
Ghana: the African Regional Standard on sustainable cocoa and comparison to the EU proposal on deforestation-free products

Background document to the online exchange session - 9th of December 10:30 – 12:00 CET

Finalized on 5th of December, 2022

Introduction

This paper is a background document for an online stakeholder exchange on the implementation of the African Regional Standard (ARS) on sustainable cocoa (final draft 2021¹) and a comparison with the EU proposal on deforestation-free products ([Council version](#)). The exchange aims to introduce and explore how national systems for legal compliance and/or sustainability compare to the EU proposal on deforestation and if there is potential for synergy in facilitating the due diligence information requirements. A more comprehensive comparison between both initiatives and a session on the ARS implementation in Côte d'Ivoire are foreseen in the beginning of 2023.

This background document has been drafted by the ADP Support Unit, the Ghana Standards Authority (GSA), the Ghana Cocoa Board (COCOBOD) and IDH Sustainable Trade Initiative.

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The background note is divided into a chapter on the proposed EU regulation and a chapter on the ARS standard for sustainable cocoa. These chapters can be read independently for those that are already familiar to the EU proposal or the ARS.

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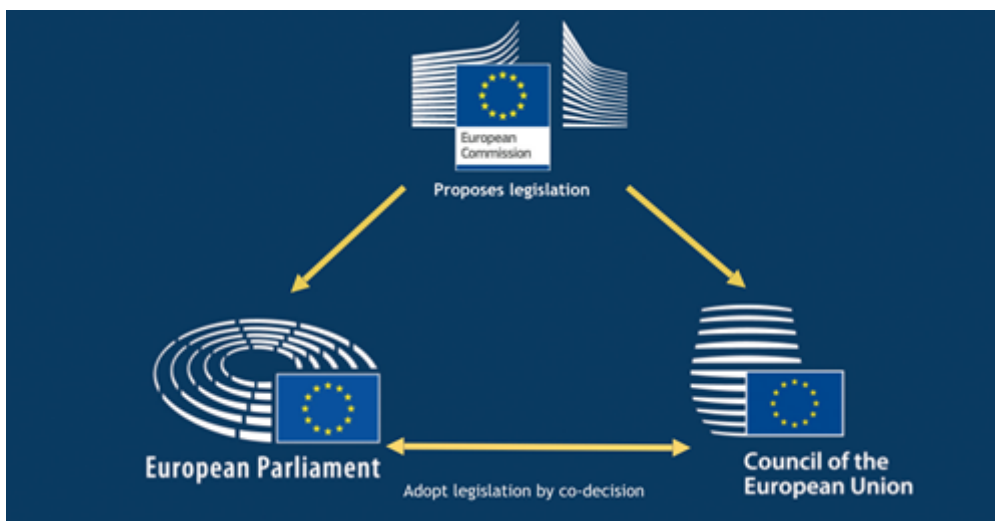
¹ Not published publicly online, but you can find criteria [here](#) on Standards Map Apps.

1 The proposed EU regulation on Deforestation

Background

In November 2021 the European Commission (EC) proposed an EU regulation on deforestation-free products. The latest version of the proposal was presented and discussed by the Council of the European Union end June 2022- see [here](#). The European Parliament (EP) voted on their proposed amendments in September – see [here](#). The proposal is being negotiated in the trialogue process between the EC, Council and EP (see figure below,). The final decision is expected first semester 2023. Therefore, for the purpose of this policy brief, it is important to emphasise that the detailed information below might change with the new final version. However, the main, general elements will probably be included. The version agreed upon by the Council is taken as starting point for the information provided below with some additions from the recent [press release 6th of December](#) (final text not published yet).

Figure 1: How does the European Union decide?



The European Commission is responsible for planning and proposing new legislation ('right of initiative'). The proposal is discussed in the Council of the European Union (the heads of state of EU member states) and the European Parliament (elected politicians) separately. Both can reject or propose amendments to the proposal. Via a negotiation process between the three entities a final proposal is prepared. The legislation has to be adopted by a joint decision of the Council and EP.

Key elements

Scope of the regulation (Art 1)

Regulation for placing and making available on the Union market as well as export from the Union market of products related to coffee, cocoa, palm oil, soya, beef & leather, rubber, and wood (timber, paper, pulp, charcoal). Annex 1 of the regulation provides a list of derived products. These commodities were included based upon an analysis of the 2021 impact assessment related to the relevance of the European market and minimising the risk of deforestation.

Prohibition (Art 3)

Relevant products cannot be made available on the Union market unless they are (1) deforestation-free; (2) legally compliant with the country of production; (3) covered by a due diligence statement (to be supplied by the trader or operator).

The cut-off date (Art 2)

The agreed cut-off date in the triologue is 31 December 2020.

Definitions (Art 2)

Important definitions - as proposed by the Commission and accepted by the Council in this article are presented below. The EP proposes various amendments of which one is highlighted in red below. Some revisions are expected such as wider definition of forest degradation that includes the conversion of primary forests or naturally regenerating forests into plantation forests or into other wooded land and the conversion of primary forests into planted forests:

‘Forest’ means land spanning more than 0,5 hectares with trees higher than 5 meters and a canopy cover of more than 10%, or trees able to reach those thresholds in situ, excluding agricultural plantations and land that is predominantly under agricultural or urban land use (FAO). This definition includes natural forests (primary and secondary forests) as well as plantation forests and planted forests.

‘Deforestation’ means the conversion of forests ‘**or other wooded land**’ (EP) to agriculture use ‘**or to plantation forests**’ (EP), whether human-induced or not. The FAO definition of ‘forest’ is used.

‘Agricultural use’ means the use of land for the purpose of agriculture, including for agricultural plantations, and includes livestock and set-aside agricultural areas.

‘Forest degradation’ means structural changes to forest cover, taking the form of the conversion of primary forests into plantations or into other wooded land. The FAO definition of ‘Other wooded land’ is used.

‘Operator’ means any person who, in the course of a commercial activity, places relevant products on the Union market or exports them from the Union market.

‘Plot of land’ is an extension of land within a single real-estate property, as recognised by the laws of the country of production, and which enjoys sufficiently homogenous conditions as to allow to evaluate the aggregate level the risk of deforestation and forest degradation associated with commodities produced on that extension of land. Here also the definition of negligible risk is important (not defined yet) and may be related/defined by the available spatial resolution (less than 6ha?).

‘Geolocation’ means the geographical location of a plot of land described by means of latitude and longitude coordinates. The Council adds (art2, par29): for relevant commodities other than cattle, for plots of land of more than 3ha, the geographical location shall be provided using sufficient latitude and longitude points to describe the perimeter of the plot of land (i.e. a polygone).

‘Negligible risk’ is a full assessment of both the product-specific and the general information on compliance by relevant products no cause for concern that the relevant products may not be compliant.

The EP adds the FAO definition for Other Wooded Land and also adds the term ‘ecosystem conversion’ to cover conversion of natural areas (may be included in the future).

The EU Observatory

The Commission will establish an EU Observatory on deforestation, forest degradation, changes in the world’s forest cover and associated drivers. There is an ambition to build on already existing monitoring tools and cooperate closely with relevant international organisations, research institutes and third countries with the aim of supporting the implementation of this regulation by providing scientific evidence with regard to global deforestation and related trade.

In general

The regulation establishes a chain of responsibility (with a difference between small and large operators). Operators shall not place relevant products (Art 1) on the union market nor export them without prior submission of a due diligence statement (Art 4). They can mandate an authorised representative but do retain responsibility for compliance (Art 5). All operators placing in-scope goods on or exporting them from the EU market would be subject to the regulation and need to exercise due diligence. Large companies have to be full and actively involved in the chain of responsibility. There are some reduced due diligence requirements for SME, and they have 24 months to comply, whereas all other operators have 12 months.

The due diligence procedure (Art.8), negligible risk and mitigation measures

The due diligence procedure includes three elements: information requirements (see below), a risk assessment, and mitigation measures (Art. 10). On the basis of the gathered information, operators should carry out a risk assessment, Where a risk is identified, operators should mitigate such risk to achieve no or negligible risk. Negligible risk is an important concept and defined in general terms (see above). There is no description about the level of allowed risk of both the product-specific and the general information on compliance by relevant products no cause for concern that the relevant products may not be compliant'. Risk mitigation may include supporting the compliance of suppliers, in particular smallholders, through capacity building and investments. To reduce risk of non-compliance, measures seems to allow for commodity roadmaps and landscape - jurisdictional initiatives such as Seloverde.

Information requirement: the Due Diligence Statement

The due diligence system includes requirements for information (Art 9); risk assessment (Art 10); and risk mitigation (Art 10c). It is coupled with a country benchmarking system that tailors due diligence obligations based on risk classification of countries and parts thereof (subnational regions).

Stakeholders consider the main, difficult issues are to be:

- (d) **“geolocation of all plots of land** where the relevant commodities that the relevant product contains, or has been made using were produced, as well as date or time range of production. Where a relevant product contains or has been made with relevant commodities produced in different plots of land, the geolocation of all different plots of land shall be included. For relevant products that contain or have been made using in scope commodities, the geolocation shall refer to the geographical location of each plot of land. Issue: The regulation does not allow mixing of compliant and non-compliant volumes. Quite often it is not possible to establish the exact origin of products, as commodities are mixed in silos and/or containers along the supply chain. In the end the shipment that enters Europe has to be compliant with negligible risk. The proposed legislation can be interpreted as requiring the reporting of all plots of land where specific shipment has been produced with an assessment of ‘negligible’ risk. Therefore, as long as all farms that contribute to the supply chain of a specific operator are compliant (from first point of collection onward), physical segregation of this volume will not be necessary.
- (e) **“name, email and address of any business or person from whom they have been supplied with the relevant products”**. This information shall remain confidential and anonymised, in line with personal data protection laws in the EU. The EP adds a consideration for data protection laws in the producer country. Issue: Companies have argued that some supplier information is commercial confidential. One could argue that as long as there is a verified negligible risk there is no need for full disclosure, and it is up the operator to act upon a risk towards their suppliers.

- (g) “adequately conclusive and verifiable information that the relevant products are deforestation-free”. Issue: Based on the geolocation and other information provided, it must be possible for the EU authorities to independently reassess evidence based on which the operator has conducted its due diligence process. This could be done, for instance, by comparing the evidence from in-country or regional monitoring systems versus EU Forest Observatory.
- (h) “adequately conclusive and verifiable information that the production of relevant commodities has been conducted in accordance with the relevant legislation of the country of production, including any arrangement conferring the right to use the respective area for the purposes of the production of the relevant commodity”. Issue: Ultimately local governments must be able to assess the level of compliance of farmers to the country’s own legislation. However, quite often governments lack resources, capability, transparency and/or political will. International cooperation will be key to overcome these obstacles and in doing so, parties would acknowledge the role of local communities in protecting forests. While the proposed regulation includes an article on cooperation with producer countries to facilitate compliance (Art 28), the extent and ambition of this support has not been formulated yet. Furthermore, without incentives for producers or regions that are non-compliant or high risk, there is a risk that the legislation will not impact deforestation in regions of greatest concern.

Information infrastructure

Enforcement of the regulation and control of import will be delegated to ‘competent authorities and custom authorities in the member states. There will be an enormous amount of shipments and due diligence statements to monitor by EU member states’ custom and competent authorities, which of course cannot be done manually. Thus, the capacity of enforcement agencies to assess compliance, in terms of access to the necessary data and the likely huge volume of information in due diligence submissions is a legitimate concern. The Commission will set up and manage an information system to support the assessment process. The information system should also be accessible for a wider public, with the anonymised data provided in an open and machine-readable format in line with the Union’s Open Data Policy.

2 The African Standard on Sustainable Cocoa (draft edition 2021).

Background

For many decades, cocoa has been the most important cash crop for Ghana, Cote d’Ivoire and many other countries in the Sub-Saharan Region. However, like any other industry, the cocoa industry is not without its challenges, largely due to the fact that cocoa farming in sub-Saharan Africa, is undertaken mainly by small holder farmers. Challenges include inadequate farmer education, inadequate agricultural inputs and funding, inadequate access to extension services and labour related issues, and growing concerns over economic, social and environmental matters. Considering the economic importance of cocoa, it is imperative that farmers adopt a more professional business approach to cocoa production and take a more active role in addressing the problems affecting the cocoa industry in Africa. Efforts have been made globally to ensure sustainability of the cocoa sector, such as voluntary sustainability standards and certification schemes or programmes. The European Committee for Standardization (CEN) initiated the development of an International Standard for the sustainability and traceability of cocoa - ISO 34101 - through the International Organization for Standardization (ISO). After five years of global consultations involving all key stakeholders, ISO 34101 was published in 2019 ([link](#)).

A review of the content of the ISO standard indicated that some requirements were not suitable for the specific situation of cocoa farmers in African countries. Following this, Ghana and Cote d'Ivoire, producers of about 65% of the world's cocoa, initiated efforts to develop a more suitable set of standards that would address the unique challenges of African cocoa farmers that achieves the goal of economic, social, and environmental sustainability and traceability of cocoa. These efforts led to the development of the African Regional Standard (ARS-1000) for sustainable cocoa (First draft, edition 2021), developed by the African Organisation for Standardization (ARSO)² for addressing issues of sustainability in cocoa farming in Africa. The standard address economic, social, and environmental issues in cocoa farming in Africa and provides requirements for certification of sustainably produced cocoa and traceability of cocoa. The ARS-1000 was developed in the 'ARSO Technical Committee 06, Coffee, Cocoa, Tea, and related products' supported by the Government of Ghana through the Ghana Cocoa Board and the Government of Côte d'Ivoire through le Conseil du Café-Cacao Côte d'Ivoire³.

The ARS-1000 promotes a framework for the production of sustainable cocoa that promotes farmer organisations efficiency, improving farmers income, cocoa quality, traceability, child labour, deforestation, and climate change. **The standard is based on the principle of 'continuous improvement'** and is split into 3 parts:

- ARS-1000-1: Requirements for Cocoa Farmer as an Entity/Farmer Group/ Farmer Cooperative — Management Systems and Performance
- ARS-1000-2: Requirements for Cocoa Quality and Traceability
- ARS-1000-3: Requirements for Cocoa Certification Schemes

An important element of the standard is the productivity and quality of the cocoa beans and its traceability. Parts of the standard also focusses on operational, management, social, environmental, and economic aspects – including a cocoa farm development plan (CFDP). During the development of the African Standard for sustainably produced and traceable cocoa, it became clear that some prescriptions or requirements of the standard needed to be elaborated on in a national context. Therefore, in November 2021, a Ghanaian national working group was established to commence work as part of a process to develop a National Implementation Guide on the ARS 1000 series of standards. Now in its draft stage, the National Implementation Guide will provide Ghanaian stakeholders in the cocoa sector with:

- Guidance on how to implement key clauses of the ARS 1000 series of Standards in Ghana.
- Guidance on when key requirements are expected to be met.
- Guidance on who shall be responsible for ensuring specific requirements are met.
- Guidance on key stakeholders to be sensitized, communicated to and/or trained and the content for such engagements.
- Guidance on key documents and records to be kept for continual improvement and to demonstrate fulfilment of requirements of the ARS 1000 series of Standards.
- A tool for the assessment of an entity's social and environmental risk with respect to the ARS 1000 series of standards, among others.

The development of the National Implementation Guide has also led to the identification of key frameworks for implementation, traceability, and regulation, that need to be addressed for the successful national rollout of the use of ARS-1000 in Ghana. The Ghana Cocoa Board is committed to establishment of these frameworks which include but are not limited to:

² <https://www.arso-oran.org/>

³ https://www.arso-oran.org/?page_id=6773

- Improve national traceability framework for cocoa beans
- Improved framework for data collection, storage, and security
- A framework for supporting farmers, farmer groups and cooperatives in the implementation of the ARS-1000
- A national framework for verification/certification of implementation of ARS-1000

ARS-1000 Part 1

ARS-1000-1 Sustainable cocoa — Part 1: Requirements for Cocoa Farmer as an Entity/Farmer Group/ Farmer Cooperative — Management systems and Performance is a Management System Standard. A management system is a set of policies, processes and procedures used by an organization to ensure that it can fulfil the tasks required to achieve its objectives and promote continual improvement within. These objectives cover many aspects of the organization's operations. ARS-1000-1 follows the Deming/PDCA cycle. ARS-1000-1 aims to help farmers meet objectives of producing cocoa beans in a sustainable manner that makes cocoa farming economically viable business for the farmer while ensuring that social concerns of stakeholders are addressed, and the environment is protected or potential negative impacts mitigated.

Scope and information

This part of ARS 1000 specifies the requirements for Cocoa Farmer as an Entity/Farmer Group/ Farmer Cooperative also called Recognized Entity to comply with Management Systems and for performance relating to structuring their management to enhance performance and meet the economic, social, and environmental pillars for sustainable cocoa bean (*Theobroma cacao* Linnaeus) production.

Definitions

This part of the standards contain eighty-two (82) definitions of terms used in the standard such as “recognized entity” (3.62) being a person or group of people that has its own functions with responsibilities, authorities and relationships to achieve its objectives . Recognized entity include:

- farmer as an entity: “a farmer with enough resources to stand on their own to meet the requirements” (3.31).
- farmer cooperative: “An independent grouping of persons who have come together voluntarily...” (3.33).
- farmer group: “an association consisting of legally registered cocoa farmers/ producers” (3.34).

Synopsis of Requirements

Recognized entities will be informed by the regulator/legal entity on scope, objectives, requirements, etc. of the standard (4.2.1). The recognized entity shall inform farmers (4.2.2.) on the scope and objectives, etc. of the standard before they become a member and shall register the farmers as part of the recognized entity (4.2.3.1), where the recognized entity is a farmer group or cooperative. In establishing the scope of the Cocoa Sustainability Management System, the recognized entity shall document the list of districts, societies and farmers registered to participate in the implementation of the ARS-1000 standards and the specific farms of registered farmers. (4.3)

The management of a cooperative or farmer group is responsible for providing all the necessary structures and resources to ensure that the recognized entity can meet the requirements of this standard. The successful implementation of the management system that produces sustainable cocoa depends on the effective commitment of top management. (5.1). The management shall establish, implement and maintain a management policy that

meets the Recognized Entity's responsibility to respect and protect human rights and the environment. (5.2)

In addition to an organogram, the recognized entity shall have a list of roles, description of the roles, names of responsible persons. These shall be communicated within and understood throughout the Recognized Entity. The organization shall have a documented recruitment policy. This recruitment policy may be embedded in the management policy. (5.3)

The Recognized entity should have Internal Management System (IMS) in place to ensure continual improvement through the principle of the Plan, Do, Check, Act cycle. The recognized entity shall determine risks to its management system and opportunities for improvement using an appropriate tool. The management objectives shall be consistent with the management policy and shall be communicated to all levels. (6)

Clause 7 Support for Recognized Entity's Management System provides requirements for agreements between recognized entities and buyers/others, cost identification and recovery mechanisms, repayment plans and communication to farmers. Clause 7 further provides requirements for determining competence of staff, development of a capacity building policy, sensitization, communication, and control of documented information.

Recognized entities shall develop annual workplans and registered farmers shall be informed of the various options for managing the cocoa farm to the desired business level. These options relate to good agricultural practices within or outside the framework of the rehabilitation or replanting of the farm. Each registered farmer shall decide on the activities and investments to be included and documented in the Cocoa farm Development Plan to be implemented and assessed. (8)

The recognized entity should monitor and measure the activities and targets set out in the annual workplan, assess progress made on annual basis drawing lessons from internal and external audits as well as the implementation of Cocoa Farm Development Plans. The Leadership of the recognized entity should review the performance of the entity on an annual basis and have a system that allows members/hired workers to feel safe to provide feedback to the leadership of the organization without fear of victimization. (9)

The Recognized Entity shall determine and select opportunities for improvement, generate and specify relevant performance objectives and implement necessary actions through management reviews. (10)

Legal aspects and status of legal compliance under the ARS-1000

ARS 1000 is a voluntary standard but has been adopted as a National Standard for Ghana. The statutory Regulator of the cocoa sector in Ghana, the Ghana Cocoa Board is making the use of the Standard mandatory in Ghana through a phased approach beginning with capacity building programmes and a robust regulatory framework to promote compliance to the standard leading to all of Ghana's cocoa been produced sustainably in the near future with verification through certification.

International labour, human rights and environmental laws were considered in the development of ARS 1000. Local labour, human rights and environmental laws were also considered in the development of the draft National Implementation Guide for the implementation of ARS 1000 in Ghana.

Performance requirements – Social aspects

ARS 1000 provides requirements for a host of social issues including overall human rights, prevention of discrimination, harassment, and abuse, gender equality, and women and youth empowerment, children's rights, child labour and worst forms of child labour, employment and contractual relations, occupational health, and safety, social security systems, freedom of association and collective bargaining.

Performance requirements – Social aspects: Child Labour

As an example, ARS – 1000 makes distinction between child/light work (3.11), child labour (3.10), and worst forms of child labour (3.81).

- Child/light work is defined as work by children (age <18 (3.9)) that “is appropriate for their age and level of maturity and which does not affect their health and personal development or interfere with their schooling” (3.11). It includes activities such as helping parents at home or assisting in non-hazardous (3.43) activities on cocoa farms.
- Child labour is defined as work that “deprives children of their childhood...”(3.10). The definition refers to ILO Convention 138.
- The worst forms of child labour definition is referred to ILO Convention 182 and are split into “unconditional forms” and “conditional forms”. The latter includes hazardous work which is defined locally by ‘the nationally defined list of hazardous work’.

Requirements

ARS 1000 requires the Recognized Entity to comply with the regulator’s policy on child labour including a clear commitment against child labour and communicate this policy within the Recognized Entity and among agricultural workers and make it publicly available.

The Recognized Entity shall publicly display a list of applicable hazardous activities and disseminate information about the prohibition of hazardous work for children within the Farmer Group/Farmer Cooperative and among hired workers/registered farmers and their children.

The Recognized Entity shall immediately report suspected cases of unconditional worst forms of child labour (that is child trafficking, bonded labour and slave labour) to the relevant authorities.

The Recognized Entity shall undertake a risk inventory to identify, the possible risks related to child labour on farms and among the Farmer Group/Farmer Cooperative and in the communities where its hired workers/registered farmers live.

Based on the risk inventory, the Recognized Entity shall undertake actions to prevent, identify monitor and remediate child labour and the worst forms of child labour related to the activities on the farms and among the Farmer Group/Farmer Cooperative, its registered farmers and its hired workers.

Performance requirements – Social aspects: Human rights

Definitions

The standards human rights definition (3.47) refers to universal declarations of human rights for specification.

Requirements

The standard aims to “protect human rights...” (12.1) by using a human rights policy (12.2) that inventories risks (due diligence), informs workers and includes human rights due diligence process to identify, prevent, mitigate and report on how the Recognized Entity addresses its human rights impacts and processes to remedy any negative impacts of the Recognized Entity or its contribution to them.

Performance requirements – Environmental aspects

From an environmental perspective, the aim is to minimize negative impact and optimize positive impact on the environment. The requirements for environmental aspects aim to support water conservation, the avoidance of water waste, and the avoidance of the contamination of surface and underground water; support the responsible use of agrochemicals and good waste management; preserve plant and animal habitats, protect wildlife, and maintain a varied ecosystem; **prevent deforestation** and combat climate change.

Performance requirements – Environmental aspects: Deforestation

Definitions

- Deforestation is defined as the “conversion of forest to other land use regardless of whether it is man-made or not” (3.24).
- Forest degradation is defined as “reduction in tree biomass density due to natural or human-induced causes such as logging, forest fires, windfalls and other events.” (3.39).
- Primary forest is defined as “forest that has never been logged or cut and has developed following natural disturbances and under natural processes, regardless of its age” (3.59).
- Secondary forest is defined as “forest that has been logged and has recovered naturally or artificially” (3.70).

Requirements

The standard aims to “prevent deforestation and combat climate change” (13.1(d)). The standard makes a distinction in requirements between the different types of forest by stating, among others, that:

- c) The Recognized Entity shall ensure there shall be **no farming in protected areas**, such as national parks, wildlife refuges, forestry reserves and other public or private conservation areas.
- d) The Recognized Entity shall ensure that no deforestation or degradation of **primary forests** has occurred as at the date of first release of this African Standard series 1000.
- e) The Recognized Entity shall ensure no deforestation or degradation of **secondary forest** occurs, unless a legal land title, landowner permission and/or customary land rights (whichever are applicable) are available, and government permits are available.
- f) The Recognized Entity shall ensure that **no large native trees, that existed prior to the establishment of the farm, are removed on existing farms or when establishing new farms**, except when these pose hazards to people, to infrastructure or to the health of the cocoa farm by hosting specific diseases, and where the removal of these specific trees is allowed or recommended by national authorities.

g) The Recognized Entity shall ensure that **no land is cleared by burning the vegetation**. The Farmer Group/Cooperative may use light machines and/or simple tools, such as machetes (cutlasses), hoes, axes, to clear land.

h) The Recognized Entity shall, in accordance with forestry authorities, **ensure mapping (or drawing) of existing large native trees** with the aim to provide clarity over ownership of the trees.

ARS 1000-2

This part of the African Standard specifies the requirements for quality including classification, sampling, test methods, packaging and marking of cocoa beans (*Theobroma cacao Linnaeus*). It also specifies the basic requirements for the design and implementation of one or more traceability systems within the cocoa supply chain for sustainably produced cocoa beans from farm to the point of export (Free-On-Board, FOB), as well as to the factory gate at the local level for grinders.

Traceability

Traceability is referred to as the “ability to follow the physical movement of sustainably produced cocoa (3.38) through specified stage(s) of production, marketing and processing” (3.40).

The tracing of cocoa sourced will be assisted by a traceability system includes traceability objectives, data and procedures (13.1.1). These objectives are established by cocoa supply chain actors (12) and are monitored (15.2.1), continuously improved (15.3.2) and reviewed (16) by the recognised entity.

As a pre-requisite for undertaking any sustainable cocoa supply chain operations, supply chain actors shall be registered by the Regulator. (4)

The standard describes traceability based on principles that give space for interpretation on what information exactly needs to be shared along the supply chain. These include:

- “addressing at least one step forward and one step back for each actor in the cocoa supply chain” (11).
- but also to “document the history of the cocoa or locate the cocoa along the cocoa supply chain” (11).
- and “the cocoa supply chain actor shall establish specific traceability objectives at relevant functions, levels and processes needed for the traceability system” (12).
- and a traceability system that “shall include... ..documented information about the cocoa at every level in the cocoa supply chain, from cocoa farm to export point (Free On Board), as well as at local level for grinders; (13.1.1.).

The Recognized entity and cocoa supply chain actors shall determine the information to be:

- a) obtained from its suppliers; b) collected concerning the cocoa and process history;
- c) provided to its customers and/or suppliers“(13.3.1).

The standard states that sustainable cocoa shall be kept segregated from non-conforming cocoa from farm until FOB.

3 Preliminary analysis

Implementation process

There is a fundamental difference between the EU regulation and the ARS-1000. The EU regulation is a law that comes into force as of a certain date, the producer either complies or not with the requirements **that focus mainly on no deforestation and legal compliance**. There is no feed-in system for those farmers that do not comply with the cut-off date of deforestation. For legal compliance there is no cut-off date so as of the moment if a producer is fully legally compliant their produce could qualify.

The ARS-1000 is based on a system of continuous improvement. Progressive levels of certification shall be awarded based on compliance with the requirements of the sustainability African Standards ARS 1000-1 and ARS 1000-2. Three levels of certification are established for the Farmer as entity/Farmer Group/Cooperative.

- Bronze level: Initial level corresponding to the satisfaction of twelve (12) requirements, i.e., 38% of the requirements of ARS 1000-1 and eleven (11) requirements, i.e., 78% of the requirements of ARS 1000-2.
- Silver Level: Intermediate level, corresponding to the satisfaction of twenty-nine (29) requirements, i.e., 90% of the requirements of ARS 1000-1, and eleven (11), i.e., 100% of the requirements of the ARS 1000-2 standard.
- Gold Level: Highest level, all requirements of ARS 1000-1 and ARS 1000-2 are met by the Farmer as Entity/Farmer Group/Cooperative.

The ARS focus is on a much wider or broader scope of sustainability issues including but not limited to the following:

- Economic issues such as capacity building on accounting and enabling access to financial credits, farm agronomic performance and good agricultural practices, planting material choices, soil management, maintenance of cocoa trees, use of agrochemicals, harvest and post-harvest techniques and resilience and diversification of production.
- Social issues such as human rights, prevention of discrimination, harassment, and abuse, gender equality, and women and youth empowerment, children's rights, child labour and worst forms of child labour, employment and contractual relations, occupational health, and safety, social security systems, freedom of association and collective bargaining.
- Environmental issues such as water conservation, the avoidance of water waste, and the avoidance of the contamination of surface and underground water; support the responsible use of agrochemicals and good waste management; preserve plant and animal habitats, protect wildlife, and maintain a varied ecosystem; prevent deforestation and combat climate change.

For these issues a comparison to the requirements of the wider EU Corporate Sustainability Due Diligence proposal ([link](#)) has to be conducted.

The ARS 1000 is adopted as a Ghana National Standard and is being elaborated as a National Implementation Guide to be used by the statutory Regulator in Ghana for the cocoa industry. The use of the Standard shall be mandatory by the Regulator, in a phased approach, with commitment to support frameworks for implementation which include but are not limited to:

- Improve national traceability framework for cocoa beans
- Improved framework for data collection, storage, and security

- A framework for supporting farmers, farmer groups and cooperatives in the implementation of the ARS 1000
- A national framework for verification/certification of implementation of ARS 1000

Types of audit	Calendar and frequency
1. Bronze Level: Initial Certification Audit	12 Months After Registration of the Farmer as an Entity/Farmer Group/Cooperative. After Farmer registration and before the initial certification audit, twelve (12) months the farmer as entity/farmer group/cooperative shall make a diagnosis of the farm necessary to establish the CFDPs for all registered farmers.
2. Bronze Level Surveillance Audit (Risk- based audit)	2.5 years after the Bronze Level Initial Certification Audit. Farmer Group/Cooperative shall have established a minimum of 20 % CFDP for the registered farmers.
3. Silver Level: Initial or Recertification Audit	Farmer as Entity/Farmer Group/Cooperative may choose to be initially certified to this Silver Level or do so Five (5) years after the Bronze Level Initial Certification Audit. Farmer Group/Cooperative shall have established a minimum of 60 % CFDP for the registered farmers.
4. Silver Level Surveillance Audit (Risk- based audit)	2.5 years after the Silver Level Initial or Recertification Audit. Farmer Group/Cooperative shall have established a minimum of 80 % CFDP for the registered farmers.
5. Gold Level: Initial or Recertification Audit	Farmer as Entity/Farmer Group/Cooperative may choose to be initially certified to this Gold Level or do so Five (5) years after the Silver Level Initial or Recertification Audit The Farmer Group/Cooperative shall have established 100% CFDPs for the registered farmers.
6. Gold Level Surveillance Audit (Risk- based audit)	2.5 years after the Gold Level Initial or Recertification Audit
7. Renewal Audit	Every five (5) years after the Gold Level Initial or Recertification Audit. CFDP shall be maintained fully at 100% implementation in all subsequent renewal audits every five (5) years and surveillance audits two and a half years after every renewal audit.

Figure 2: Types of audit and their associated timelines.

Assuring legal compliance

The EU regulation demands full legal compliance, including environmental and social laws. ‘Relevant legislation of the country of production’ means the rules applicable in the country of production concerning the legal status of the area of production in terms of land use rights, environmental protection, sustainable forest management, third parties’ rights, labour rights and human rights protected under international law, including as set out in the United Nations Declaration on the Rights of Indigenous Peoples, and relevant tax, anti-corruption, trade and customs regulations under the legal framework applicable in the country of production;

Basically, this means the government provides a statement or evidence that the producer is fully legally compliant. In many producer countries there is still a significant amount of illegal deforestation and/or producers who are not (yet) fully legally compliant especially regarding proving they have legal land rights.

The ARS – 1000 is set up as a certification scheme that is audited by a (third party) certification body approved by the legal entity / regulator (3.65) representing the Government of Ghana. Compliance is monitored by the Regulator, attested to by the Regulator and may be certified

through a certification body (5.3.5). Through this mechanism the Regulator can and will ensure that cocoa beans sold to the EU are sourced and traceable to farms and farmers that meet the requirements of the ARS 1000. The ARS 1000 also includes registration of farmer groups/cooperations or farmers recognized as recognised entities that includes information on legal ownership over the land (4.2.3.2 (k)). The auditor checks the important aspects required by the ARS-1000 - and the EU regulation - which are aligned with Ghanaian law but the auditor cannot assure full legal compliance.

Trust and transparency

To monitor deforestation and legal compliance, full disclosure is probably not needed, as long as the competent authority in Europe has the required information to assess the due diligence statement provided. But to build trust between parties and in the system, some transparency is needed to allow for external third-party monitoring (albeit at the cost of the buyer). In practice this might mean that the competent authority or the Commission assesses regularly the reliability of the systems used and the required volume - with their due diligence statements - as per regulation.

Alignment of remote sensing to monitor deforestation

The EU Observatory will become an important go-to instrument for companies and NGOs to check compliance on deforestation. The Observatory will cooperate closely with relevant international organisations, research institutes and third countries (par 22).

There is no reference to 'remote sensing' though deforestation monitoring systems such as polygon mapping of farms are mentioned in the ARS 1000. These will be monitored by the Regulator through its National Cocoa Management System and relevant data shared with stakeholders if needed. In addition, monitoring of criteria compliance will be done by the recognized entity upon which it is audited by the third-party certification body.

Definitions of forest and deforestation

The ARS and the EU regulation define deforestation differently with comparable intentions. Although reference is made to primary and secondary forest, a clear, quantifiable definition of what is a forest is absent. Also the term 'other land use' is not defined. The ARS 1000 makes distinction between primary and secondary forest and creates a special category for (legally) protected areas. The difference between a primary and secondary forest is defined whether they "have been logged" or not. The EU defines forest according to quantifiable parameters on density and cover. This is regardless whether it has been logged or not.

Halting deforestation

Primary forest and protected areas are protected through the ARS 1000 as farming in protected areas is not allowed and recognised entities have to ensure no deforestation or degradation has occurred. Secondary forests can be converted when in possession of legal land titles and government permits. The EU prohibits deforestation of land that is defined as forest. This could include secondary forest as defined by the ARS.

The EU cut-off date for deforestation is 31 December 2020 and the cut-off date of the ARS is the date when it comes into force (the release date has not yet been determined).

Halting forest degradation

The ARS defines forest degradation "reduction in tree biomass density". It does not specify a tree biomass threshold or share of reduction. The EU refers to structural changes in forest cover taking the form of primary forest conversion into plantation forest or other wooded land.