

Rights Groups Demand that CBP Order Chocolate Companies to Demonstrate They Have Changed their Practices within 180 days or Face Import Ban

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Corporate Accountability Lab (CAL), International Rights Advocates (IRAdvocates) and the UC Irvine Civil Rights Litigation Clinic today submitted a petition under section 307 of the Trade Act of 1930 to U.S. Customs and Border Patrol (CBP) requesting that CBP issue a conditional Withhold and Release Order (WRO) against major cocoa importers, giving them 180 days to demonstrate significant changes to address their role in benefitting from forced child labor in the cocoa sector of Cote D'Ivoire (CDI).

Two Decades of Companies Openly Benefitting from Forced Labor in Cocoa

The companies named in the petition, including Nestle, Cargill, Mars and Hershey, have been profiting from chocolate sales every year, knowing that their cocoa is harvested and produced with illegal child labor. Children between the ages of 10 and 18 are lured to the companies' cocoa-producing farms in CDI with promises of education or well-paying work, and then are forced to do hazardous work without pay. They use machetes to cut and clean cocoa pods, clear underbrush with sharp tools, and use pesticides and herbicides without protective gear, all clear forms of the "worst forms of child labor" prohibited by International Labor Organization Convention No. 182. The child workers are unable to escape due to lack of money and travel documents. They may also be unable to communicate because they speak a different language, and most do not even know where they are.

In 2001, the systematic use of child labor by the major cocoa companies finally came to the public's attention, and legislation was proposed to tackle the issue. The major chocolate companies lobbied to kill the legislation, and instead agreed to sign the Harkin-Engel Protocol, a voluntary commitment to end this practice within a few years. Since then, they have unilaterally pushed back the deadline on these commitments, and now almost 20 years later, not a dent has been made. Terry Collingsworth, Executive Director of IRAdvocates, has been working since 1998 to stop the cocoa companies from profiting from child slavery. On filing the petition today, he stated "we have been watching these companies manage to admit they were using child labor while continuing to profit from this abuse

since 2001. It’s time for this to stop. We are asking CBP to enforce the law and give the companies a hard deadline to finally do what they promised back in 2001 – stop profiting from child slavery.”

Companies have set up “sustainability initiatives” and published policies prohibiting the use of child and forced labor. But the groups claim that these policies are no more than window dressing and empty promises. The companies police themselves with no transparency, and they do not focus specifically on forced labor. While cocoa and chocolate companies claim to have a “zero tolerance” policy on illegal child labor, they avoid implementing policies that could actually fight child labor. In 2019, CAL published a report on the failures of voluntary initiatives in the cocoa sector in CDI. Charity Ryerson, CAL’s Co-Founder and Legal Director explained: “The chocolate industry has invested millions in public relations, convincing the consumers of its sustainability commitments, while failing to demonstrate any real progress on the forced labor problem. This signals a clear lack of will and demonstrates that voluntary commitments just won’t cut it.”

Section 307 of the Tariff Act

CBP has the authority to stop imports of any products produced with illegal child labor. Under Section 307, if CBP finds evidence that the imported goods have been made even in part by forced labor, it can issue a Withhold and Release Order (WRO). This action blocks and holds the shipments at the port until and unless the importing party can demonstrate that the shipment was not produced with forced labor. Section 307, as amended, now requires CBP to take this action with respect to cocoa from CDI.

The Demand

In the Petition, the groups requested that the CBP issue an order, as the law requires, that the offending companies establish with acceptable evidence that they have finally stopped using illegal child labor. They ask that CBP order the major offenders—Nestle, Mars, Hershey, Barry Callebaut, World’s Finest Chocolate, Inc., Blommer Chocolate Co., Cargill, Mondelēz, and Olam—to produce a full and transparent supply chain, a detailed public report on how they are using independent third-party monitors to implement their policies, and a grievance mechanism for victims, within 180 days of the order.

The groups say that this request is manageable for companies, and also avoids unintended negative consequences for farmers and others in CDI that would result from an immediate ban. “The goal of this petition is to help children who are victims of forced labor, and to address the structural issues driving illegal child labor, which these companies play a critical role in perpetuating. An immediate ban could harm farmers and farmworkers more than it would the companies, which needs to be avoided. So we are requesting a very reasonable deadline for these companies to take the steps that

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they should have taken 20 years ago. They have the resources to take this seriously. Now they need to act,” says Ryerson.

Collingsworth cited the Petition and said “our evidence of illegal child labor in the companies’ cocoa supply chains comes from public reports, U.S. government reports, and research done by and for CAL and IRAdvocates. We have far exceeded the legal threshold for CBP to take action. We hope the children harvesting cocoa are soon freed as a result of CBP’s intervention.”