating to systematically check who the official owners of the trucks on the car registration papers are." (p. 53)*

First, cooperative capacity strengthening is allowable use of Fairtrade Premium. Without knowing the cooperative it is difficult to comment on this, as context is so important in making a judgement on whether an investment is valid or not.

Second, building a central storage unit under the environmental activities is in line with the Fairtrade Standard requirement 3.2.9, that requires a central storage unit for hazardous materials. The alternative, illegal and non-compliant practice, is for harmful chemicals to be stored in homes where cooking and sleeping take place. It is therefore an important community and environmental protection practice to build a store.

Third, Environmental management is done by a salaried employee who uses a maintained vehicle to monitor the environment.

Fourth, indeed FLOCERT does check vehicle registrations as part of audits.

Fifth, as the researchers were informed both during the interview and as a follow up in writing, the Fairtrade Standard for SPO, requirement 4.1.6, any cooperative in receipt of Fairtrade Premium of €/$150,000 or more must have an independent financial audit of their Premium expenditure.

We object to the use of language that seems to be based on conjecture, for example, “It would be fascinating to systematically check who the official owners of the trucks on the car registration papers are”; “A distribution on 8 March 2019 is very late and seems to have been organised in a hurry to reduce criticism of the certification audit.” both p. 53). We could have provided context to these issues, or at least the text could be more responsibly presented as a point of question, rather than airing provocative hunches. As mentioned Ruf has been repeatedly asked, orally and in writing, to assist Fairtrade in uncovering wrongdoing by identifying the cooperatives where he believes this has happened. All requests have either been refused or ignored.

2.7.3.3 Chemical inputs

> *“In terms of chemical inputs which are supposed to contribute to sustainable cocoa, the only entry is that of ‘fertiliser subsidies’ for XOF 13 million, far from the expected 25% or XOF 65 million. But even this amount does not seem correct, since again in our 2017 study we mentioned that many cooperatives pay for fertiliser on credit against the certification premium, but are then reimbursed by producers, without the corresponding entries in official returns necessarily being written down. (…) The budget is for the 2017/18 campaign and the expenditure is posted for November 2018, hence for the following year. This is a hint about two campaigns to reduce declared expenses and reallocate them elsewhere.” (p. 53)*

Fairtrade Premium Development Plans can include that the Premium be used to purchase chemical inputs to be distributed for free to coop members. Unfortunately, the quantity sometimes doesn’t cover all the producer needs, so in addition, the cooperative may pay (pre finance) for the inputs. However, it is important to acknowledge Fairtrade is aware that premium fraud in relation to inputs is possible and has found and acted upon such fraud during audit, see 2.7.5.

In addition, the timing of the report in November 2018 for the season Oct 2017 to Sept 2018 is in line with the main cocoa harvest season beginning in October (which presumably the researchers know). This is therefore not necessarily suspiciously covering two years, but rather only one year.

2.7.3.4 Membership fees

> *“The cooperative’s empowerment line is well-funded but has very little to do with empowerment, quite the contrary. It is about paying the membership fees to all ‘partners’: the Fairtrade Africa membership fee, (etc). At the same time, if the audit is paid for by the cooperative, it is understandable that some audits are comprehensive of the flaws of the cooperative or in other words, audits are not stringent. However, if the salaries and offices of the cooperative are paid for from the certification rents, it is because the cooperative is dependent on the certification and is, therefore, not truly viable as a cooperative.” (p. 53-54)*

Most development practitioners would argue that membership of farmer organizations for the purposes of advocacy, training, support and representation is an empowering function. The researchers do not explain why these are not empowering; possibly they are not aware of the activities of these membership organizations.

In addition, as clarified above, the cooperative owns the certification and is therefore appropriately responsible for paying the certification fee (rather than, for instance, a trader or other third party). There are no audit fees paid to the auditor under Fairtrade. Exclusively to FLOCERT's practise, to our knowledge, even the costs of the audit (i.e. not the fee but the disbursements for travel and accommodation) are included in the annual certification fee to FLOCERT who reimburses the auditor. All other certification bodies recover costs directly from the coop.

The researchers seem to present a no-win situation for cooperatives – either they own their own certification and have to pay associated fees, or other parties do so and can unduly control the cooperative. The cooperative is always the owner of the Fairtrade certificate in line with Fairtrade's empowerment principles.

In general, it would be worth discussing the constant passing of the cost responsibility for sustainability down the supply chain. We would advocate for this not to be replicated in the proposed EU legislation and the African Regional Standard, which currently have adopted ISO-like documentation and administration requirements for small farmer cooperatives. Such requirements require resources that other supply chain actors must be prepared to support, rather than placed as a burden on cooperatives alone.

2.7.3.5 Audit activities in San Pedro (by the ocean)

> *"In this case, the audit is carried out in San Pedro (by the ocean) and the cooperative pays inspectors to have its certificate renewed, clearly the absence of integrity in the certification system (to the extent of corruption)." (p. 54)*

The head office of this second cooperative, like many, is in San Pedro. Their members' farms are dispersed into 16 sections in the west near protected areas around the villages of Grabo and Mahino. These are very difficult to access and have poor infrastructure which is why the head office would be at San Pedro, which is the main industrial area for cocoa and port in Côte d'Ivoire.

If it is correct that the auditor commenced an audit in San Pedro at the head office, as would normally be the case and where all the documentation would be held, Board members would indeed need to travel there from the 16 sections for parts of the audit. If we have correctly identified this cooperative, records show that the auditor then travelled to sampled sections for the site visits.

2.7.4 Non-members receiving Premium, while some members receive no Premium

In their proposals section, the researchers introduce another claim that ‘premium’ is distributed inappropriately:

> *“The quota value and its period of application result from exporters’ decisions and usually apply only for a short period during November-December. This generates a structural dysfunction of certification. (...) Thus, eventually non-certified farmers can sometimes receive a small part of the certification premium. The cooperative then has to adjust the paperwork to assign non-member weights to members while giving away only part of the premium, even on what it actually delivered. Our studies show that, on average, the planter receives only half of what he is owed. Entire villages are not even aware that they are ‘certified’ and as a consequence receive nothing.” (p. 57, section 8.1.1)*

This is an example of the researchers not being clear about what scheme and what premium is being referenced. However, we include it here since it adds to other allegations made about Fairtrade Premium and again, the researchers did not share any allegations with Fairtrade or FLOCERT so that any suspected fraud or wrongdoing could be investigated.

2.7.5 Additional comments on the potential for fraud

There is no doubt that within certified cooperatives imperfect budgeting and reporting on Fairtrade Premium and planning can occur. In cocoa in West Africa, budgeting remains uncertain due to the volatile procurement practices of traders. In addition, we have found non-conformities where Board members pass off payments, for inputs for instance, as premium expenditure to the General Assembly, but then recover this separately as loans to producers and deduct this from other payments to these producers. Members who are aware of their rights under Fairtrade and participate in General Assembly and decision-making raise these concerns at audits, to Fairtrade Africa and through allegations. Sometimes, auditors pick them up independent of member reporting, especially in unannounced audits.

There are also unscrupulous consultants that “make paper” for cooperatives, producing reports that have no relation to what has occurred in practice. Because auditors review invoices and bank statements and require original records of reports and minutes of meetings, and cross-verify the contents with members in interviews, these are quickly picked up and most cooperatives that remain certified eliminate the use of consultants and trader representatives (ADG) managing their Fairtrade certification for that reason.

Difficulties with electronic payments to members (i.e. cash distribution reliant on receipt books and manual records) can make tracking of cash payments over and above the national price difficult. Historical trader practices of recovering the cost of unsolicited inputs allows non-transparency about deductions from payments to producers. A lack of democratic and participatory management of agricultural cooperatives and high levels of dependence on Board members and/or consultants to manage the business allows for abuses of power where cooperatives are new or not mature in their processes and participatory practices.

However, the Fairtrade Premium Development Plan budgets and reports are part of structural solutions to address these areas of historical and structural disempowerment of producers, <u>not</u> the source of them. The structures of certification schemes do not claim to resolve the weaknesses in the cocoa industry as a whole, but they also cannot be blamed for these.

As mentioned many times before in this report, Ruf has been repeatedly asked, orally and in writing, to assist Fairtrade in uncovering wrongdoing by identifying the cooperatives where he believes this has happened. All requests have either been refused or ignored. The request remains open.

3. Overly generalized statements about certification

Understanding that the researchers perhaps had limited time to fully detail all the differences in various certification schemes, they nonetheless often present certifications as monolithic. This causes readers to infer that the practices or problems described are universal, which is not always the case. Here we outline some examples.

3.1 Traders or other entities "control" the certification

This assertion is incorrect. Once again, dialogue from the researchers of their concerns prior to publication could have resolved this basic misunderstanding of Fairtrade by the researchers. Cooperatives own the Fairtrade certification. However, the inaccuracy is repeated many times, including:

- Suppliers and small holders in cocoa are implementers of the standard (p.19)
- Discusses the role of Purchasing Clerks in Ghana and their importance for certification. The researchers claim Purchasing Clerks convince individual farmers to join certification. (p. 21)
- Purchasing clerk is responsible for the payment of premium to farmers in Ghana (p. 23)
- Managing the 'farmers group' and complying with certification requirements at all other levels is the responsibility of the LBC (or the organisation behind the certification projects) (p. 22)
- The ADG can be paid directly by the traders in which case there is no cost to the group but under this arrangement group management has little influence or control over the ADGs work. Conversely if the ADGs report directly to the group's management their costs have to be borne by the group. (p. 25)
- Traders manage the group certificate (p. 25)
- Groups are bound to one trader for accessing the certified beans market in others words there are no free trade of certified beans at group level. Groups can sell their certified beans only to the project partner. The trader has exclusivity. (p. 25)
- Claim that 'traitants' or 'libanese' (village level aggregators of cocoa in a warehouse) actually hold the certification of a cocoa group (p. 26)
- "Furthermore, the fact that there is no 'free-trade' of certified cocoa, but that certain quotas are being defined by traders, who also 'own' the certificates does not seem to present the best arrangement." (p. 39)

These critiques may in some cases have relevancy to other schemes, including Rainforest Alliance/UTZ, but not Fairtrade. This is not apparent to a reader.

Producer organizations (cooperatives) are certified entities and control their own certification. For instance, in Ghana, only cooperatives hold the certificate unlike other schemes where Licensed Buying Companies are allowed to hold the certificate.

However, the researchers do touch on a relevant point that, in general, traders do hold a large amount of power in relation to the distribution of sales contracts and certified sales contracts.

3.2. Audits are compromised for a variety of reasons (e.g., auditors are freelancers, management chooses interviewees, etc)

This assertion is incorrect. Once again dialogue from the researchers of their concerns prior to publication could have resolved this basic misunderstanding of Fairtrade by the researchers.

We consider the failure of the researchers to identify the difference in certifications' approaches to certification bodies as a critical gap in the research, given the implications for trustworthiness of audits and certification status.

Some examples from the report:

- The researchers claim that auditors are freelancers and infers are consequently compromised through a "good deal of pressure" as a result of the producer group hiring the certification body. (p.19)
- "In most cases, a [certification body] is chosen by the exporter. This puts an unavoidable implicit pressure on the auditor, as it is in their interest to be 'less than severe' in order to qualify for (lucrative) contract renewal the following year" (p. 20)
- Coops only present farmers for interview by the CB who have been prepared for audit (p. 20)
- "That being said, the cooperative management is in itself the 'victim' of structural defects within the certification schemes criteria. For example, on environmental and ethical criteria, the cooperative management is well aware that the industry knows it cannot be audited and thus chooses its own auditing firms. This amounts to giving blank cheques to individuals who may not behave completely honestly." (p. 55)

FLOCERT is the single certifier to all producers globally in Fairtrade. There is no choice between certification bodies unlike other schemes.

FLOCERT holds the ISO 17065 accreditation which ensures autonomous, transparent and independent certification decisions. FLOCERT is audited against this annually by the German institute for accreditation, the DAkkS. The ISO 17065 is the globally accepted accreditation norm for certification bodies.

No supply chain actor, including producers, has a say in the choice of auditors or staff involved in an audit evaluation of Fairtrade. Auditors are rotated as per FLOCERT staff decisions and they are employed regularly regardless of the results of an audit. There is a thorough conflict of interest, evaluation and competence management system which is ISO 17065 compliance and regarded as best practice by Dakks.

Auditors are experts in their field. FLOCERT operates a comprehensive competence management and maintenance process for all auditors and staff, including onsite and offsite training modules, annual report evaluations, feedback cycles, onsite auditor observation and performance reviews. This is a cornerstone of good practice in quality management at audit level.

Auditors are also conscious of the elements in Fairtrade that carry the highest risk for non-conformities. Auditors regularly receive training on identification and responses required to mitigate those risks and are kept updated about recent trends in agricultural technologies or new Standards. FLOCERT auditors are monitored closely and their audit findings are evaluated by two more FLOCERT personnel. Moreover, there are strict rules in place to ensure impartiality, and auditors are bound to FLOCERT's Code of Conduct.

The FLOCERT auditor chooses the farmers and workers to interview and informs the cooperative about this choice onsite, not the cooperative. The auditor may also focus on risk factors such as members who seem to have unusually big farms compared to the average farm size, those located close to a protected area or water sources like rivers, close to habitats, schools, etc. The auditor always visits new farms. This allows to check, for example, if the farm is not a former protected area which has been transformed into farming land. Given that FLOCERT auditors have multiple years of experience, and their training, they can see through stage management and scrupulously maintain freedom from management influences.

In addition, FLOCERT also has a procedure in place allowing for the easy reporting of allegations and complaints. This can be done by any party, including but not limited to a Fairtrade organization, a non-governmental organization, a labour union, a worker, or a member of the media or public, via FLOCERT's website. For 2018, we received 19 complaints on auditor performance (out of 3,001 audits our auditors carried out), which were all investigated by FLOCERT's Credibility Assurance Unit, and in one case resulted in follow-up action. The correct handling of complaints by FLOCERT is checked by DAkkS.

3.3. Claim that certifications have led to consequences for human safety and death

The researchers claim that:

> *"…[T]here are always cases of large, well-known [certification bodies] drawing negative press comments due to a certificate having been unjustifiably issued with important consequences for the safety of humans (sometimes resulting in death) and the environment." (p. 20)*

There is no further support in the report for this statement, aside from perhaps the (also unsupported) claim that certification can lead to increased use of pesticides and fungicides, rather than reduced, and associated risks to farmers' health over the long term (p. 21).

In terms of pesticide or other chemical use, the researchers also claim that "[Certification] may include various different components, but normally covers the creation (and/or support) of farmer groups, training of farmers and input provision (mainly fertilisers)." (p. 20). This is an error by the authors using outdated information: It refers to brand and trader schemes providing inputs as part of the GAP drives to increase yields in their sustainability schemes. It does not exist as a requirement in Fairtrade and has been banned in Côte d'Ivoire under sustainable cocoa regulations by the CCC since 2018 and no standard requires it.

3.3. Farmer members have limited participation in cooperatives

The researchers state that "member participation in coops takes place via the General Assembly if at all." (p. 17).

Since 2017, the Fairtrade Cocoa Standard (requirement 3.1.5) makes it mandatory for the coop to sign an agreement with their members that:

- Specifies the rights and obligations of each party in relation to Fairtrade certification.
- Includes at a minimum, details which describe: commitment from both the member and the cooperative to comply with Fairtrade Standards, and permission from the member for the cooperative to collect, store and share their data.

In Fairtrade Africa's experience, members do exercise these rights including electing of executives, contributing on decisions at meetings and General Assemblies especially at the society level where members' participation in the activities of the cooperative is very high. At the union level (a producer organization consisting of cooperatives as members), the members at the society level give their power to their delegates to represent them at the union level to actively participate in the decision-making processes which normally affects the entire organization.

3.4. Other specific standards requirements that do not apply to Fairtrade

Examples include:

- Farmers should dig holes for composting cocoa husks annually. Less than 1% of farmers do it so auditors do not audit. (p. 21)
- 'Side selling' farmers are restricted from selling outside the group due to traceability and mass balance (p. 21, note 6)
- Premium reflected the beans quality (p. 25)
- "[A] quota has now been introduced and hence there is a maximum amount of certified cocoa that can be delivered by each group, which is very easily reached." (p. 25)

- Exporters have initiated seedling distribution programmes which are embedded as part of the overall certification programme. (p. 52)

Again, these practices are not required by Fairtrade, although they may be by other schemes. The researchers have not defined to which scheme their accusations relate, meaning the reader is misled.

3.5 Certifications provide limited support to farmers

- “The most important part of certification knowledge transmission - teaching farmers -, is being left to an actor (normally a lead farmer) who has many other things to do (he is a cocoa farmer himself) and little incentive to excel in this training role.” (p. 26)
- NGOs from origin countries are not present in service provision of certification-related activities. (p. 18)

Fairtrade Africa is an NGO and member organization of Fairtrade with a mission to support Fairtrade certified producer organizations in Africa and the Middle East. They have a team (“network”) based in West Africa to provide services to farmers in Ghana and Côte d’Ivoire.

Fairtrade Africa runs the Fairtrade West Africa Cocoa Programme (WACP). Training in the WACP centers on compliance with standards and beyond standards on governance, financial management, coop member engagement, support for General Assemblies, and more. In addition to certification and governance topics, trainings also cover child rights and child labour monitoring and remediation; gender quality; good agricultural practices; climate adaption; and others depending on the identified needs of the cooperatives. In 2019 farmers and cooperative management attended 34,419 trainings and events with Fairtrade staff. We are well aware that this is too low number in comparison to the total number of Fairtrade certified farmers. We would point out Fairtrade covers costs of attendees when they need to travel and stay overnight.

Fairtrade Africa also provides year-long specialised training through the Women's School of Leadership for cocoa farmers in Côte d’Ivoire.

Fairtrade Africa employs their own team of trainers. There is a programme of train the trainers in the cooperatives, which is relatively new. We have focused on this project as we recognised that cascading of training via the cooperatives to individual farmers could not be relied on without extra support. As mentioned above, Fairtrade Africa identifies potential trainers amongst the cooperative staff, provides funding for logistics and an allowance as top-up to their salaries to enable them do this work to serve their members, and provides regular support and backstopping.

3.6 Proposals by the researchers do not account for the complexity of the situation nor the diverse approaches of different schemes

While many of the proposals from the researchers are interesting, we feel they do not adequately reflect the full complexities, changes to regulations, or what is specific to certain schemes. Here are some examples.

8.1.1 to 8.1.5 relate only to UTZ as Fairtrade does not work with quotas linked to yield estimates and certified volumes in the same way but on actual transactions recorded and confirmed by transaction partners including the exporter. This should be made clear in the report.

8.2. relates to RA's approach to enclaves. FLOCERT took the opposite approach, regarding these as protected forests. Land title in Côte d'Ivoire is a very complex issue and the migration policy was a strong driver for the civil war a decade ago. It remains contentious in the current elections in Côte d'Ivoire. Therefore, land registration is by no means a strategy for private companies and certifications to take on but one to be resolved by government, being political in nature. This should be made clear in the report.

8.3 Côte d'Ivoire has classified forests (forêt classée) parks and reserves, all of which are protected areas. We are not aware of areas that were formerly protected and are no longer other than the enclaves referred to within forêt classée where limited economic activity can take place, including agroforesty and cocoa production. However, special permits are needed for this and many farmers operating in these areas do not have these or their probity is in question.

Since the Ivorian legislation on sustainable cocoa was passed in July 2018, and Fairtrade has incorporated it into the Cocoa Standard, FLOCERT adopts a strict interpretation that no members may farm in a protected area including enclave, unless these permissions can be provided and cross-verified with the authorities. A case in point: the previously mentioned cooperative with dispersed members in and around protected areas must be able to show a robust traceability and segregation system. This is almost impossible to achieve and the report is right that that cocoa will reach the ports - but it will not reach the ports as Fairtrade via a certified cooperative, because these are decertified from Fairtrade for failure to show exclusion of such cocoa. This should be acknowledged in the report.

8.4 and 8.5 focus on forced increasing of inputs and yields and GAP requirements that are absent from Fairtrade requirements and present in Rainforest Alliance, UTZ and trader-led sustainability programmes. This should be made clear in the report.

Section 8.5 lists a number of specific certification criteria including requiring drying on raffia palm, and building compost pits from pod shells, which are not possible and therefore "not respected". But despite this, the coops are recertified, according to the researchers. "One must conclude, therefore, that in the case of agricultural practices, this is another example of certification in the virtual world." (p. 62-63). Neither of these are requirements of Fairtrade certification. We note, however, that drying on raised raffia mats is a requirement by Ghana's cocoa regulatory agency (COCOBOD). This should be made clear in the report.

8.9 The Indonesian example is indeed one where UTZ has received some of the more drastic criticism. It is not clear what is to be learned from this other than a warning against imposing any assumption of a better way to farm on farmers. The researchers include a critique that in Indonesia, premiums were not useful to help combat cocoa pod borer pest which contributed to a failure of cocoa farming there. The researchers liken this to the situation with swollen shoot disease in West Africa.

In fact, swollen shoot disease is a national issue. For example, in Ghana, the Cocoa Health and Extension of Division of Ghana, in an attempt to fight this disease, is not dealing with only certified farmers but rather all farmers within an affected district. COCOBOD is the only organization allowed to deal with the treatment of swollen shoot disease virus. This means that even if cooperatives have the capacity (financial resources), they cannot on their own deal with the problem. Citing this example as a failure for certification is quite unfortunate.

4. Inaccurate or incomplete information about Fairtrade

While some of the examples above also demonstrate a lack of knowledge about Fairtrade, there are some additional instances where Fairtrade is misrepresented. We believe it is important to provide clarification here.

4.1. Mischaracterization of the Fairtrade system, omission of Fairtrade Producer Networks,

Fairtrade International and the Fairtrade system are sometimes confused with other "fair trade" entities. For instance, out of the list on p. 31-32, the Lidl "Fairglobe" label, the World Fair Trade Organization (WFTO), the German Forum Fairer Handel, Fair Trade USA, and SPP are not part of the Fairtrade system. In some cases, Fairtrade International or its members may partner with these other entities (e.g. Fairtrade Germany participates in the Forum Fairer Handel and Fairtrade International and WFTO co-funds the Fair Trade Advocacy Office). Fairtrade USA left the system in 2011; our US member is Fairtrade America.

Brands that source and label their products as Fairtrade are not part of the system in terms of membership. The Fair Trade Advocacy Office is, likewise, not a member of our system, but rather a legally-independent foundation advocating for "fair trade" principles, created through a joint initiative of Fairtrade International WFTO and WFTO-Europe.

It is unfortunate that the researchers do not include or recognize the Fairtrade Producer Networks, as they are in fact members of the Fairtrade system. The researchers note the Latin American producer network, CLAC, only as "bundling Latin American producers" (p. 32). In fact, the three Fairtrade Producer Networks perform a key role in supporting producers through training and services. As non-profits, along with Fairtrade International, they are committed to a development mission. They are funded from licensing fees, as well as specific grant funding to implement projects. Fairtrade International publishes financials every year in our annual reports, including the proportion of budget that is passed directly through to the Producer Networks. In 2019, as in 2018, this was 41%.

The Fairtrade Access Fund (mentioned on p. 33) is a separate legal entity, managed by Incofin, that provides microfinance funding directly to producer organizations. Fairtrade International receives no funding from the Fairtrade Access Fund. Fairtrade International is one of the Fund's sponsors and is represented on the Fund's Board. See more details here: http://incofinfaf.com/about-us/.

The researchers took issue with the funding received by Fairtrade International from the EC (mentioned also on p. 68, "During this research we were not able to obtain firm information about the funds provided by the European Commission to the Fairtrade movement"). In fact, Fairtrade International provides full disclosure of its grants from the EC on our website, and these funds are audited and reported in our annual reports. In 2019, the EC funding granted to Fairtrade in relation to Fairtrade's annual income was approximately 12%.

4.2 Fairtrade requires a certain allocation of Premium expenditure, now or in the past

Although the researchers claim to have been told this by cooperative managers, there is no requirement for how the Fairtrade Premium must be allocated or spent (outside of the requirement to have an annual Fairtrade Development Plan approved at the General Assembly), nor were there any such requirements in the past.

> *"(…) [M]anagers from around 40 cooperatives told us that they had made Fairtrade evolve by making its certification scheme accept a wider use of the premium. (…) Several cooperative managers shared with us the following breakdown of the Fairtrade Premium budget's now recognised and accepted allocation (Francois Ruf et al., 2018): A. 25 % for the management/equipment of the cooperative. B. 25 % individual premiums for planters. C. 25 % for 'sustainable cocoa', implying fertilisers and phytosanitary products. D. 25 % for social investments. These changes to premium distribution rules are now reflected in amendments to the standard(s) introduced by Fairtrade during July 2019. While it is true that producer organisations feel empowered by having the right to manage the premium funds responsibly, it is questionable whether or not the introduction of a 'Surveillance committee' within the cooperative structure will lead to any systemic change in the way cooperatives are managed today." (p. 52)*
>
> *"In the specific case of Fairtrade, its original form of allocating 100% of the premium to village infrastructure carried some purpose and visibility." (p. 55)*

Fairtrade has always envisioned the Premium to be subject to the control of the cooperative and its farmer members, and the Standards have reflected that. There has never been a requirement that any specified level of Fairtrade Premium be spent on community projects, much less 100% of it.

It is correct that some changes were made in 2018 and 2019.

- Fairtrade interviewees informed the researchers of the following change in writing: A new requirement introduced to the Fairtrade Standard for Small-scale Producer Organizations (4.1.1) in 2019 is that a needs assessment process be conducted to inform the Fairtrade Development Plan.

- Fairtrade introduced a requirement in 2018 to the Fairtrade Cocoa Standard (4.6.1 Premium planning) stating that cooperatives should "discuss if investing the Fairtrade Premium in activities that increase quality and productivity would help your members to have more secure incomes," and present the results of this discussion to the General Assembly before approving the Fairtrade Development Plan. The guidance to this requirement states: "Fairtrade International recommends prioritizing productivity and quality initiatives when planning for the use of the Fairtrade Premium, but recognizes that producer organizations are totally free to choose. You are encouraged to use at least 25% of the value of the Fairtrade Premium for productivity and quality improvement activities."

In practice, Fairtrade Africa proposes that coops consider spreading the allocation of Premiums across the mentioned four categories of disbursement based on the cooperative's needs. However, the final decision is always made by the cooperative at the General Assembly.

We annually publish the data on Fairtrade Premium use by product. In 2018, cocoa producers' Fairtrade Premium earnings were €44.45 million. This was spent on (broadly):

- Services for farmer members: 46%
- Investment in producer organizations: 44%
- Services for communities: 10%
- Other: 1%

The text from page 52 of the report quoted above dismisses the introduction to the SPO Standard in 2019 of a Surveillance Committee requirement (4.2.11) as not likely to lead to any change. This is another example of the researchers presenting opinion disguised as objective observation that seems to suit a desired narrative.

4.3 Misuse of a research finding as a critique of certification

The researchers criticize the lack of transparency by certification schemes as a justification for their "quasi-private detective techniques". They then go on to state:

> *"To give an example of the extent of the lack of transparency and double counting taking place in the cocoa sector when it comes to certification, recent reports in confectionary news (Myers, 2020) stated that a study by Mondelez and Fairtrade revealed that sustainability initiatives had a considerable overlap since they added up to 2.8 million farmers being 'reached', when estimates numbers of farmers in Ghana and Côte d'Ivoire only add up to 2 million." (p. 56)*

The report cited intends to illustrate that multiple programmes – whether certification or otherwise – reach some of the same farmers. This is a challenge of any activity in the development sector and if anything, a challenge of coordination and efficiency that should be addressed. It is not, as the researchers state, an illustration of the lack of transparency of certification schemes. On the contrary, that very study is an example of transparency and action on the part of some entities in the sector (in this case Fairtrade and Mondelez) to keep the discussion of impact at the forefront.

4.4 Omission of Fairtrade programmes that address researchers' proposals

The researchers propose "support of certification to the family unit" to address the risk inherent in cocoa farming and improve sustainability.

"Instead of increasing the risks of farmers by pushing them into credit, chemical inputs and cocoa specialisation, certification should focus on reducing the risks of family farming. This is the first factor of 'sustainability'. The first step is to detach oneself from the interests of multinational cocoa companies and focus on the other 'speculations' of cocoa producers. (...) The consolidation of women's incomes, in market gardening, food crops, but also in cocoa, particularly in the post-harvest phase, could be the subject of specific certification programmes." (p. 64)

Fairtrade Africa includes such activities through its West Africa Cocoa Programme and the Women's School of Leadership, which just graduated its second cohort of participants in July 2020. The researchers did not raise this topic during interviews: another missed opportunity to try to understand the work of Fairtrade. Relevant publications and content are available on the Fairtrade International and Fairtrade Africa websites. We agree; such programmes are an important component of supporting stronger organizations and farmers, especially where they draw on producers' own feedback and target their own priorities.

Then the researchers state:

"The living income discussion so emphasised by the ISEAL community, and now supported by a handful of European countries, tries to move the discussion in this direction. However, whether or not this approach will yield any results needs to be considered in a few years' time. Proper monitoring should be implemented at the early stages of the project in order to avoid its living income discussion ending up as a time-consuming exercise with little impact." (p. 64)

We also agree with this, and could have informed the researchers about our Ivorian cocoa household income study, the follow up to the 2018 study mentioned above (see section 2.4). The intent is precisely to measure progress from the last three years, including increases in Fairtrade Minimum Price and Premium. Furthermore, where Fairtrade is developing pilot projects incorporating Living Income Reference Prices, baseline monitoring and planned evaluation are incorporated into the projects.

4.5 Unfounded assertion that the Fairtrade Minimum Price was not respected

In the context of a recommendation that the European Parliament fund independent evaluation and impact research, the researchers make a puzzling claim that the Fairtrade Minimum Price was "never respected" when it was above the official government price.

"Another example, specific to Fairtrade, is about their recent announced changes, especially regarding the minimum price. Until 2018, the minimum price was most of the time meaningless, below the official farmgate price. During the brief periods when it was above, it was never respected, neither by cooperatives nor by cocoa companies, possibly both. Farmers never benefitted from this premium (Ruf et al 2018)." (p. 67)

Fairtrade contracts and payments are audited by FLOCERT in order to verify that the Fairtrade

Minimum Price and Premium are paid to cocoa cooperatives.

Every sale of a Fairtrade product by a certified entity is registered on Fairtrace (since 2019) and before that on FLOTIS (since 2016). These sales are audited at producer, exporter and importer level. In instances where the fixed and published Fairtrade Premium and Fairtrade Minimum price/kg has not been paid, the responsible importer would be suspended until this is done and decertified if not corrected within a short period of time and the buyer alerted. Therefore, we can confidently say that the Fairtrade Minimum Price and Fairtrade Premium are paid on all volumes bought and sold as such by certified entities all the way through the chain.

The researchers seem to expect that all cocoa produced on certified farms is eventually sold under the label. This is, unfortunately, far from the truth. Whilst the farmer in Côte d'Ivoire always gets the national farm gate price and the farming organization always gets any positive difference between the national FOB Guarantee and the Fairtrade Minimum Price, this and the Fairtrade Premium would only be paid on the equivalent bean volume actually sold by the exporter as Fairtrade, not the total delivered by each farmer and far from the total produced. This error runs through the research where it is assumed the fraud or the transporters or other middle men appropriate these "missing" funds. The reality is that they have not been paid because they were never due.

If this were not the case, the trader would be suspended and ultimately decertified. So it is not clear what this assertion means. The researchers never shared any evidence of Fairtrade Minimum Price or Premium not being properly paid.

As for farmers not benefitting from "this premium", presumably the researchers refer to the difference between the Fairtrade Minimum Price and the Ivorian government price at FOB. It is true that cooperatives chose how to distribute the excess price to their members. However, in 2019, we updated the Fairtrade Cocoa Standard to require that the full value of the price differential reaches farmers. The researchers were informed of this, and detailed training documents that Fairtrade Africa has used with cooperatives were also shared with the researchers.

The study goes on to say:

> *"In 2019, Fairtrade raised the minimum price and claimed that it was going to be respected. Payments to farmers by cooperatives are expected in 2020 (after our survey). In addition, Fairtrade also announced a simultaneous increase of the premium. This looks like potential major changes but would require a specific in-depth and independent appraisal at the end of 2020 to claim any change in current practices and hence positive impact." (p. 67)*

The higher prices took effect on 1 October 2019, in time for the main harvest. Payments to farmers by cooperatives were already made and reported in Feb 2020 for the quarter following the price increase (Oct-Dec 2019).

We will be analyzing the impact of the price increase throughout 2020. We can already confirm that producer organizations' sales fell during the Oct-Dec 2019 quarter in Côte d'Ivoire by about 10%, although with the price increase, revenue and Premium increased on the whole. We attribute the decline in sales to the Fairtrade Minimum Price and Premium increase, and to the uncertainty that traders may have had in holding Fairtrade cocoa stock if they were unsure about buyers’ future commitments. However, it does require further analysis which we will undertake.

10 February 2021

Trans European Policy Studies Association (TEPSA)
Rue d'Egmont 11, Brussels

[redacted]

Subject: Letter from FairTrade International responding to and requesting correction of EP Study on 'EU development cooperation and ethical certification schemes: impact, transparency and traceability'

[redacted]

We have well received the letter sent by Fairtrade International to [redacted] dating the 22 January 2021.

Our first reaction is our surprise to see that our report has triggered 21 pages of comments. As researchers, we find quite interesting that Fairtrade has taken so much time time to do this image-cleaning exercise.

Our second reaction is to remind that this report is the output of independent research based on facts we gathered and on field observations. We understand that Fairtrade disagrees with some aspects of the methods and the analysis. However, by deontology we refuse any major changes in the report. Notwithstanding, we see the need to clarify the following three points:

- Anonymizing the name of the cooperative, which was accidentally mentioned in the annex, should be corrected. This was clearly a small mistake from our side. We do not quote personal sources without the proper referencing and/or permission.
- Fairtrade clarifies that this coop has lost it certified status in 2019. From our point of view, it does not change anything the picture. Since the cooperative has been certified for several years and since it could re-gain its certified status soon. The point of the study is to highlight that cooperatives are put in a structural position to 'play' with certification and this fact should be scrutinized.
- In our study, we could probably be clearer about the focus the EU- tender gave to the FT system; however, we explicitly refer to 'certification systems in the cocoa sector' and hence the study is not exclusively on Fairtrade. Hence, if the reader has only the Fairtrade system in mind -as we understand the Fairtrade letter- some topics might seem inaccurate (e.g.: auditor/CB selection process, 3.5, 3.5, 3.6, etc.). The report should be read (was intended) as a generalization of certifications schemes operating in cocoa and not an exclusive Fairtrade critique.

We are also amazed about the constant mentioning that we (especially Ruf, which looks like a personal attack?) should have reported wrongdoings or fraud suspensions to Fairtrade, in order for Fairtrade to investigate these. This is unacceptable. It is not the researchers' jobs to report such claims. We understand that Fairtrade assumes that their system (i.e.: complaints mechanism) works perfectly; however, there seems to be little incentive to report fraud suspensions since not enough people are 'whistle-blowing' the wrongdoers....

Interestingly, Fairtrade already asked this to Dr. Ruf in 2018 after several wrongdoings were identified (Report for the EU commission in 2018)[1]. The reply was already clear. By deontology, researchers are not denouncing those who put themselves at risk and break the 'omerta'. Moreover, Fairtrade refuses the fact that most wrongdoings of the certification system (again, not only Fairtrade, but RA and Utz as well) are general, not the exception.

We cannot devote much time to address every subject raised in Fairtrade's letter. However, we need to comment on this particular subject, since it sheds some light on the systemic failure of certification. Where is the incentive for researchers to 'assist' Fairtrade by means of failing complaints because their own policies are not being followed? We see no institutional incentive at all to adhere to the Fairtrade system (at any level of the chain) nevertheless to fail in complains. This points towards an assurance system, which is blind towards the 'wrongdoers' and rather designed to deliver a sense of good feeling for the system users and their political environment. Of course, this is only a hinch, since we all lack a proper independent evaluation of the assurance system around certifications systems active in cocoa -again not only Fairtrade!

We are thus tempted to ask Fairtarde and the new Rainforest Alliance to open the books -or more precisely 'traceability systems'. If they would please 'open up their traceability systems' for independent researchers to perform cross-checking of what independent research can find on the field vs. what is reported in their systems would be very valuable for the European Parliament.

Following the 21 pages of comments, let's address the issue more specific to Fairtarde which precisely put forward its specificity: the minimum price supposed to be highly beneficial to smallholders. In 2018, the report demonstrated that the minimum price was too low and thus not operational most of the time, except in the period of March-August 2017. But the report also demonstrated that 95% of farmers did not even get one Cfa Franc of this minimal price. The reasons were similar to the weak payments of the premium, related to the structural problems of the 'exporter/certification/cooperative' system. As reminded by the FT letter, in 2019, this price has quite significantly increased to 240 US per ton. In principle, FT can be congratulated for this effort. On paper, this clearly represents a windfall. As written in our report, we were aware of this change and precise that the timing and budget of the survey prevented us from surveying its impact in households. However, there is not much reason to hope that the management of this windfall has much changed in 2020/21 compare to 2018. Today, our preliminary insights tend to show that the bulk of the windfall has evaporated. It looks extremely naïve to believe that this minimum price has significantly reached farmers in 2019/20. We 'feel' something like a small improvement, mostly due to the increasing competition between 'cooperatives' and a beginning of better smallholders' awareness, which is already a progress in itself. But the quantitative evaluation remains to be done. We are ready to do it if the EU can fund an independent survey.

For the time being, the conclusion of our independent surveys is clearly that smallholders hardly benefit the mainstream certification schemes, which are unsuited. They lie to the consumers by pretending to protect the environment and create child labour-free chains, etc. while they contribute to hide the terrific rates of deforestation and increase labour and risks to producers who already face many risks by definition.

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[1] Ruf, Francois, Konan, A., & Galo, A. 2018. *Decline in the cocoa prices and « fair trade » in Côte d'Ivoire. Fair for whom? Report for the EU.*

It does not mean that nothing can be done. Since 2018, our main argument is that most efforts should focus on capacity building for farmers themselves in order to reduce the informational asymmetry with cooperatives and exporters. Then we can hope that farmers, the theoretically central and key piece of the value chain can weigh a little bit more and defend their own interests by themselves and one day achieve a ‘fairer’ profit sharing within the cocoa value chain.

At least, the Fairtrade letter has the merit to open the debate. Hence, to finish on a positive note, can we suggest organizing a kind of webinar among all of us: Fairtrade, the authors of the report, TEPSA and the European Parliament?

Finally, we explicitly mention that we would have no objection to have the Fairtrade letter published together with our report and this response letter from our side.

Yours sincerely,

Enrique Uribe Leitz and François Ruf