

BITTER CHOCOLATE: WEALTH EXTRACTION IN CÔTE D'IVOIRE

JULY 2020



By Jean Merckaert

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Abstract

The cocoa sector has been at the heart of Côte d'Ivoire economy since independence. The country has become the largest producer of cocoa in the world (40%). In the two first decades of independence, impressive economic growth was fueled by cocoa exports. But the Ivorian miracle evaporated after the collapse of cocoa prices and the debt soaring. The country plunged into a serious economic crisis, followed by a political crisis that culminated in civil war in the early 2000s. The primary commodity sector in Côte d'Ivoire has been highly vulnerable to illicit financial flows. Large and persistent discrepancies between Côte d'Ivoire's cocoa export statistics and the cocoa import statistics of major partners such as the Netherlands, Germany and France are indicative of substantial capital flight through export misinvoicing. With a focus on the four major periods in Ivorian political history, this paper analyzes the trend of illicit financial outflows in the cocoa sector, the mechanisms of resource rent capture and personal enrichment that fuel them, the key national and foreign players, and their ongoing responsibilities. Under the Houphouët-Boigny regime (1960-1993), through the management of the country's Agricultural Product Stabilization and Support Fund, the president had full control over the cocoa sector and used it to enrich himself and his associates. He and his successor Bédié (1993-1999) colluded with exporting companies in which Ivorian political leaders were shareholders. Under Gbagbo (2000-2010), the cocoa rent was the main source of funding for the civil war. The techniques of the *Forces Nouvelles* in the North and government forces in the South were similar: taxing cocoa production and exports, and illegally exporting part of the output to neighboring Burkina Faso and Ghana. Under the Ouattara regime (2011-2020), despite a series of reforms aimed at good governance, the cocoa sector has remained highly concentrated in the hands of a few corporate giants and plagued with favoritism, while predation in other sectors too persisted. The persistence of capital flight suggests the political economy of cocoa remains deeply rooted in the colonial scheme. Be it state-led or market-led, dominated by foreign or domestic players, the Ivorian cocoa sector has remained the place for wealth extraction to the benefit of a handful members of the elite. Overcoming primary commodity dependence is essential for equitable development.

¹ Most of this research was undertaken while the author was the managing editor of the journal *Revue Projet* at CERAS (Centre de Recherche et d'Action Sociales) at Saint-Denis, France. He is now the Head of Action and Advocacy in a leading French charitable organization.

Preface to the Working Paper Series on Capital Flight from Africa

Capital flight constitutes a major constraint to Africa's efforts to fill the large and growing financing gaps that hold back its progress towards achieving sustainable development goals. The mounting evidence on the unrecorded outflows of capital from Africa has spurred calls for strategies to curb the financial hemorrhage that is afflicting the continent.

The existing evidence is still inadequate, however, on four fronts. First, the quantitative evidence is predominantly aggregate and does not furnish adequate country-specific information on the mechanisms of capital flight, its institutional contexts, and the role of domestic and foreign players in facilitating it. Second, the literature has not paid adequate attention to the destinations of wealth accumulated through capital flight and the roles of the banking sector and public institutions in destination jurisdictions. Third, much of the literature conflates the capital flight with the broader concept of illicit financial flows. While all capital flight is illicit owing to its unrecorded transfer – and often, as well, by virtue of the illegal origins of the wealth, and the failure to declare the assets and pay tax on the associated income – not all illicit financial flows are capital flight; for example, payments for smuggled imports are an illicit flow but distinct from capital flight. Fourth, the existing literature has not sufficiently explored the two-way relationship between capital flight and governance in national and international institutions.

To help fill these gaps in the literature, the African Development Policy Program at the Political Economy Research Institute has initiated detailed analyses in a project generously supported by the Open Society Foundations and the Friedrich Ebert Foundation. This Working Paper series presents the project's outputs. Our goal in issuing these reports is to engender informed public participation in decision making on financial regulation. Key findings will be distilled and published in the coming year in an edited volume that is forthcoming from Oxford University Press.

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Acronyms

ACE	Audit Contrôle Expertise
ADM	Archer Daniels Midland Company
ANAPROCI	Association Nationale des Producteurs de Café-Cacao de Côte d'Ivoire [National Association of Coffee and Cocoa Producers of Ivory Coast]
BAL	Bolloré Africa Logistics
BCEAO	Banque Centrale des États de l'Afrique de l'Ouest [Central Bank of West African States]
BICICI	Banque Internationale pour le Commerce et l'Industrie en Côte d'Ivoire [International Bank for Trade and Industry in Ivory Coast]
BIS	Bank for International Settlements
BNI	Banque Nationale d'Investissement [National Investment Bank]
BNTED	Bureau National d'Études Techniques et de Développement [National Bureau of Technical Studies and Development]
CAA	Caisse Autonome d'Amortization [Autonomous Amortization Fund]
CAISTAB	Caisse de Stabilisation et de Soutien de Prix des Produits Agricoles [Stabilization and Price Support Fund for Agricultural Products]
CBS	Statistics Netherlands
CCA	Conseil du Coton et de l'Anacarde [Cotton and Cashew Council]
CCC	Conseil Café-Cacao [Cocoa-Coffee Council]
CCHA	Compagnie Commerciale Hollando Africaine
CFA franc	Communauté financière d'Afrique franc [franc of the Financial Community of Africa]
CFAO	Compagnie Française de l'Afrique Occidentale [French Company of West Africa]
CFCI-Unilever	Compagnie Française de Côte d'Ivoire [French Company of Ivory Coast]
CIDT	Compagnie Ivoirienne pour le Développement du Textile [The Ivorian Company for the development of textiles]
CIE	Compagnie Ivoirienne d'Électricité [Ivorian Electricity Company]
CIPEXI	Compagnie Ivoirienne de Promotion Pour l'Exportation et l'Importation [Ivorian company for the promotion of export and import]
CIPREL	Compagnie Ivoirienne de Production d'Electricité [Ivorian Electricity Company]
CMA CGM	Compagnie Générale Maritime [General Maritime Company]
COMIVEX	Compagnie Ivoirienne d'Exploitation des Mines [Ivorian Mining Company]
DRC	Democratic Republic of Congo
DUS	Droit unique de sortie [Single exit duty]
ECP	Emerging Capital Partners
EDF	Electricité de France [France Electricity Company]
EECI	Energie Electrique de la Cote d'Ivoire [Electric Energy of Ivory Coast]
Euro RSCG	Roux, Séguela, Cayzac, and Goudard
FDPCC	Fonds de Développement et de Promotion des Activités des Producteurs de Café et de Cacao [Fund for Development and Promotion of the Activities of Coffee and Cocoa Producers]

FGCC	Fonds de Garantie des Coopératives Café et Cacao [Guarantee Fund for Coffee and Cocoa Cooperatives]
FILOCOM	Fichier des Logements par Communes [Housing Records by Commune]
FN	Forces Nouvelles [New Forces]
FPI	Front Patriotique Ivoirien [Ivorian Patriotic Front]
FRCC	Fonds de Régulation du Café et du Cacao [Regulatory Authority for Coffee and Cocoa]
ICC	International Criminal Court
ICCO	International Cocoa Organization
IMCI	Industries Métallurgiques de la Côte d'Ivoire [Metallurgical Industries of Ivory Coast]
IMF	International Monetary Fund
tLICOTRA	L'Essor Ivoirien de Construction et de Travaux Publics [Ivorian Construction and Public Works Company]
PDCI	Parti Démocratique de la Côte d'Ivoire [Democratic Party of Ivory Coast]
PEPs	Politically Exposed Persons
RDA	Rassemblement Démocratique Africain [African Democratic Party]
RDR	Rassemblement des Républicains [Republican Party]
RTI	Radiodiffusion-Télévision Ivoirienne [Ivorian Radio-Television Agency]
SAIE	Société Africaine d'Importation et d'Exportation [African Import-Export Company]
SAPH	Société Africaine de Plantations d'Heveas [African Rubber Plantation Company]
SAUR	Société de Distribution des Eaux de la Côte-d'Ivoire [Water Distribution Company of Ivory Coast]
SCOA	Société commerciale de l'Ouest africain [West African Trading Company]
SECI	Saur Energy Côte d'Ivoire
SETAO	Société d'Etudes et de Travaux pour l'Afrique de l'Ouest [Consulting and Public Works Company for West Africa]
SGBCI	Société Générale de Banques en Côte d'Ivoire
SHAC	La Société Havraise Africaine de Commerce [The Havre African Trading Company]
SIFCA	Société Financière de la Côte Africaine [Financial Corporation of the African Coast]
SIR	Société Ivoirienne de Raffinage [Ivorian Refinery Company]
SMF	Société Massièye et Ferras [Massièye & Ferras Corporation]
SNCF	Société Nationale des Chemins de Fer Français [National Society of French Railroads]
SNEDAI	Société Nationale d'Édition de Documents Administratifs et d'Identité [National Printing House for Administrative and Identity Documents]
Sociexi	Société Ivoirienne de Participations Economiques
Socipec	Société Ivoirienne de Participations Economiques
SOGB	Société des Caoutchoucs de Grand-Béréby [Grand-Bereby Rubber Company]
SOGIEXCI	Société Generale d'Importation et d'Exportation de la Cote d'Ivoire [Import-Export Company of Ivory Coast]

SYNAP-CI	Syndicat National Agricole Pour Le Progres [National Agricultural Union for Progress]
UEMOA	Competition Commission of the West African Economic and Monetary Union
UNICAFE	Union Industrielle des Cafés [Industrial Coffee Union]
UNICAO	Union Ivoirienne de Traitement de Cacao [Ivorian Cocoa Processing Union]
UNICO	Union Industrielle et Commerciale de l'Ouest de la Côte d'Ivoire [Industrial and Commercial Union of West Ivory Coast]

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Introduction

Côte d'Ivoire occupies a distinctive place in West Africa. With 24 million inhabitants today it is Francophone West Africa's driving economic force, drawing labor from across the region, particularly as people from arid northern countries such as Burkina Faso and Mali move south.

Over the period from 1970 to 2017, cumulative capital flight from Côte d'Ivoire amounted to US\$36.5 billion (in 2017 dollars).² Among African countries, the country ranks among the top ten in the sheer magnitude of capital flight, and relative to GDP, Ivorian capital flight is roughly 50% higher than the continental average.³

Capital flight from Côte d'Ivoire peaked in the 1980s, at about \$2.5 billion per year, and continued through the 1990s. After the turn of the century, net unrecorded capital outflows turned negative, reflecting among other things the drying up of foreign lending with the outbreak of civil war, followed in the second decade of the century by the revival of investment opportunities in the post-war period. Accordingly, the present study devotes careful attention to the economic and political circumstances that fostered capital flight in the earlier decades. As we shall see, however, a number of these features remain in place today, implying that large-scale capital flight could again re-emerge as a serious drain on the country's development resources in coming years.

A formal independence

The roots of Côte d'Ivoire's political economy lie in the period of French colonial rule which preceded the country's formal independence in 1960. Colonization was a project of subjugation and exploitation for the benefit of the metropolitan countries. West Africa's wealth was to be exploited – even its human beings torn from the land – to strengthen the great powers of the time. Exports included slaves, iron, palm oil, rubber, and cotton. Cacao, the tree crop from whose beans cocoa and chocolate are produced, arrived in West Africa from Latin America, first being cultivated in São Tomé before spreading to the Gold Coast (modern day Ghana) and, in the twentieth century, to Côte d'Ivoire.⁴

2 Léonce Ndikumana and James K. Boyce, "Magnitudes and Mechanisms of Capital Flight from Angola, Côte d'Ivoire and South Africa," Amherst, MA: Political Economy Research Institute, November 2019.

3 Léonce Ndikumana and James K. Boyce, "Capital Flight from Africa: Updated Methodology and New Estimates," Amherst, MA: Political Economy Research Institute, June 2018.

4 "Cocoa" is cacao that has been roasted at high temperatures. For simplicity, hereafter it is used to refer to both.

The contribution of colonial forces during the Second World War earned concessions for French colonies, including the right to organize politically. Forced labor was abolished in French colonies.⁵ In Côte d'Ivoire the law that did so was named after a trade union leader, Félix Houphouët-Boigny. The country became an autonomous republic after a referendum in 1958, and formally independent in 1960.

Houphouët-Boigny became president of Côte d'Ivoire in 1960 and held that position for more than three decades, until his death in 1993. He was the most prominent figure of Ivorian emancipation, the “father of independence.” Before that, however, he was a French *député*, serving in French governments in the late 1950s, and he clearly chose a policy of continuity rather than a sharp break with the former colonial power. His loyalty to France was reflected by a number of defense agreements.

Côte d'Ivoire's currency, the West African CFA franc, was tied by a fixed exchange rate to the French franc and now to the Euro, and is guaranteed by the French treasury. This arrangement greatly benefits French companies, which enjoy fixed parity and free movement of capital, as well as civil servants and other employees in the formal sector, preserving their purchasing power to buy imported goods and send their children to France for studies.⁶ Alassane Ouattara, the current president, has been until recently one of the CFA franc's most ardent defenders.

This *de facto* extension of the colonial period was quite deliberate. Houphouët-Boigny adopted what has been called “a distinctive conception of the transition to independence.”⁷ He described this by the invented term “Françafrique”—a term later used by François-Xavier Verschave to criticize French neocolonialism in Africa, including its business dimension.⁸ That dimension was openly acknowledged by Houphouët-Boigny, who claimed to have provided financing to virtually all of the French political parties. Almost no living French prime minister or president missed the Old Man's funeral in December 1993.

Côte d'Ivoire was long considered a model of development and stability. The 1960s and 1970s were characterized by strong growth: GDP rose fivefold in twenty years, largely a result of the developing cocoa and forestry industries.⁹ The country's infrastructure, its liberalization model, and the development

5 Frederick Cooper, *Decolonization and African Society. The labor question in French and British Africa*. Cambridge: Cambridge University Press, 1996.

6 For discussion see Denis Cogneau, Yannick Dupraz, Sandrine Mesplé-Somps, “Fiscal Capacity and Dualism in Colonial States: The French Empire 1830-1962.” Working Paper No. 2018-27, Paris School of Economics, available online <https://hal.archives-ouvertes.fr/halshs-01818700v3>.

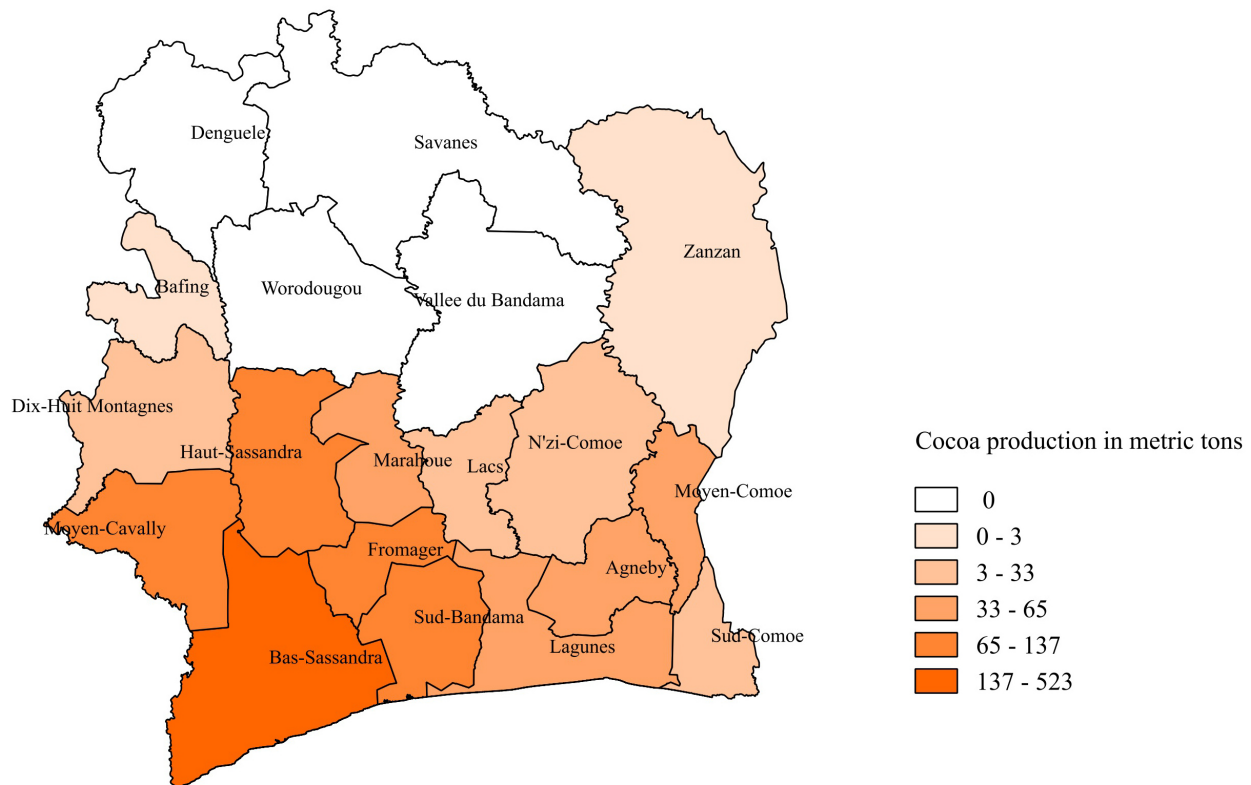
7 Jean-Paul Ngoupandé, quoted by Thomas Hofnung, *La Crise ivoirienne* (Paris: La Découverte, 2011), p. 21.

8 François-Xavier Verschave, *La Françafrique: le plus long scandale de la République* (Paris: Stock, 1998).

9 J.-C. Berthélemy and F. Bourguignon, *Growth and crisis in Cote d'Ivoire* (Washington, D.C., World Bank, 1996).

of industries to replace imports helped to make Côte d'Ivoire the “showcase of West Africa.”¹⁰ Coups proliferated in neighboring countries, while the Old Man’s political rule seemed utterly firm.

But appearances proved to be deceptive. Its heavy dependence on cocoa rendered the country financially and socially vulnerable. In the 1980s, Côte d'Ivoire was collapsing under an unsustainable debt burden, and producer incomes plummeted. For a time, perhaps, for the hundreds of thousands of cocoa and coffee workers who came from the north of the country, and from Burkina Faso and Mali, Côte d'Ivoire was the “country of hospitality” proclaimed in its national anthem. But as soon as economic problems arose, these non-native populations became scapegoats.



Those in power maintain their dominance by skillfully dividing incomes among different groups of clients, but clientelism is not a strong cement by which to unite a nation. Nor does it encourage robust and impartial institutions. The approach reached its limits when the money ran out.¹¹ The end of Houphouët-Boigny’s reign was chaotic. As in so many other cases, Côte d'Ivoire’s creditors imposed painful and ultimately unsuccessful structural adjustment plans. As a result, Côte d'Ivoire went “from a

10 Bruno Losch, “Le complexe café cacao de la Côte d’ivoire, une relecture de la trajectoire ivoirienne” (PhD diss., Montpellier 1 University, 1999), volume 1, p. 9.

11 Denis Cogneau and Sandrine Mesplé-Somps, “Les illusions perdues de l’économie ivoirienne et la crise politique,” *Afrique Contemporaine*, Vol. 206, 2003, pp. 87-104.

developing country to a poor one.”¹² When Alassane Ouattara, the former director of the IMF’s African department, was appointed prime minister in 1990, it was as though the international financial institutions had placed Côte d’Ivoire under their own supervision.

Institutionally, a multi-party system also began to develop in 1990. Houphouët-Boigny came to power under a system with a single party, the Parti Démocratique de la Côte d’Ivoire (PDCI)—an offshoot of the Rassemblement Démocratique Africain (RDA)—and did not break with it until the very end of his rule, under pressure from the democratic movement stirring across Africa. In the years since, three main political forces have shaped the Ivorian party system in the years since. Henri Konan Bédié took over the leadership of the PDCI after Houphouët-Boigny’s death. The exiled Laurent Gbagbo had launched the Front Patriotique Ivoirien (FPI) in 1982. The liberal Rassemblement des Républicains (RDR) was founded in 1994, led by the current president, Alassane Ouattara. Sometimes as allies and sometimes as enemies, these three parties have shared power over the years.

Winning power

Serge Michailof, an experienced observer of Ivorian politics, noted in 2005 that “controlling political power enabled control of revenues, and this ensured that power would be perpetuated.”¹³ In other words, the best way to get rich in Côte d’Ivoire was to acquire political power—although it would be an exaggeration to say this was the only way. Over the last twenty-five years, Côte d’Ivoire has offered a perfect illustration of the ways in which political and economic power converge.

Upon the Old Man’s death in 1993, in spite of the ambitions of Ouattara, the prime minister, it was Bédié, the speaker of the national assembly, who took power. Economically, he continued with the liberalization policies demanded by creditors. Meanwhile, the French government’s decision to devalue the CFA in 1994 – a step it had promised not take during Houphouët-Boigny’s lifetime – sharply increased the prices of imported goods.¹⁴ In politics, he introduced the toxic concept of *ivoirité* – Ivorian national identity – into public debate. He presented this as a way of unifying the country, but in fact it served as a project of division, to stigmatize those from the north and eliminate political opponents.

¹² *Ibid.*, p. 14.

¹³ Serge Michailof, “Côte d’Ivoire 2005: bienvenue sur le Titanic,” *Commentaire* 110 (Summer 2005), pp. 393–403.

¹⁴ Kenneth B. Noble, “French Devaluation of African Currency Brings Wide Unrest,” *New York Times*, February 23, 1994. For discussion of the 1994 devaluation, see also Denis Cogneau and Collange Gérald, “Les effets à moyen terme de la dévaluation des francs CFA: une comparaison Cameroun - Côte-d’Ivoire,” *Revue d’économie du développement*, Vol. 6, No. 3-4, 1998, pp. 126-147.

Modifying the country's electoral law, Bédié introduced the requirement that candidates be born in Côte d'Ivoire. Because that would not have been enough to disqualify his rival, Alassane Dramane Ouattara (ADO), he also required that both of a candidate's parents be Ivorian. (Ouattara's father was from Burkina Faso.) Faced with this maneuver, Gbagbo's FPI joined Ouattara's RDR in boycotting the 1995 elections. Bédié was "elected" with 96% of the vote. Ouattara rallied those from the north to support him, as well as the country's Muslims (who made up 35% of the population¹⁵). The country became deeply divided.

Bédié built on the momentum he had generated, setting *ivoirité* at the heart of his reforms to the country's land code. He jailed the RDR leadership following protests in 1999, although Ouattara himself managed to escape. Financial scandals during his rule may have been the final straw that prompted a surge of discontent among the military, and in the run-up to Christmas 1999, General Gueï announced on television that he had taken control of the state.

While Bédié waited in vain for France to restore him to power, Ivorians celebrated in the streets. Their joy was short lived. Gueï initially declared that he had no interest in power, but soon changed his mind. The electoral code meant that neither Ouattara or Bédié could stand in the October 2000 presidential election. To Gueï's surprise, however, it was his opponent, Gbagbo, who won the vote. Gueï was unwilling to admit defeat, ordering his troops to fire on the crowds, but popular pressure forced him to cede power to Gbagbo. The new president's declared ambition was to enable Ivorians as a whole to increase their wealth, rather than just a few privileged groups.

The road to war

As soon as Gbagbo became head of state, armed supporters of Ouattara took to the streets to demand new elections. The protests ended in clashes with FPI supporters. Those sympathetic to the RDR then were violently repressed by the gendarmerie and Gbagbo's followers.

An attempted coup took place in September 2002, with part of the army led by sergeant Ibrahim Coulibaly rising up against Gbagbo. While it failed to overthrow the president, the coup achieved military success and the northern half of the country fell under rebel control.¹⁶ France gradually became an arbiter in the conflict. It ratified the *de facto* partition of the country, with Gbagbo's government controlling the south and the opposition Forces Nouvelles (FN) controlling the north. French soldiers were deployed

15 The remainder of the population consisted of Christians (41%), traditional religions (17%), and without religion (17%), according to the Demographic and Health Survey of 1994.

16 For accounts of the crisis, see Richard Banégas, "La Côte d'Ivoire en guerre: les enjeux d'une crise régionale," *Questions Internationales*, No. 3, 2003; and Jean-Pierre Dozon, 2011. *Les clefs de la crise ivoirienne*, Paris: Karthala, 2011.

along a supposedly secure buffer zone. France then sought to “multilaterize” its engagement, first by eliciting support from ECOWAS (Economic Community of West African States) troops and then from UN peacekeepers with a Security Council mandate.¹⁷

In January 2003, France sought to have the parties to the conflict agree to form a national unity government. Feeling trapped, Gbagbo refused to fully implement the resulting Marcoussis Agreements. South African president Thabo Mbeki also tried to bring about national reconciliation, but while the Pretoria Agreement of 2005 allowed for Ouattara to stand in the next presidential election, Gbagbo played for time and the election was delayed six times, until 2010. In the interim, the 2007 Ouagadougou Agreement divided power, with the position of prime minister going to the head of the Forces Nouvelles, Guillaume Soro.

A striking thing about these eight years of conflict was the brutality that quickly emerged on both sides, claiming large numbers of civilian victims. Some of Gbagbo’s supporters in the south went on veritable murder sprees. In the north, the different “comzones” (zone commanders) competed violently to control and exploit the population. Not surprisingly, rural poverty intensified.¹⁸

Gbagbo came first in the initial round of the 2010 presidential election with 38% of the vote, ahead of both Ouattara (32%) and Bédié (25%). The latter was eliminated, and he called on the people to vote for ADO. The results of the second round are controversial to this day, and at the beginning of December, Côte d’Ivoire found itself with two self-proclaimed presidents. Most of the international community regarded Ouattara as the winner. On April 11, 2011, the French Army intervened to overthrow Gbagbo. He was sent to prison at the Hague in November 2011, to stand trial at the International Criminal Court. He was acquitted on January 15, 2019 and freed under the condition that he remain in a foreign country (Belgium), in light of an appeal lodged by the prosecution.¹⁹

17 For an account of the UN engagement, see Alexandra Novosseloff, “The Many Lives of a Peacekeeping Missions: The UN Operation in Côte-d’Ivoire,” New York: International Peace Institute, June 2018, available at https://www.ipinst.org/wp-content/uploads/2018/06/1806_Many-Lives-of-a-Peacekeeping-Mission.pdf.

18 Denis Cogneau, Kenneth Hounbedji, and Sandrine Mesplé-Somps, “The Fall of the Elephant: Two decades of poverty increase in Côte d’Ivoire (1988-2008),” in C. Arndt, A. McKay and F. Tarp, *Growth and Poverty in Sub-Saharan Africa* (Oxford: Oxford University Press, 2016).

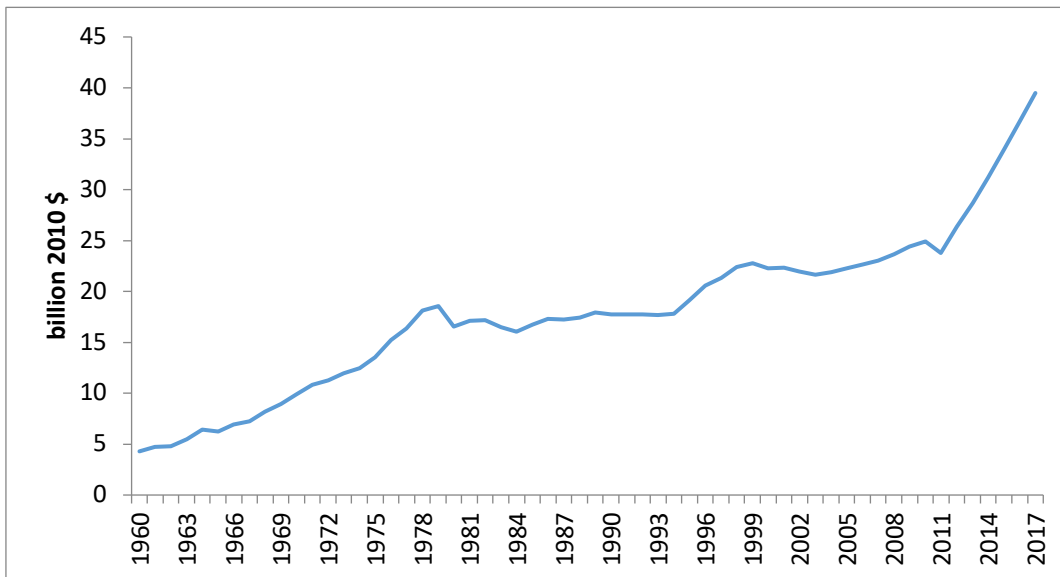
19 See Florence Richard, “Côte-d’Ivoire: Laurent Gbagbo libéré, ses partisans galvanisés,” *Libération*, February 1, 2019, available at https://www.liberation.fr/planete/2019/02/01/cote-d-ivoire-laurent-gbagbo-libere-ses-partisans-galvanises_1706913.

A concert of praise

At the time of this writing, Ouattara is in his second term, having been reelected in 2015 with Bédié's support. There was widespread speculation that he would stand again in October 2020, until he stepped back on March 5th of 2020.

Since Ouattara came to power, Côte d'Ivoire has enjoyed strong support from the international community, and the economy – at least as measured by GDP – has boomed (see Figure I.1). In the World Bank's view, 7–10% annual growth and controlled inflation have made Côte d'Ivoire a “remarkable economic success”²⁰ and a promising country for investment.

Figure I.1: Côte d'Ivoire's GDP, 1960-2017 (constant 2010 US\$, billion)



Source: World Development Indicators; accessed January 30, 2019.

Such enthusiasm recalls the praise for the earlier “Ivorian miracle” of the 1960s and 1970s. History recommends prudence, however, particularly as the country's social indicators are still worrying: life expectancy is only 53 years, and 46% of the population lives below the poverty line.²¹ In 2015 only

²⁰ The figure is given on the World Bank's website, <http://www.worldbank.org/en/country/cotedivoire/overview> (accessed December 20, 2018).

²¹ World Bank data for 2015. See also D. Cogneau, L. Czajka and K. Hounbedji, “The return of the triumphant elephant? Growth and income inequality in Cote d'Ivoire (1988-2015),” *Afrique Contemporaine*, No. 263-264, pp. 221-225, 2018.

seventeen countries in the world (out of 196) scored lower than Côte d’Ivoire on the UNDP’s human development index.²²

Ouattara’s project has not been met with unanimous approval in Côte d’Ivoire itself. As *Le Monde* summarized the situation, on the one hand, “his election put an end to the sense of marginalization felt by part of Côte d’Ivoire, and [he] has reestablished order and state sovereignty across the whole of the country, launching several large-scale infrastructure projects.” But on the other, “he has not been able to convert the 9% annual GDP growth into an improvement in quality of life for the majority of Ivoirians, corruption remains widespread, [and the] work of reconciliation is mostly unfinished: some of the officials associated [with] Laurent Gbagbo remain in exile or are still facing trial, and his supporters . . . are regularly barred from demonstrating.”²³ In interviews with Ivoirians and businessmen, many expressed bitterness about Ouattara’s clannist approach to power.

Methodology

Studying capital flight is not easy. The phenomenon has dimensions that statistics cannot fully capture—and that therefore tend to elude many economic analyses. To reveal the motives and *modus operandi* of capital flight, macroeconomic analysis must be accompanied by a narrative case-study approach, one that proceeds haltingly as we attempt to follow the threads of specific transactions back as far as possible. The aim is to accurately illuminate important facets of a complex reality, without making any claim to completeness.

According to researchers at the University of Massachusetts Amherst’s Political Economy Research Institute (PERI), capital flight from Côte d’Ivoire amounted to \$36.5 billion between 1970 and 2017.²⁴ The High-Level Panel on Illicit Financial Flows from Africa claims that, over the period 1970–2008, \$21.6 billion of “illicit financial flows” came from Côte d’Ivoire.²⁵ Finally, Global Financial Integrity, a U.S. think tank, estimates that between 2004 and 2013 there were \$23 billion of illicit flows.²⁶ Whatever their differences, these estimates help to establish the order of magnitude involved.

22 See the Human Development Index (HDI) for 2015, <https://en.populationdata.net/rankings/hdi/> (accessed December 20, 2018).

23 Charlotte Bozonnet, “La présidentielle ivoirienne de 2020 est dans toutes les têtes,” *Le Monde*, April 12, 2018.

24 Léonce Ndikumana and James K. Boyce, “Magnitudes and Mechanisms of Capital Flight from Angola, Côte d’Ivoire and South Africa.” *Supra* note 1.

25 Report of the High Level Panel on Illicit Financial Flows from Africa, *Illicit Financial Flows*, 2014, p. 93.

26 See Global Financial Integrity, ‘Illicit financial flows to and from Developing countries 2006-2015.’

<http://www.gfintegrity.org/issues/data-by-country/> (accessed December 20, 2018).

For the present study, my collaborator Matthieu Gonzalez and I examined tens of thousands of pages of academic, journalistic, and political writings, legal documents, reports by international organizations and NGOs, and unpublished documents including audit reports and investigations by journalists. We carried out more than fifty interviews with researchers, journalists, lawyers, activists and officers from organizations, political parties, and participants in key sectors of the Ivorian economy. Most interviews took place face-to-face, and some by telephone, email, or Skype.

To limit the scope of our inquiry, we decided to focus on the Ivorian economy's main sector, cocoa. And to understand where capital flight ends, we have tried to shed light on the disposition of the large fortunes accumulated by the four heads of state who have controlled Côte d'Ivoire since independence.

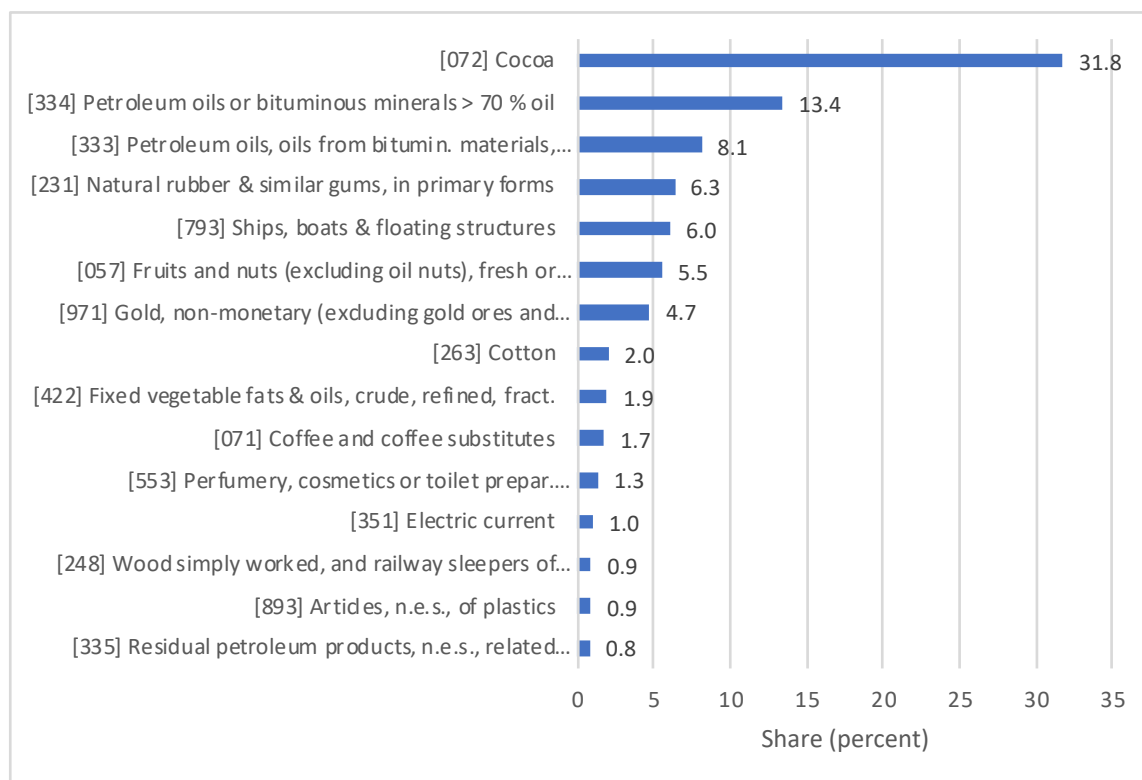
The decision to focus on cocoa arose from the crucial role it has played since independence in Ivorian trade, public sector financing, and the lives of millions of Ivorians. Other export sectors that may contribute to capital flight include oil, gold, diamonds, rubber, pineapple, palm oil, wood (teak having now replaced mahogany), and cashews (see Figure I.2). Sectors marked by large-scale public procurement—including construction, arms, transport (especially shipping), water, energy, electricity, health, and telecommunications—are ripe for corruption, and vulnerable to abuses by those seeking to increase their own fortunes.

The decision to focus on the personal fortunes of Côte d'Ivoire's leaders is not meant to imply that these four heads of state represent the entire Ivorian political class. There is a long list of individuals whose fortunes we would have liked to explore, in terms of both their scale and their origins, including former prime ministers Charles Konan Banny²⁷ and Guillaume Soro (who, while running for next presidential election, was sentenced on 28 April 2020 to 20 years imprisonment for concealment of stolen assets in a controversial judgement by the Court of Abidjan²⁸). And apart from Ivorian politicians, many others have found their fortune in Côte d'Ivoire, including individuals from France, Lebanon, and more recently Morocco. However, the four presidents who have led Côte d'Ivoire have drawn the particular attention of Ivorian media and citizens, feeding much speculation, and their roles placed them at the very heart of the country's economy.

²⁷ "Qu'est devenu Charles Konan Banny," *La Lettre du Continent* 525, September 27, 2007.

²⁸ See Florence Richard, "Côte-d'Ivoire: Guillaume Soro, confiné à Paris, condamné à Abidjan," *Libération*, April 29, 2020.

Figure I.2: Côte d'Ivoire's Top 15 Export Product Groups (% of total exports, average over 2010-2016)



Source: UNCTAD Online database; indicator = “Merchandise trade matrix – detailed products, exports in thousands of dollars, annual, 1995-2016”. Numbers in parentheses are SITC codes.

The results of our inquiry are necessarily fragmentary. With a splash of light here and a touch of color there, the final painting perhaps resembles a canvas by Joan Miró, Wassily Kandinsky, or Piet Mondrian. At best, we have constructed a pointillist picture from which, by taking a step back, an image—though perhaps somewhat fuzzy—emerges.

A preview

In the pages that follow, we alternate between examining the personal fortunes of each of the four heads of state and analyzing how the country’s wealth and income, especially profits from the cocoa trade, were handled during their terms.

Before proceeding to these bitter pages of Côte d’Ivoire’s history, Section 1 begins by familiarizing the reader with the international cocoa economy, and Section 2 discusses some of its statistical peculiarities.

Section 3 delves into the presidency of Félix Houphouët-Boigny, who ruled for the country’s first 33 years as an independent nation, from 1960 until his death in 1993. The “Old Man,” as he is still

remembered, amassed considerable personal wealth, including real estate holdings in Europe whose ownership has been a source of dispute among his heirs.

Section 4 examines CAISTAB, the Fund for the Stabilization and Support of Agricultural Products, through which much of the country's cocoa wealth was channelled – and siphoned off – from the early 1960s until its abolition in 1999. The Fund played a key role in the development of what is often termed a “patrimonial” or “clientelist” system of governance, in which political patronage unlocks opportunities for enrichment, and the state and market are intertwined.

Section 5 turns to the presidency of Henri Konan Bédié, Houphouët-Boigny's successor, who ruled from 1993 to his overthrow in 1999. Bédié, too, accumulated a substantial fortune, and he remains actively involved in Ivorian politics.

Section 6 describes the liberalization of the cocoa trade and the winding down of CAISTAB that took place in the 1990s, under pressure from the country's international creditors. These developments created new opportunities for international actors to expand their role in the Ivorian cocoa business.

Section 7 turns to the presidency of Laurent Gbagbo, who came to power in 2000 after a brief transitional regime and held office until 2011. During this period, Côte d'Ivoire was torn by a civil war that pitted the regime in Abidjan against rebels who controlled the northern half of the country. After his downfall, Gbagbo was extradited to the International Criminal Court in the Hague to stand trial for war crimes. Although the charges were dismissed in January 2019, he remains detained pending a prosecutors' appeal of the ruling.

Section 8 returns to the cocoa sector, discussing how revenues from the crop were tapped to fund arms purchases by both sides during the civil war, helping to perpetuate the bloodshed. While the conflict brought suffering to many, it brought profits to some – a phenomenon explored further in Section 9.

Section 10 discusses how “financialization” – the expanding role of financial institutions, actors, and motives in economic affairs – in the cocoa business fostered speculative activities that siphoned profits to a new set of predominantly international actors at the expense of Ivorian growers.

Section 11 moves to the presidency of Alassane Ouattara, who came to power with French support in 2010-11 after he defeated Gbagbo in a contested election. Ouattara, a former IMF official who enjoys broad support from the international community, reintroduced state regulation of the cocoa sector under

a new body, the Conseil Café-Cacao (CCC), in an effort to stabilize prices that at the same time facilitated the perpetuation of clientelistic practices.

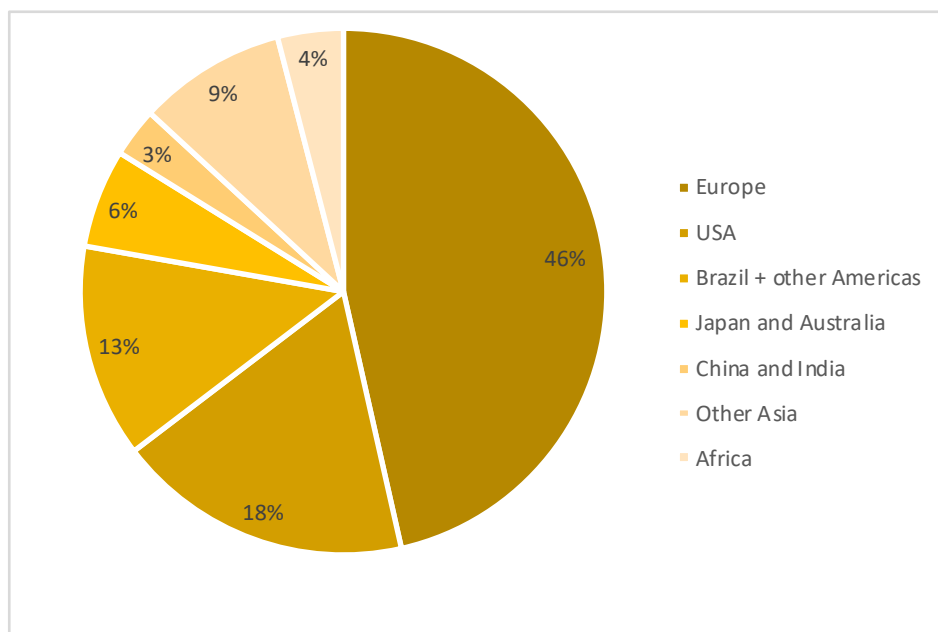
Section 12 steps away from the cocoa sector to examine other dimensions of the Ivorian economy, focusing on the money-making opportunities involved in the privatization of state enterprises and in public procurement. Again, international actors – notably French corporations – have been major players in both arenas.

Finally, Section 13 concludes by drawing together some of the study's main findings.

1. Who Profits from Cocoa?

The world consumes more than four million tons of cocoa each year, almost half a kilogram per person—four times more than forty years ago. The world average conceals major disparities: Europeans and North Americans are the biggest chocolate consumers, although other markets are growing quickly (Figure 1.1).²⁹

Figure 1.1: World Cocoa Consumers (percent of world consumption)



Source: Cocoa Barometer 2018,

http://www.cocoabarometer.org/Cocoa_Barometer/Download_files/2018%20Cocoa%20Barometer.pdf

A sector inherited from the colonial era

“The cocoa chain is typical of colonial raw materials, historically produced by a great number of farmers in tropical countries, whose purpose is to be processed and consumed in the former colonial powers.”³⁰

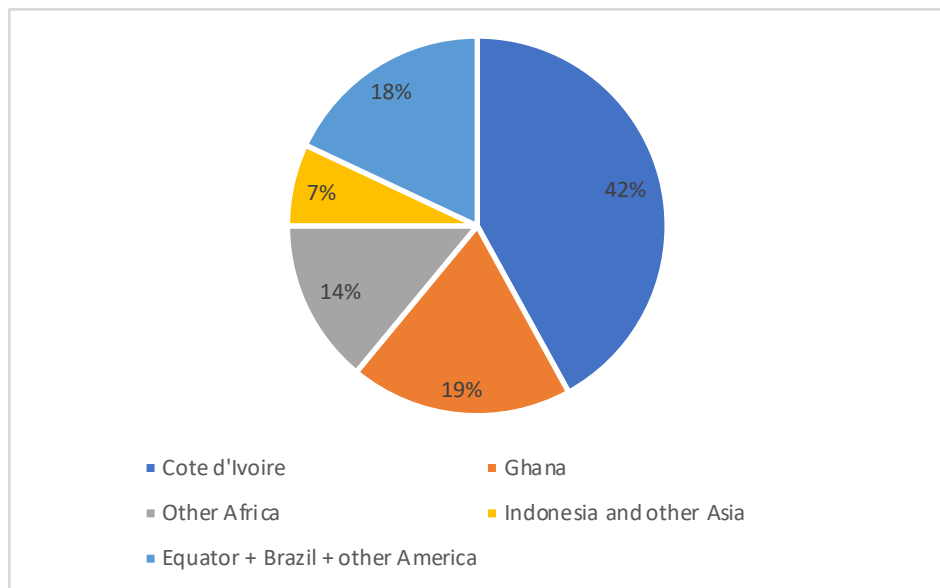
Côte d’Ivoire is the foremost of these “tropical countries.” The country’s production was estimated at 1.9

²⁹ See BASIC (Bureau for the Appraisal of Social Impacts and Costs) and Plate-Forme pour le Commerce Équitable, “The Dark Side of Chocolate: An Analysis of the Conventional, Sustainable and Fair Trade Cocoa Chains” (Paris, May 2016), p. 23. In this introductory section, we draw heavily on this report, which brings together 400 sources from academia, institutions, and the media.

³⁰ *Ibid.*, p. 23.

million tons in the 2017–18 season.³¹ This represents about 40% of global production,³² making Côte d’Ivoire the only country in Africa to lead a global agricultural market (Figure 1.2).

Figure 1.2: Top Cacao Producers (percent of world total production)



Source: International Cocoa Organization (CCO), <https://www.icco.org/statistics/production-and-grindings/production.html>.

To understand the inner workings of the cocoa market, we must start by understanding its organization and history. Cocoa cultivation began in the early twentieth century, when the country was a French colony. More than half a century after the end of formal colonial rule, French chocolate producers still buy 70% of their cocoa from Côte d’Ivoire.

Cocoa needs very specific conditions to grow. Latin America, where the Olmecs of ancient Mexico were the first to discover its culinary uses, had a monopoly on production until Portuguese colonists introduced cocoa to São Tomé at the end of the nineteenth century. Criticizing the island for continued reliance on slavery, British chocolate producers turned to the Gold Coast (present-day Ghana) in 1909, and it became the primary global producer until being overtaken by neighboring Côte d’Ivoire in 1978. The initial rationale for introducing cocoa to the Gulf of Guinea may seem ironic a century later, given the grim

31 See Antoine Fountain and Friedel Hütz-Adams, “Cocoa barometer, 2018,” available at http://www.cocoabarometer.org/Cocoa_Barometer/Download_files/2018%20Cocoa%20Barometer.pdf (accessed March 4, 2020).

32 ICCO *Quarterly Bulletin of Cocoa Statistics* 42, number 1, cocoa year 2015/16.

working conditions of thousands of children working today on cocoa farms, whose numbers are on the rise.³³

With a turnover of more than \$5 billion in 2015,³⁴ the cocoa sector is crucial for the Ivorian economy. “Brown gold” represents 15%-20% of GDP and 32% of exports, employs somewhere between 600,000³⁵ and 900,000³⁶ growers, and supports roughly six million people—almost a quarter of the population.

From the producers’ point of view, the chain that runs from the cocoa bean to the chocolate bar resembles a funnel. The hundreds of thousands of growers are extremely decentralized, whereas the global cocoa trade and processing industry are highly centralized. This structure is a legacy of the colonial period. In the 1940s and 1950s, anger at the “colonialist trusts” was rising among cocoa growers’ unions. But Houphouët-Boigny, who ran the Syndicat Agricole Africain, opted for an alliance with European traders and the French. He placed emphasis on improving working conditions, fighting against forced labor, and increasing prosperity through cocoa and coffee. Helped by favorable circumstances—cocoa prices were high in the mid-1950s—he rallied the majority of growers to his approach.³⁷ When independence came in 1960, there was no break with European firms.

The commodity chain

Today the hundreds of thousands of Ivorian cocoa growers scattered across the southern half of the country cultivate farms with an average size of three to five hectares.³⁸ Each cocoa fruit yields thirty to fifty beans. After the harvest, the farmers themselves ferment and dry the beans—unlike in some other countries, like Peru, where this step is performed by others. The cocoa beans are then collected, in most

33 In 2013, around 1.3 million children worked in cocoa farming in West Africa. See School of Public Health and Tropical Medicine, “Survey Research on Child Labor in West African Cocoa Growing Areas 2013/14,” Tulane University, July 30, 2015. Cited in BASIC, “Dark Side of Chocolate,” p. 47, *supra* note 28. See also Jean Gecit, “En 10 ans, hausse de 10% des enfants travaillant dans le cacao en Côte d’Ivoire et au Ghana”, *commodafrica.com*, April 10, 2020, available at <http://www.commodafrica.com/10-04-2020-en-10-ans-hausse-de-10-des-enfants-travaillant-dans-le-cacao-en-cote-divoire-et-au-ghana> (accessed April 17, 2020).

34 The average price of cocoa over 12 months in 2015 was \$3089.50/ton. See Insee (Institut national des statistiques et études économiques), “International prices of imported raw materials – Ivory Coast cocoa,” available at <https://www.insee.fr/en/statistiques/serie/000455729> (accessed December 20, 2018).

35 This is according to the Conseil du Café-Cacao, the public authority in Côte d’Ivoire which regulates, stabilizes, and develops the coffee and cocoa sector.

36 This is according to the International Cocoa Organization (ICCO). See also Melissa Schweisguth, “Evaluating the Effects of Certification on Smallholders Net Incomes, with a Focus on Cocoa Farmer in Cooperatives in Côte d’Ivoire,” International Agricultural Development, 2015.

37 Losch, “Le complexe café cacao,” volume 1, p. 352. *Supra* note 9.

38 This figure is cited by M. Wessel and P.M.F. Quist-Wessel, “Cocoa Production in West Africa: A review and analysis of recent developments,” *NJAS – Wageningen Journal of Life Sciences*, No. 74-75, pp. 1-7, 2015, who add, however, that no reliable statistics are available.

cases by a cooperative, or else by a specialist *pisteur*, and transported in jute sacks to the port. There, authorized traders and buyers act as intermediaries in negotiating the price.³⁹ This upstream phase of the cocoa chain has remained little changed since independence. More change has occurred at the neck of the funnel.

Until the 1980s, all of Côte d'Ivoire's beans were exported, primarily to Europe. Some went to big brands like Suchard, Nestlé, Cadbury, and Lindt & Sprüngli, which had integrated systems from grinding the beans to packaging finished products. And some went to independent grinders, *couverturiers* (who produce high-quality industrial "couverture" chocolate), and artisanal chocolatiers.

In the 1990s, increasing product standardization and the liberalization of financial markets attracted the commodity giants Cargill and ADM. The resulting rationalization and bulk shipping altered the commodity chain. Factories for processing the cocoa beans into cocoa butter, powder, or paste moved closer to the chocolate manufacturers. Only the bigger players survived in this new ecosystem. The sector became more concentrated, notably with the merger of the French group Cocoa Barry and the Belgian group Callebaut to create Barry Callebaut, which set up its new headquarters in Switzerland (Figure 1.3).

In 2013, Cargill, ADM, and Barry Callebaut accounted for 47% of global cocoa processing and 59% of couverture chocolate.⁴⁰ Concentration has increased further with recent mergers, including ADM's sale of its cocoa products business to the Singaporean group Olam in 2014 and the sale of its industrial chocolate activity to Cargill in 2015. Four international manufacturers—Barry Callebaut, ADM/Olam, Cargill, and Cémoi—control the processing of 90% of Ivorian cocoa.⁴¹

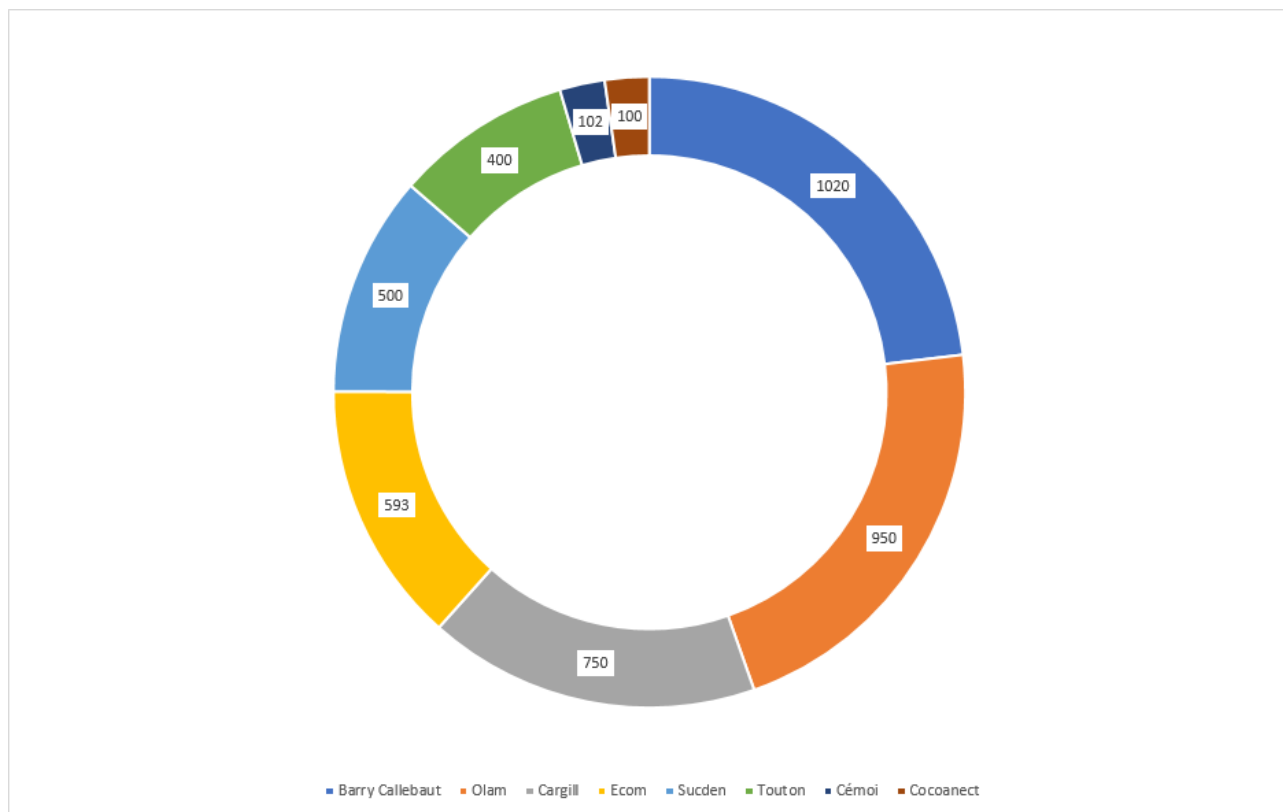
Once the cocoa has been processed, much of it is sold as industrial chocolate to firms like Mars, Mondelez, and Nestlé that make the finished consumer products (Figure 1.4). These large brands also source from smaller processors, so that they do not depend excessively on oligopolistic actors.

39 For a list of buyers and exporters approved by the Conseil du Café-Cacao, see <http://www.conseilcafecacao.ci/>.

40 See BASIC, "Dark Side of Chocolate," 23 and 30. Supra note 28. See also SEO Amsterdam Economics, "Market Concentration and Price Training in the Global Cocoa Value Chain," Report commissioned by the Dutch Ministry of Foreign Affairs, November 15, 2016, p. 23.

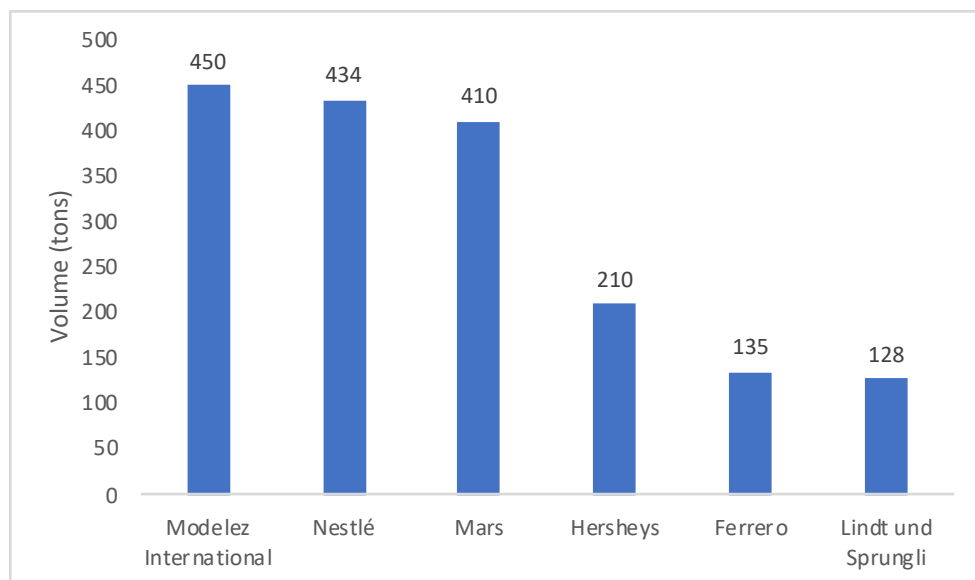
41 BASIC, "Dark Side of Chocolate," pp. 43–4. Supra note 28.

Figure 1.3: Main International Cocoa Traders and manufacturers – 2017 (tons)



Source: Cocoa Barometer 2018,
http://www.cocoabarometer.org/Cocoa_Barometer/Download_files/2018%20Cocoa%20Barometer.pdf

Figure 1.4: Top Chocolate Producers (tons)



Source: Cocoa Barometer 2018,
http://www.cocoabarometer.org/Cocoa_Barometer/Download_files/2018%20Cocoa%20Barometer.pdf

What the growers receive

The narrowing at the neck of the funnel has not benefited growers. As the Roundtable for a Sustainable Cocoa Economy noted in 2010, “[s]mall cocoa farmers are at the root of a global value chain oriented in favour of buyers, in which power is highly concentrated among a few multinational companies.”⁴² Indeed, the 2018 edition of the *Cocoa Barometer* states plainly that “the majority of cocoa farmers still live well below the poverty line.”⁴³ In a recent report, Fairtrade International estimated that a fair income for Ivorian cocoa farmers would be \$2.51 a day, but that only 7% of Ivorian producers currently make this amount. Their current average income is \$0.78 a day. To meet their basic needs, their incomes would need to triple.⁴⁴

What Ivorian growers receive for their cocoa depends on: (1) fluctuations in the world price of cocoa; (2) the fraction of this global price that producers receive; (3) any charges they have to bear themselves; (4) taxes levied and the benefits they see from them; and (5) how much cocoa contributes to the value of the finished chocolate products.

1. The world price for cocoa. Like many commodities, the price of cocoa is susceptible to substantial fluctuation. It rose eightfold nominally and more than fourfold in real terms from the early 1960s to the late 1970s. It then fell to roughly a quarter of this peak value until prices began to rise somewhat around the turn of the century in response to growing global demand.⁴⁵ Speculators welcomed the price fluctuations with open arms, and profited from them (see section 10). In real terms, the value of cocoa in the past two decades has been lower than in the 1950s, prior to independence (Figure 1.5).⁴⁶

The downward trend in prices paid to growers has pushed many families below the poverty line.⁴⁷ Households in rural areas often have no access to roads, electricity, drinking water, medical services, or education.⁴⁸ Between September 2016 and February 2017, the price of cocoa dropped from \$3,000/ton to \$1,900/ton. Prospects for growers and their families are bleak: a senior participant in the sector

42 RSCE, Report of the Second Roundtable for a Sustainable Cocoa Economy (RSCE2), 2010, quoted in BASIC, “Dark Side of Chocolate,” p. 31. Supra note 28.

43 Antony Fountain and Friedel Hütz-Adams, *Cocoa barometer 2018*, 2018, p. 45.

http://www.cocoabarometer.org/Cocoa_Barometer/Download_files/2018%20Cocoa%20Barometer.pdf.

44 Andrea Rusman, Reinier de Adelhart Toorop, Jelmer de Boer, and Adria de Groot Ruiz, “Cocoa Farmer Income: The household income of cocoa farmers in Côte d’Ivoire and strategies for improvement,” True Price/Fairtrade Report, April 2018, http://www.fairtrade.net/fileadmin/user_upload/content/2009/resources/2018-04_Report_Fairtrade_Cocoa_Farmer_Income.pdf.

45 See ECOWAS-SWAC/OECD, “Atlas on Regional Integration in West Africa,” September 2007.

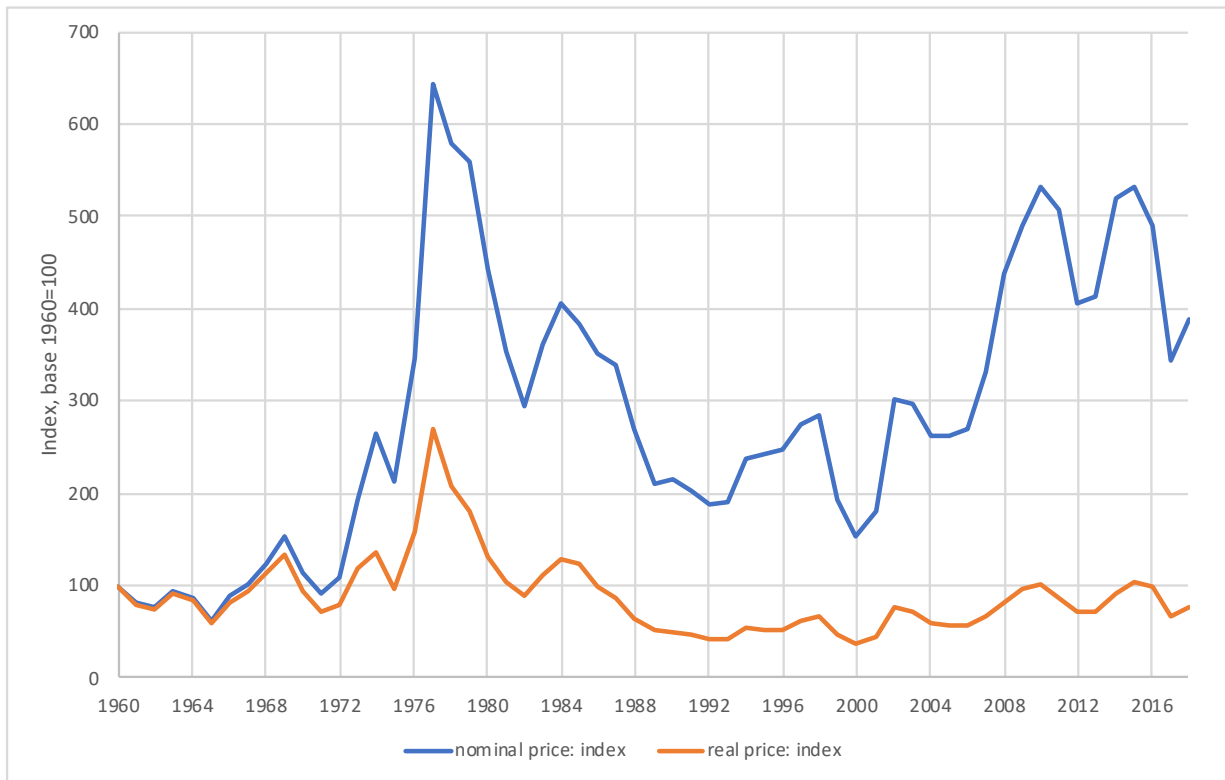
46 See SEO Amsterdam Economics, “Market Concentration,” p. 34.

47 Fountain and Hütz-Adams, *Cocoa barometer 2018*.

48 BASIC, “Dark Side of Chocolate,” p. 32. Supra note 28.

predicted, “The price decline of cocoa will de facto erase all of the sustainability gains that have been achieved in the past ten years.”⁴⁹ Between January and April 2018, the price rebounded from \$1,800 to \$2,800. Such volatility means that grower revenues are highly unpredictable.

Figure 1.5. Nominal and Real Cocoa Prices (index, base 1960=100)



Source: World Bank Commodity Price Data (The Pink Sheet), annual prices in US dollars, converted in an index (base 1960 =100), <http://pubdocs.worldbank.org/en/226371486076391711/CMO-Historical-Data-Annual.xlsx>

2. What fraction of the world price goes to growers? A system to stabilize the price received by Ivorian growers existed prior to the liberalization of the sector in 1991. In the mid-1980s, the government-backed CAISTAB guaranteed producers up to twice the world price at the time, anticipating that the global market would rebound. But the rebound did not happen. In 1989, the Bretton Woods institutions’ structural adjustment plans were in full swing, and they forced Côte d’Ivoire to slash the price paid to producers by 50%, finally eliminating CAISTAB altogether in 1999.⁵⁰

49 Quoted by Fountain and Hütz-Adams, *Cocoa barometer 2018*, p. 11.

50 See D. Cogneau and R. Jedwab, “Commodity Price Shocks and Child Outcomes: The 1990 Cocoa Crisis in Côte

In the following years, small producers bore the full brunt of global price fluctuations. This led to reforms initiated in 2011, based on the Ghanaian model, to ensure that at least 60% of the value of cocoa, defined by its world price, went back to the growers. As prices rose, grower incomes increased by almost 70% between 2011 and 2016.⁵¹ But the price crash in 2017–18 virtually canceled this out.

For the last fifty years Ivorian producers have been receiving between one-third and almost the entire value at which cocoa beans are marketed for export.⁵² In other words, their low revenues are first and foremost a result of low world prices.

3. Informal charges borne by growers. Cocoa has brought a substantial influx of workers from the north of the country and from neighboring Mali and Burkina Faso. In the 1980s, more than half of the cocoa-growing workforce were immigrants. Without a land registry or management, land pressures became a major source of tension, the political instrumentalization of which led to unrest in the 2000s. This had an impact on producers' incomes. Many plantations are impermissibly established in previously forested areas, and this can leave producers in highly precarious positions.

Some planters pay a share rent to a landlord—usually a third of their revenue from selling the beans (an *abusan* contract), and sometimes even half (an *abugnon* contract).⁵³ This is a significant charge, given that revenues are already modest, (although in *abusan* and *abugnon* contract the costs of agrochemicals are sometimes taken on by the landlord). Cocoa cultivation remains primarily a family business, and the landlords are often family members.

4: Formal levies and their uses. Cocoa is the heart of the Ivorian economy, and also of state revenue. Taxes are not levied directly on producers. Since 2012, there have been three categories of levies, all paid by exporters and charged as a percentage of the export price. The central levy remains the long-established *droit*

d'Ivoire," *Economic Development and Cultural Change*, Vol 60, pp. 507-534, 2012.

51 Government price data from Conseil du Café-Cacao: <http://www.conseilcafecacao.ci/>.

52 See figure 23, BASIC, "Dark Side of Chocolate," p. 30 (supra note 28), reproduced from Catherine Araujo Bonjean and Jean-François Brun, "Concentration and Price Transmission in the Cocoa-Chocolate Chain," in *The Economics of Chocolate*, edited by Mara Squicciarini and Johan Swinnen (Oxford: Oxford University Press, 2016).

53 See the work of Jean-Philippe Colin and François Ruf, cited in BASIC, "Dark Side of Chocolate," p. 46. Supra note 28. For the samplings which took place in 2007, we can estimate that around 25% of cocoa producers have *abusan* contracts, and around 3% have *abugnon* contracts, particularly in Sud-Comoé. See François Ruf and Jean-Luc Agkpo, "Le revenu et les investissements des producteurs de café et de cacao en Côte d'Ivoire," final report for Agrisystems Consortium, May 2008, p. 36, available at https://agritrop.cirad.fr/548837/1/document_548837.pdf (accessed January 7, 2019).

unique de sortie (single exit duty, DUS). There is then a registration tax (suspended for 2018), and a series of levies for the sector's regulatory bodies, for supporting cooperatives, and so on.

During the 2016–17 season, the farm-gate price paid to growers was set at 1,100 CFA francs per kilogram and the export price was 1,800 CFA francs. About 300 CFA francs of the difference went for collection and transportation to the port and drying, packaging, storage and sea freight; almost 400 CFA francs went for taxes. An important issue is how the authorities use this income, and whether growers see any benefits from these uses. Views on this question are deeply divided.⁵⁴

5. How important is cocoa in chocolate? The neck of the funnel may involve the greatest degree of injustice—though all of it is apparently quite legal. In the late 1970s, cocoa accounted for between one-third and one-half of the price paid by the end consumer of chocolate products. Now it represents only one-tenth (Figure 1.6).⁵⁵

This long-term trend is linked to changes in the products consumed. Cocoa now is often just one minority ingredient among others. It is also linked to an increasing share of value in intangible factors: R&D, patents, branding, and publicity.⁵⁶ For some brands, this is as much as 30–50%. The cost of exporting may also vary. Abidjan's port, which is owned by the Bolloré group, has a reputation for being significantly more expensive than the other ports in the Gulf of Guinea.

At the front end of the value chain, Ivorian growers receive relatively little. Their share in final product value is between 3.5% and 6.6%,⁵⁷ with processors, manufacturers and distributors taking the lion's share (Figure 1.7). At the Paris Agricultural Show in March 2018, the Ivorian Minister of Agriculture, Sangafowa Coulibaly, expressed unhappiness at the current situation, estimating that the chocolate industry generates \$100 billion each year, but that producing countries only get 6% of this, and farmers themselves barely 2%.⁵⁸

54 Interview with an exporter who requested anonymity, December 30, 2017.

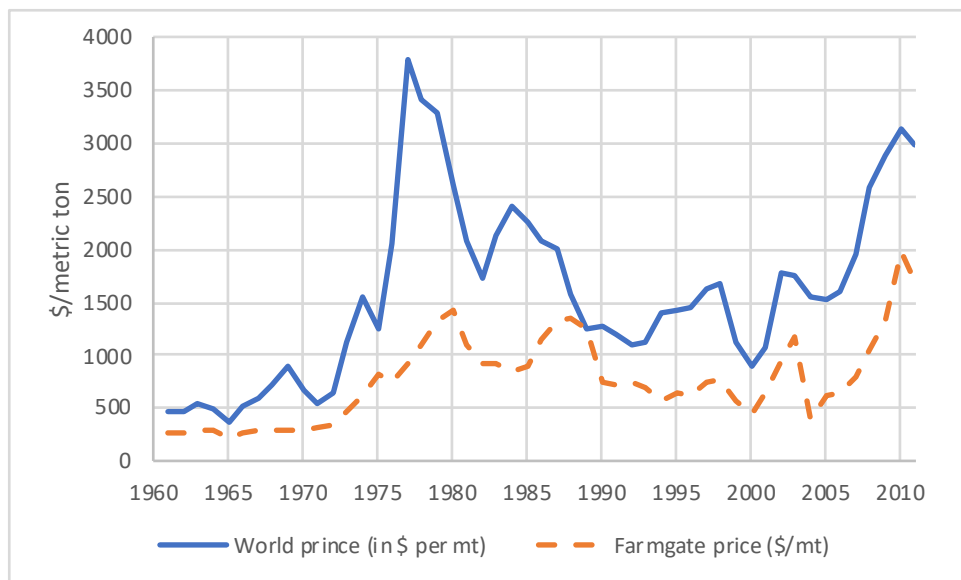
55 See figure 23, BASIC, "Dark Side of Chocolate," p. 30. Supra note 28.

56 BASIC, "Dark Side of Chocolate," p. 32. Supra note 28.

57 See Stephanie Barrientos "Beyond Fair Trade," in Squicciarini and Swinnen *Economics of Chocolate*. The text refers to an Oxfam study (Jan Cappelle, "Towards a Sustainable Cocoa Chain," Oxfam Research Report, 2008), but we have not been able to find the figure in question. Subsequent reports put the number at 6%.

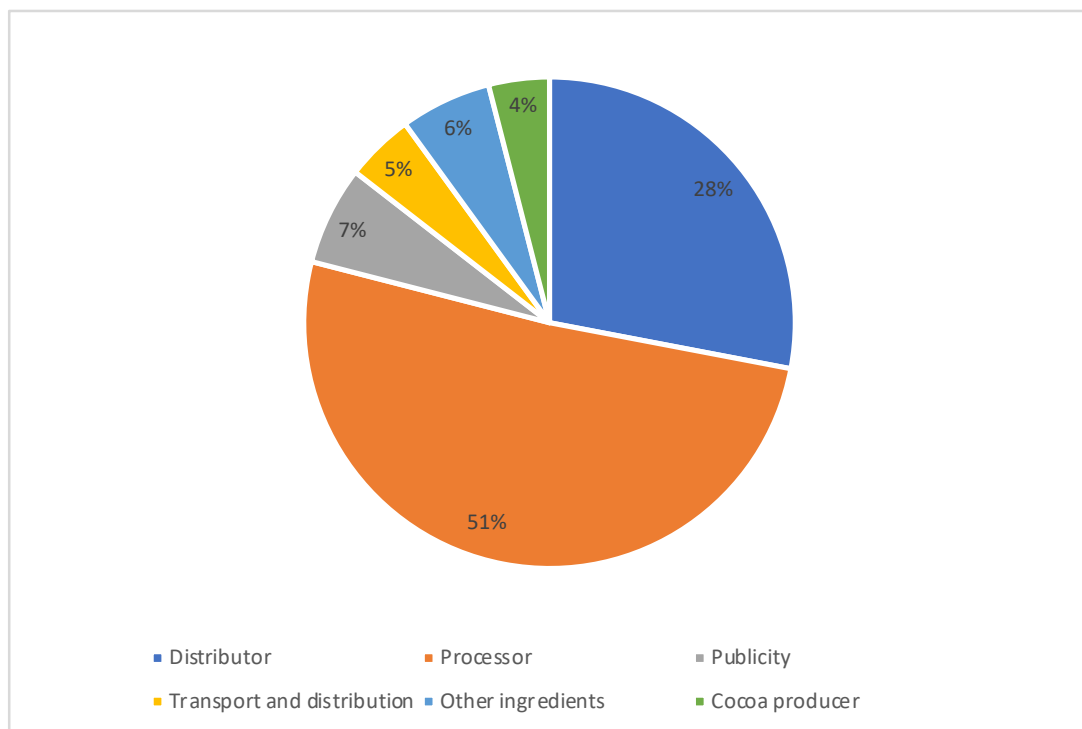
58 Ram Etwareea, "L'Afrique exige une part décente du gâteau au chocolat," *Le Temps*, April 22, 2018. See also *AfricaFocus Bulletin*, August 15, 2018.

Figure 1.6. World and Farmgate/Producer Cacao Prices (\$ per metric ton)



Sources: Farmgate/producer price: 1961-2005: Philip Abbott, "Distortions to Agricultural Incentives in Cote d'Ivoire," Department of Agricultural Economics Purdue University, West Lafayette, IN, Agricultural Distortions Working Paper 46, December 2007. 20056-2011 FAO statistical database, <http://www.fao.org/faostat/en/#data/PP>.

Figure 1.7: Breakdown of the Price of a Milk Chocolate Bar Sold in Europe



Source: Barrientos, S. (2011) "Beyond Fairtrade: Why are Chocolate Companies Pursuing Sustainability in Cocoa Sourcing?" Paper to ILO/IFC Better Work Conference (October), p. 6. Published in In Barrientos, S., M. Squicciarini, M. and J. Swinnen (eds.). *The Economics of Chocolate*. Oxford : Oxford University Press, 2015, chapter 12.

Scaling the value chain?

In such circumstances it is understandable that producing countries want to attract a greater share of processing activity. At Ouattara's urging, and having put a very attractive tax regime in place in 2012, Côte d'Ivoire has won a significant portion of the cocoa processing market, supplanting the Netherlands as the global leader.⁵⁹ By 2013, 35% of Ivorian beans were ground and processed in Côte d'Ivoire⁶⁰—a percentage the government has announced it would like to increase to 50% by 2020.⁶¹ Taxes on exports of cocoa butter have been cut from 14.6% to 11%, and taxes on cocoa powder have been cut from 14.6% to 9.6%.⁶² According to German researcher Friedel Hütz-Adams of the Südwind-Institut, there have been heated negotiations about the tax regime: when the government wanted to end tax breaks in 2012–13, investors forced it to back down by threatening to close their plants.⁶³

Processing capacity has increased rapidly to more than 700,000 tons in 2014, though the factories are not running at full capacity—550,000 tons were processed in 2016⁶⁴—and the employment impact has been rather limited. The French group Cémoi has even opened a plant manufacturing chocolate bars in Abidjan under the “Côte d'Ivoire” label. These are primarily meant for the Ivorian domestic market,⁶⁵ and benefit from “total exemption from the DUS, the main state tax on cocoa exports.”⁶⁶

As Côte d'Ivoire moves into processing, and ceases to be involved in cocoa cultivation alone, Abidjan's new status as the world cocoa capital has recently been confirmed by the decision of the International Cocoa Organization (ICCO) to transfer its headquarters there from London, where it was based previously.⁶⁷

With the support of the African Development Bank, Côte d'Ivoire and Ghana are also developing cocoa bean storage facilities to better control supply to the global market in the event of overproduction.⁶⁸ The idea of a cocoa cartel is on the rise. The two countries—which together account for more than 60% of

59 ICCO Quarterly Bulletin of Cocoa Statistics 42, number 1, cocoa year 2015/16.

60 BASIC, “Dark Side of Chocolate,” p. 43. Supra note 28. See also Claire Fages, “L’Afrique peut-elle former un cartel du cacao?,” RFI, October 2, 2018, who puts the raw cocoa share higher at three-quarters.

61 See the Centre de Promotion des Investissements en Côte d'Ivoire, available at <http://www.cepici.gouv.ci/>. See also *Jeune Afrique*, “Premières entreprises africaines,” special issue 43, pp. 52–3.

62 Thierry Gouegnon, “Ivory Coast to reduce export taxes for cocoa products,” Reuters, March 6, 2015.

63 Interview with the author, August 11, 2016.

64 Gérard Choisnet, “Côte d'Ivoire: Accord avec Olam sur la transformation du cacao,” 619tn.net, October 6, 2017. The article gives very precise details about each firm's processing capacities.

65 See Baudelaire Mieu, “Le chocolatier Cémoi et le conseil café-cacao vont investir 11 millions d’euros en Côte d'Ivoire,” *Jeune Afrique*, May 19, 2016, available at <http://www.jeuneafrique.com/326707/economie/agro-industrie-chocolatier-cemoi-conseil-cafe-cacao-investir-11-millions-deuros-cote-divoire/> (accessed December 20, 2018).

66 “Les bonnes affaires de Cémoi à Abidjan,” *La Lettre du Continent* 738, October 5, 2016, p. 7.

67 Antoine d'Abbundo, “Abidjan devient la capitale mondiale du cacao,” *La Croix*, October 1, 2015.

68 Etwareca, “L’Afrique exige.” Supra note 57.

world production—announced the price for planters for the 2019–20 season on the same day in October 2018. And they chose to set a minimum common price for the 2020-21 cocoa season.⁶⁹ In the opinion of industry analysts, however, a “cocoa OPEC” will only become reality if the main producing countries’ marketing systems are brought closer together.⁷⁰

But if Ivorians want to capture a larger share of the value chain that lies between the cocoa bean and the chocolate bar, they will need to pay closer attention to the share devoted to the intangible factors mentioned above.

Intangible factors and tax avoidance

The growing importance of intangible factors in the global value chain is not specific to the cocoa industry: these account for 84% of the value of businesses today, compared to 17% in 1975.⁷¹ Intangible assets confer advantages to companies with multiple international locations, among which reported revenues can be moved depending on the opportunities offered by each, particularly in terms of taxation.

It is perfectly proper to pay a subsidiary for use of a trademark or a patent, even when the subsidiaries holding them are based in tax havens. But whether it is proper to create fictitious subsidiaries in order to evade taxes, or to inflate the remuneration that subsidiaries receive in order to avoid taxes, as occurs in the practice known as transfer pricing, is less clear. French MEP Eva Joly, a former magistrate who distinguished herself by her role in investigating the famous scandal known as the Elf affair, has described tax havens as a modern form of colonization.⁷² African countries are not the only ones to be harmed by these aggressive strategies to increase profits by sheltering them from tax.

Documenting such maneuvers in the cocoa market at the various stages of processing and commercialization would require access to a company’s internal cost accounts—a closely guarded secret.

69 Jacques Deveaux, “Ghana et Côte d’Ivoire jettent les bases d’une “Opep” du cacao”, France Télévisions, June 13 2019, available at https://www.francetvinfo.fr/monde/afrique/economie-africaine/ghana-et-cote-divoire-jettent-les-bases-dune-opep-du-cacao_3488055.html (accessed February 29, 2020).

70 Fages, “L’Afrique peut-elle former un cartel du cacao?” Supra note 59. See also Muryel Jacque, “Afrique de l’Ouest: les premiers pas d’une Opep du cacao,” *Les Échos*, October 4, 2018.

71 Ocean Tomo, cited in Carole Abbey, “L’importance du capital immatériel comme facteur de création de valeur,” conference at the Académie de Comptabilité, May 16, 2017, available at <http://www.academie-comptabilite.fr/upload/file/la-contribution-des-actifs-immateriels-a-la-creation-de-valeur-des-entreprises-v25072017.pdf> (accessed January 7, 2019).

72 See “La colonisation modern c’est les paradis fiscaux – Eva Joly,” available at <https://www.dailymotion.com/video/xgvdyd> (accessed December 20, 2018).

But the annual reports of firms including Nestlé⁷³, Mondelez,⁷⁴ Cargill⁷⁵, ADM,⁷⁶ and Barry Callebaut⁷⁷ leave little doubt that the sector’s main players know where to base their subsidiaries to maximize tax benefits. These reports reveal intangible activities and holdings—group headquarters, intellectual property, trading, financial management, and other services—often located in territories with favorable tax regimes such as Belgium, Delaware, Luxembourg, Malta, Mauritius, the Netherlands, Panama, Singapore, and Switzerland.

ADM’s decisions about where to base its regional headquarters—Singapore for its business in Asia, and Switzerland for its business in Europe, the Middle East, and Africa—are not matters of chance.⁷⁸ In its declaration to the American securities regulator,⁷⁹ ADM reports one holding company in the Netherlands, another in the British Virgin Islands, four in Delaware, and two in the Caymans. ADM’s annual report showed that in 2015 and 2016 the United States accounted for almost half the group’s turnover, or approximately \$30 billion out of a total of \$65 billion. Next to the U.S., the firm’s revenues were concentrated most heavily in Switzerland, with around 19% of the group’s turnover, and the Cayman Islands, with around 6%—more than Germany.⁸⁰

Power asymmetry

The ICCO itself recognizes “an asymmetrical division of bargaining power in the global cocoa chain.” According to ICCO, it is the contrast between a supply fragmented among millions of producers and a demand concentrated in the hands of an ever smaller number of actors that gives the latter “oligopolistic or monopolistic” bargaining power.⁸¹ The World Cocoa Foundation, whose members include the main players in the sector, has declared that better standards of living for growers is “a major concern” for

73 Nestlé Group, Financial Statements 2016, pp. 144–160, available at https://www.nestle.com/asset-library/documents/library/documents/financial_statements/2016-financial-statements-en.pdf (accessed January 7, 2019).

74 Mondelez International, Form 10 K (Annual Report 2016), February 2017, pp. 376–83, available at http://www.annualreports.com/HostedData/AnnualReports/PDF/NASDAQ_mdz_2016.pdf, accessed October 2017.

75 Cargill’s annual public report gives little information about the group’s subsidiaries. We can glean a rough idea from the archives of the company’s website: <https://web.archive.org/web/20160314113759/http://www.cargill.com/worldwide/index.jsp>, accessed January 7, 2019.

76 ADM’s global financial holding company is based in the Cayman Islands. See the report to the SEC of December 31, 2013, available at <http://sec.edgar-online.com/archer-daniels-midland-co/10-k-annual-report/2014/02/26/section43.aspx> (accessed December 27, 2018).

77 Barry Callebaut, *Annual Report 2015/2016*, pp. 106–7 and 113, available at https://www.barry-callebaut.com/system/files/download/barry_callebaut_annual_report_2015-16_2.pdf, accessed October 2017.

78 See <https://www.adm.com/contact-us> (accessed December 20, 2018).

79 See https://www.sec.gov/Archives/edgar/data/7084/000000708417000008/adm-ex21_20161231x10k.htm (accessed December 20, 2018).

80 See “2017 Letter to Stockholders Proxy Statement,” p. 176, available at <https://assets.adm.com/Investors/Shareholder-Reports/2017/2017-Annual-Report.pdf> (accessed December 20, 2018).

81 Mitchell Van de Klundert, “VN rapport over megafraude grondstoffen blijft vragen oproepen,” *Follow the Money*, available at <https://www.ftm.nl/artikelen/verontwaardigde-reacties-vn-rapport-grondstoffraude> (accessed December 20, 2018).

them. UNCTAD advocates better collective organization on the part of small farmers and easy access to credit, so that they do not have to accept just any price, and can negotiate better ones.⁸²

Côte d'Ivoire embodies the inequalities in the distribution of the wealth that originates in cocoa. Value is siphoned off by official and unofficial channels far from the growers. Before turning to history to understand how cocoa has provided the basis for the enrichment of a handful of members of the country's ruling class, we must pause to delve more deeply into the statistics for the global cocoa trade, which turn out to hold many surprises.

82 Etwareca, "L'Afrique exige." Supra note 57.

2. Statistical Curiosities of the Cocoa Trade

What happens to cocoa once it leaves the Ivorian ports of Abidjan and San Pedro? The main importers are well known: over the last two decades, the Netherlands, the United States, Germany, France and Belgium together have consumed more than two-thirds of Ivorian cocoa. But a closer examination of international statistics on the cocoa trade raises several interesting puzzles. The figures released by UN Comtrade, the UN's statistics agency, reveal two particularly curious things.⁸³

The first is that Germany and, to a lesser extent, France and the United States, report that they import more cocoa from Côte d'Ivoire than the latter claims to export to them. The discrepancies are substantial: over sixteen years (2000–2015), Côte d'Ivoire declared that it exported a total of around \$3 billion of cocoa to Germany, whereas Germany said it imported around \$7.1 billion of Ivorian cocoa. Deducting the cost of shipping, the discrepancy between the official German and Ivorian figures is still around \$3.8 billion (see Table 2.1). The picture is similar in the case of France, which reported that it had imported 35% more cocoa over the period (again taking shipping costs into account) than Côte d'Ivoire recorded in exports to France. The same pattern is seen in the cocoa trade with several other countries, including the United States, Belgium and Italy, although the differences are smaller.

The second curiosity is the mirror image of the first. It centers on the Netherlands, the world's largest importer of cocoa, and to a lesser extent Estonia. Between 2000 and 2015, Côte d'Ivoire declared that it exported a total of \$15 billion (excluding shipping costs) to the Netherlands, which recorded only \$12.6 billion of imports (including shipping costs). Adjusting for the costs of freight and insurance, the discrepancy amounts to almost \$4 billion. The gap has narrowed in recent years, but the reason for it remains to be explained (see Figure 2.1).

Summing across all trading partners in Table 2.1, Côte d'Ivoire's reported cocoa exports were roughly \$2 billion less (in 2015 dollars) than the corresponding imports reported by its trading partners. This is equivalent to about 5% of the declared value of the country's exports to these partners during the same period. As discussed below, it is likely that some of the cocoa reported by Côte d'Ivoire as going to the Netherlands was transshipped to other countries, and this helps to explain the contrasting patterns shown in the table. But the \$2 billion net discrepancy suggests an overall pattern of export underinvoicing.

⁸³ These questions were initially raised by an UNCTAD study. See UNCTAD, "Trade misinvoicing in Primary Commodities in Developing Countries," July 2016.

Table 2.1: Export misinvoicing for Côte d'Ivoire's cocoa (SITC 072), 2000-2015
(top nine trading partners; constant 2015 \$ million)

Partner	Ivorian exports (fob)	Partner imports (cif)	Export misinvoicing*
Netherlands	15044.7	12551.8	-3997.4
USA**	9421.3	10810.2	1388.9
France	4184.4	6055.8	1453.0
Germany	2976.0	7097.2	3823.6
Belgium	2944.1	3314.8	76.3
Estonia	1777.7	977.4	-978.1
Italy	1533.4	1903.0	216.2
Spain	1468.8	1531.7	-83.9
United Kingdom	1434.9	1667.3	88.9
Total	40785.2	45909.1	1987.5

Source: Computations based on Comtrade database.

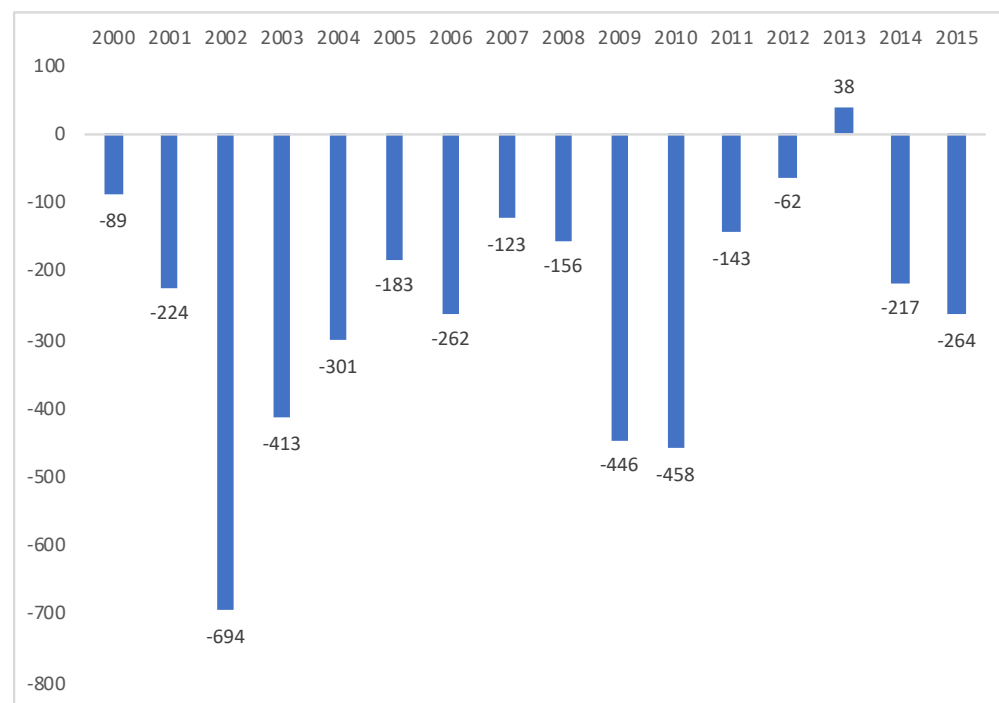
Notes: * Export misinvoicing = Partner imports – (cif/fob) x Ivorian exports, where cif/fob ratio = 1.1.

** USA imports are reported fob, so Export misinvoicing = Partner imports – Ivorian exports.

fob = freight on board.

cif = inclusive of costs of freight and insurance.

Figure 2.1: Cocoa import-export discrepancies between Cote d'Ivoire and Netherlands (constant 2015 \$, million)



Source: Computations using data from Comtrade.

Note: Netherlands' imports in cif value are compared to Côte d'Ivoire's exports converted from fob to cif values using a 10% proxy for the cif factor.

Export underinvoicing as a conduit for capital flight

Export underinvoicing – deliberate underreporting of the value of export shipments by understating their quantity, price, or both – can happen for several reasons. One is to evade taxes levied on exports. A second is to conceal foreign exchange earnings from the government. These two motives are not mutually exclusive; instead they can be mutually reinforcing.

Like most developing countries, Côte d’Ivoire requires exporters to surrender their foreign exchange earnings at the central bank for conversion into local currency. Exporters may decide to conceal part of their earnings abroad as a way to evade controls on outflows of foreign exchange. When, as has sometimes been the case in Côte d’Ivoire, the exchange rate on the parallel (“black”) market is more advantageous than the official rate, exporters may decide to conceal export remittances from the authorities. When the unreported earnings remain overseas, export underinvoicing is a conduit for capital flight.

For much of its history, Côte d’Ivoire has had fairly stringent capital controls and an official exchange rate that is less favorable (for exporters) than the market rate. The Chinn-Ito index measures the extent of capital account openness, based on IMF data, with a positive value indicating greater freedom of capital movement, a negative value less, and the worldwide average set at zero. Across countries its values ranged from -1.92 to +2.35 in 2017. The index for Côte d’Ivoire averaged -0.86 from 1970 to 2017, and it has been below -1.2 since 1996, placing it among the quartile of the world’s countries with the most restrictive policies.⁸⁴

It is quite plausible, therefore, that export underinvoicing for purposes of capital flight helps to explain the curious discrepancies in the country’s cocoa trade statistics. But other defects and gaps in the available data may exacerbate the anomalies.

Data reliability issues

As in any quantitative analysis, the robustness of these results depends on the quality of the underlying data and the accuracy of the assumptions that allow figures to be compared.⁸⁵ Regarding the latter, the fact that export values are reported f.o.b. (freight on board) and import values usually are reported c.i.f. (inclusive of costs of insurance and freight transport) means that one must adjust for insurance and

84 Hiro Ito and Menzie Chinn, “What Matters for Financial Development? Capital Controls, Institutions, and Interactions,” *Journal of Development Economics*, 81, pp. 163-192, October 2006.

85 The following paragraph draws heavily on an interview with the French economist Denis Cogneau, August 11, 2016.

transportation costs to compare exports and imports. Here, following the procedure used by Ndikumana and Boyce, we use the convention of assuming that these costs are equivalent to 10% of the export price. This method can introduce a degree of uncertainty, but it would not explain differences in the sign of the discrepancies between France and the Netherlands.

Random errors may occur in the recording of export quantities. A financial audit in 2004 found that “cases of differences between the real and theoretical weight” were commonplace, “a result of the weakness of upstream quality controls.”⁸⁶ Year-to-year discrepancies may also occur, particularly when cocoa is exported at the end of one year and arrives at its destination the next. Again, these would not explain such cross-country differences, and timing discrepancies would average out across the years.

These problems are inherent to trade statistics. Taken together, can they explain the size of the gaps observed or their persistence? Not at all—particularly as the observed patterns differ greatly across different trading partners. Two puzzles still remain to be solved. The first is: Why is the Netherlands so unusual? The second is: Why, in spite of the Dutch anomaly, did reported worldwide imports of Ivorian cocoa systematically exceed Côte d’Ivoire’s reported exports in 2000–2014—by an average of 6.5% for its top nine trading partners, and as much as 22% in 2013?

The Dutch exception

Drawing attention to these statistical irregularities in the cocoa trade, a study by UNCTAD concluded that there exists a problem of what it called “misinvoicing”. The term cast doubts on practices in the sector and provoked a reaction. Dick De Bruin, a manager at CWT Commodities, called the idea of large-scale misinvoicing in the Netherlands “absurd.”⁸⁷ A representative of Barry Callebaut said that he knew nothing about alleged misinvoicing, and claimed that in that firm’s case “nothing goes through Dutch ports - we enter at Rouen and Antwerp.”⁸⁸

Some industry professionals maintain that deliberately falsifying trade documents would entail a big risk for large companies, especially since technical advances have made it easier for governments to identify such manipulation.⁸⁹ And large companies often enlist legal and tax advisers to help them avoid breaking the law. Let’s first look at other explanations for the Dutch discrepancy offered by experts.

86 Investissement Développement Conseil (IDC), “Audit des flux financiers de la filière café-cacao de Côte d’Ivoire,” September 2004 (funded by the European Union).

87 Quoted by Van de Klundert, “VN rapport over megafraude grondstoffen.” *Supra* note 80.

88 *Ibid.*

89 According to the trader quoted by Van de Klundert, *ibid.*

One possibility is that the Netherlands is registered as the destination country at the Ivorian ports, whereas in reality it is often only a country of transit. Dutch import data may not record incoming shipments that are in transit to processing facilities elsewhere in Europe. Some specialists regard this as the likely explanation. Christophe Alliot says that “the customs in the countries which export these products only know the first port at which the goods will be offloaded—Hamburg or Le Havre, for example. From this entry point, goods are very often reexported all over Europe. And it’s not unusual for goods to move through several countries before being processed—for instance, going from the Netherlands to France by way of Belgium.”⁹⁰ UN trade statisticians likewise report that Ivorian customs officials rarely know the final destination of the containers, but only the first port they will arrive at.⁹¹

The Netherlands may only count cocoa when it itself is the final destination, but Côte d’Ivoire may indicate the Netherlands as the cocoa’s destination even when it will just be moved from there to Germany. But questions remain. Why register Ivorian cocoa as an export to the Netherlands when that is not its final destination? How much Ivorian cocoa arrives in Germany from the Netherlands without being registered in the Netherlands as re-exported goods or goods in transit?

Another possibility is that the destination of the cocoa is simply unknown when the cargo leaves Côte d’Ivoire. Amsterdam is one of the major ports for importing cocoa, and may be recorded as the destination by default. Ferry Lapré of Statistics Netherlands (CBS) says that “Amsterdam might be marked as the destination when the ship’s final stop is actually Antwerp.”⁹² In that case, the boat never reaches Amsterdam. The exported cocoa is recorded by the Ivorian authorities as going to the Netherlands, but it is never seen by Dutch customs.

Another possible explanation, documented for other goods, is that the official data confuse trading – the buying and selling of commodities – with trade itself, the movement of the commodities. “Contracts for the sale and purchase of commodities are concluded in Switzerland, where the goods are sold and the ships are chartered,” a study of Swiss trading reports. “But the commodities never cross the Swiss border, except for gold. And so these flows never appear in customs statistics.”⁹³ A former cocoa trader explains: “Commodities may already have been resold to a third party by the offices which handle trading even

90 Interview with BASIC’s Christophe Alliot, July 20, 2016.

91 In interviews carried out on our behalf during a UN Comtrade conference at Geneva in late September 2017 by Matthias Cortin, from the Bureau d’Analyse Sociétale pour une Information Citoyenne.

92 Interview, May 1, 2018.

93 Déclaration de Berne, *Swiss Trading SA, La Suisse, le négoce et la malédiction des matières premières* (Lausanne: Éditions d’En Bas, 2011).

before the goods arrive in the country. The Netherlands and Switzerland are the leading countries for trading activities.”⁹⁴

According to a cocoa exporter with almost thirty years of experience in the sector, “while it’s true that the same shipment of cocoa could change owner ten times in the 1980s or 1990s, it happens much less these days: there are fewer middlemen and the circuit is much shorter because the number of final buyers has fallen.”⁹⁵ He also has an opinion about the hypothesis on destinations: “When the cocoa is loaded onto a liner, one of those big CGA CGM container ships, it’s like the subway: it stops at Antwerp, Amsterdam, then Hamburg. You don’t change its destination! That’s the solution which exporters generally prefer, because it’s more flexible: it lets them ship 500 or 1,000 tons one day, or put off to another if need be. . . . But the freight tariffs mean that it’s sometimes better to charter a ship specially to carry 10,000 to 15,000 tons of cocoa. Those boats are smaller and can change their route more easily.”

Warehouses: The missing statistical link

Jack Steijn, the manager of a Dutch logistics company, Maverix, and a member of the European Warehouse Keepers Federation, may offer a key to the mystery. He understands the chain that runs from the producer to the consumer so well that he served as president of the international technical committee in charge of developing an ISO standard intended to ensure the traceability of sustainable cocoa. Steijn explains that European customs allow goods imported to the European Union to be stored in bonded warehouses. While physically on European soil, these goods are still technically considered to be outside the EU. It is only when they are moved to their final destination in the EU that they are declared and officially accounted for. But they can be stored for months—and sometimes years. This does not necessarily have a negative impact on the quality of the cocoa beans if the storage conditions are good. The owner of the beans receives a warrant for the shipments of cocoa in question, and can resell them without the beans leaving the warehouse. During this time, Ivorian authorities will have recorded this cocoa as an export. If it is ultimately transferred outside the EU, these goods will never have been declared to be in the EU at all, and the importer will likely not know where the cocoa was originally from.⁹⁶

The International Cocoa Organization finds this explanation convincing. Laurent Pipitone, the organization’s former statistical director, explains that “the big firms in the sector, like Barry Callebaut

94 Quoted by Van de Klundert, “VN rapport over megaafraude grondstoffen.” Supra note 80.

95 Interview with an anonymous sector professional, December 29, 2017.

96 Interview with Jack Steijn, of the European Warehouse Keepers Federation, August 11, 2016.

or Cargill, work on a ‘just in time’ basis—they need to have enough to meet their needs, but they try to have very little stocked up.” This explains the importance of having storage warehouses relatively close to processing areas. In 2014 and 2015, Amsterdam and Rotterdam together held around 40% of European stocks.⁹⁷

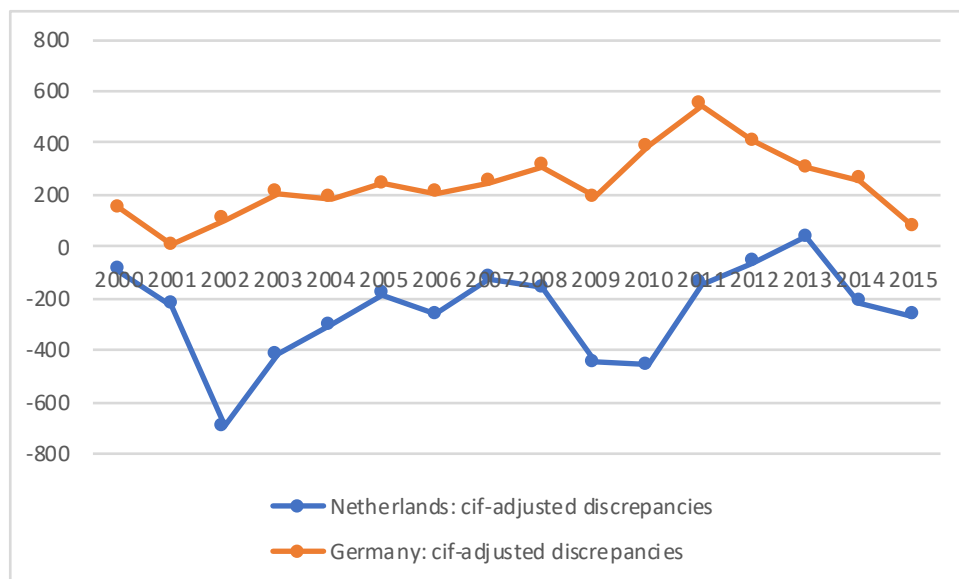
This system may also explain the statistical quirk in Estonia’s case. Like the Netherlands, the country reports that it imports less Ivorian cocoa than Côte d’Ivoire claims to export to it. The port of Tallinn specializes in managing and storing imports of raw materials, including cocoa, about 30,000 tons of which were stored there in 2015. Several Estonian companies, like Vigolin and Contimer, have joined the European Warehouse Keepers Federation. But for the most part, these tons of beans are still only in transit to Russia, Ukraine, Belarus and elsewhere. The imports are in all likelihood recorded not in Estonia, but in the country of ultimate destination.

With these explanations in hand, we can return to our figures. Was the Netherlands an “airlock” for cocoa going to Germany? This is the shortest path for getting resources to the west German factories of Barry Callebaut and Cargill. During the 2000-2015 period, Germany reported importing \$9.1 billion of cacao from the Netherlands. The available data do not reveal how much of this cocoa originated in Côte d’Ivoire, but what is certain is that none originated in the Netherlands itself.

To explore the extent to which transshipments account for the apparent data anomalies, the author compared the discrepancies for reported Ivorian cocoa imports by Germany to the discrepancies (in the opposite direction) for the Netherlands (Figure 2.2). The year-to-year variations are not terribly consistent with the story: the airlock explanation would imply that bigger negative discrepancies for the Netherlands would be correlated, perhaps with a lag, with bigger positive discrepancies for Germany. If anything, we find the reverse.

97 See ICCO Expert Group on Stocks, Report on the Annual ICCO Survey of Cocoa Bean Stocks, January 22, 2016.

Figure 2.2: Cocoa import-export discrepancies between Cote d’Ivoire and Netherlands’ and Germany (constant 2015 \$, million)



Source: Computations using data from Comtrade

Note: Netherlands’ imports in cif value are compared to Côte d’Ivoire’s exports converted from fob to cif values using a 10% proxy for the cif factor.

The result is more consistent with the transshipment story when we add together the negative balance of the one and the positive balance of the other over the entire period (see Table 2.1). In the sixteen years between 2000 and 2015, Côte d’Ivoire’s reported exports of cocoa to Germany and the Netherlands combined roughly equaled the combined cocoa imports from Côte d’Ivoire recorded by the two countries, after adjusting for shipping costs. But Germany is not likely to be the only country that received transshipments from the Netherlands.

Given the lack of data on the transit sector, it is impossible to assess accurately the role it plays in the statistical inconsistencies observed. Trading and storage companies are aware of the volumes of goods in transit, their origins, and their destinations. But are these data shared with government agencies? The author asked Statistics Netherlands, and the answer was simple: No. Cocoa stored in warehouses while in transit does not clear customs, and so the Netherlands does not “have complete information about warehoused goods, or exports from these warehouses.”⁹⁸ If we are to find a convincing explanation for the statistical inconsistencies in trade statistics, companies working in the sector will have to provide transparent data on the whole of the cocoa supply chain.

⁹⁸ Interview with Ferry Lapré of Statistics Netherlands (CBS), May 1, 2018.

Fiscal motives?

We still have to understand why cocoa is stored in the Netherlands rather than another coastal country. The issue of under-reported imports is so specifically Dutch that anyone interested in offshore finance must wonder if there is a fiscal motive behind these statistical anomalies. The difference cannot be explained by import taxes: tariffs are the same across the European Union, and in any case there is no import tax on cocoa. The Dutch tax system is known to be particularly favorable for intellectual property rights, holding companies, and trading companies. But what is the incentive for sending cocoa through the Netherlands?

As we saw, Statistics Netherlands did not deny such transit takes place. In such cases, Dutch customs simply do not record the cocoa. This means that a cocoa company could have its Dutch subsidiary settle the bill from its Ivorian subsidiary, before rebilling the goods at a higher price to its German, Belgian, or French subsidiaries that ultimately receive the beans for processing. In this case, the Dutch subsidiary would record a profit—in a country known for its fiscal leniency.

Such a maneuver is easy because, as the Federation of Cocoa Commerce acknowledges, much of the cocoa trade occurs between subsidiaries of the same firm. Companies that undertake this run no great risk, particularly if they can show that cocoa beans really do pass through Dutch warehouses. Indeed, to reap profit for the Dutch subsidiary, it is unnecessary to manipulate transfer prices (transaction prices within the same company). One can simply time the date of the transactions carefully to match variations in global prices.

It would not be surprising if multinational firms were exploiting cross-country differences in tax legislation to minimize their tax liabilities; indeed, it would be surprising if they weren't. To this end, multinational firms often create holding companies in the Netherlands. This isn't out of love for Gouda cheese and tulips. The holding companies “temporarily store revenues from the group's global activities,” according to the Swiss non-governmental organization *Déclaration de Berne* [now *Public Eye*], before they are transferred to other offshore havens like Jersey and the British Virgin Islands.⁹⁹

These tax minimization maneuvers do not always go uncontested. In a 2019 Letter to Stockholders, ADM reports that its Dutch subsidiary, ADM Europe B.V., “received a tax assessment from the Netherlands tax authority challenging the transfer pricing aspects of a 2009 business reorganization,” and that as of

⁹⁹ *Déclaration de Berne*, *Swiss Trading SA*, p. 251.

December 31, 2018, this assessment was \$93 million in tax plus \$31 million in interest. “The Company has appealed the assessment,” the letter continued, and “plans to vigorously defend its position,” but cautions that the judicial appeal may take an extended period of time and could result in additional financial impacts of up to the entire amount.”¹⁰⁰

Lack of data on the transit trade

To settle the question of the reasons for the discrepancy between the Dutch and Ivorian cocoa trade data, we need to shine a light on the statistical black box of the transit industry. At this time, outside observers have no way to compare trading and warehouse management companies’ internal transactions with customs declarations. As Alliot explains, “in trade matters, the only information available about companies takes the form of very general charts, making it impossible to find out the values, countries, products, or import and export departments involved.”¹⁰¹

Edward George, a British analyst at Ecobank, points to the underlying problem: “I’m afraid the information you’re looking for isn’t available. Trading companies have this data, but it’s very sensitive and will probably never be communicated to the media.”¹⁰²

The key to better information about the quantities and value of Ivorian cocoa exported, and the routes it takes, is in the hands of the trading companies. If the governments whose territory acts as a hub for the global cocoa trade do not have access to these data, it might be time for them to get it—and to update the figures communicated to UN Comtrade.

Aggregate export discrepancies

Our other key puzzle is this: How are we to explain the fact that Abidjan claims to export less cocoa than its partners top trading partners together report that they import? Even when we count the discrepancies in the opposite directions in the cases of the Netherlands and Estonia, the overall shortfall persists.

It is still possible that there are some timing discrepancies, with exports registered at the end of the year in Côte d’Ivoire and at the beginning of the next year in the importing country. In such cases, however, a difference in one direction one year should be offset by a difference in the other direction the following

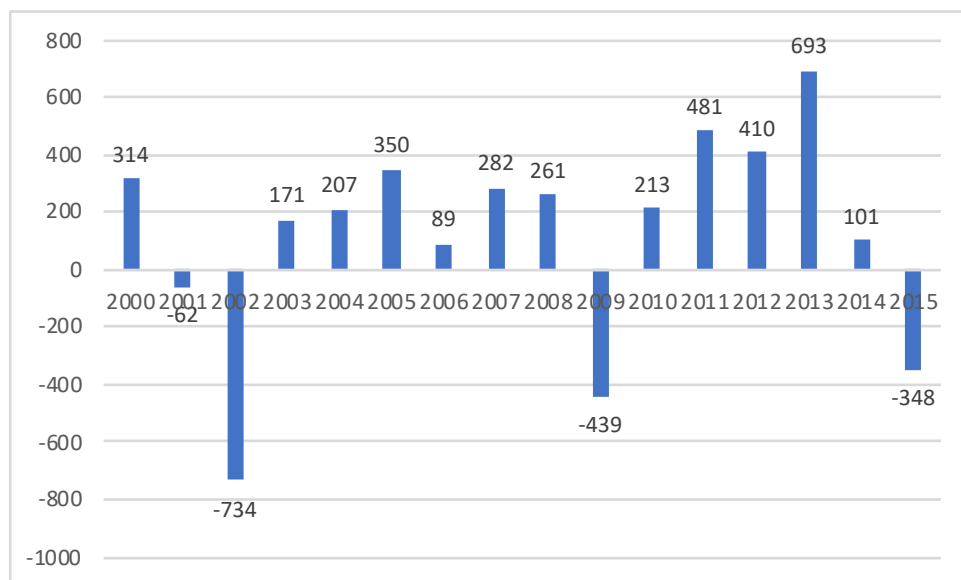
100 See 2019 Letter to Stockholders Proxy Statement, p. 91. Available at <https://assets.adm.com/Investors/Shareholder-Reports/2018/ADM-Annual-Report-Letter-to-Stockholders-2019-Proxy-Statement-and-2018-Form-10-K-final-.pdf.PDF> (accessed November 25, 2019).

101 Interview, August 16, 2016.

102 Quoted by Van de Klundert, “VN rapport over megafraude grondstoffen.” Supra note 80.

year. This is seldom the case, however, and over the fifteen-year period from 2000 to 2014 the cumulative discrepancy amounts to roughly \$2.4 billion (see Figure 2.3 and Table 2.1).

Figure 2.3: Cocoa import-export discrepancies between Cote d’Ivoire and its 9 top partners
(constant 2014 \$, million)



Source: Computations using data from Comtrade

Note: Partners’ imports in cif value are compared to Côte d’Ivoire’s exports converted from fob to cif values using a 10% proxy for the cif factor. No adjustment is made for USA which reports its imports in fob values.

Again, the question arises: Are these differences the result of recording errors? The same cargo may be declared as an import twice—firstly in the country of transit (the Netherlands), and secondly in the final country of destination (for instance, Germany, Belgium, or France).¹⁰³ Or it may be that the cargo is recorded once when still beans (by the Netherlands), and again once it has been processed into powder, butter, or industrial chocolate (Germany imports a great deal of processed cocoa from the Netherlands). But in these cases, the Dutch enigma would be even more puzzling. In such cases, what origin would be declared for these goods in Germany—the Netherlands or Côte d’Ivoire? Theoretically, one could just select “re-exports” in UN Comtrade to see the complete figures, no matter how many intermediate countries there are. But there are no cocoa re-exports from the Netherlands to Germany recorded in the UN’s database. According to Alliot, the recording-error theory does not stand up to scrutiny: as long as the beans do not bypass registration by being stored in warehouses, “customs data from European

103 The hypothesis was put forward by Denis Cogneau in an interview, August 11, 2016.

countries of import are generally trustworthy, because they list all goods from the country which produced them no matter the route they have taken, and almost always keep track of the country of origin.”¹⁰⁴

Cocoa smuggling

We are more likely, therefore, to be dealing with under-reported exports than over-reported imports. Hütz-Adams, an expert in Ivorian cocoa, was appointed by the German Corporation for International Cooperation to carry out a study of the sector. He maintains that the under-reporting is connected to Ivorian cocoa smuggling, which took place on an especially massive scale during the conflict years. During the 2007/2008 season, up to 105,000 tons of cacao ostensibly were imported from Togo by its trading partners, even though Togo’s own production was less than 10,000 tons, implying smuggling of almost 100,000 tons in that season.¹⁰⁵

According to Hütz-Adams, the bulk of this was bought by traders who knew that most of the cocoa came from Côte d’Ivoire, and sometimes packaged it in bags marked “Produce of Ghana” to increase their market value.¹⁰⁶ And Ghana saw exceptional export levels during those years when neighboring Côte d’Ivoire was exporting less. The data shown in Figure 2.4 suggest spikes in smuggling of Ivorian cocoa through Ghana in 2004–6 and also in 2011–12. Both were periods of major political instability in Côte d’Ivoire.

And how was this cocoa recorded by European customs officials: as Ivorian, or Togolese or Ghanaian? Was at least part of the cocoa identified as “Ivorian cocoa” by exporters seeking to ensure traceability? Laurent Pipitone, the former statistical director of the ICCO, does not believe that Ghana—where Cocobod, a public body, is the sole exporter—would export bags of cocoa marked “Côte d’Ivoire.” There is no reason to suppose that customs officers—who are not specialists who might be able to recognize where the cocoa originated—would record this as Ivorian cocoa, when the goods come from Ghana and were marked as such.¹⁰⁷

104 Interview with Christophe Alliot, July 20, 2016.

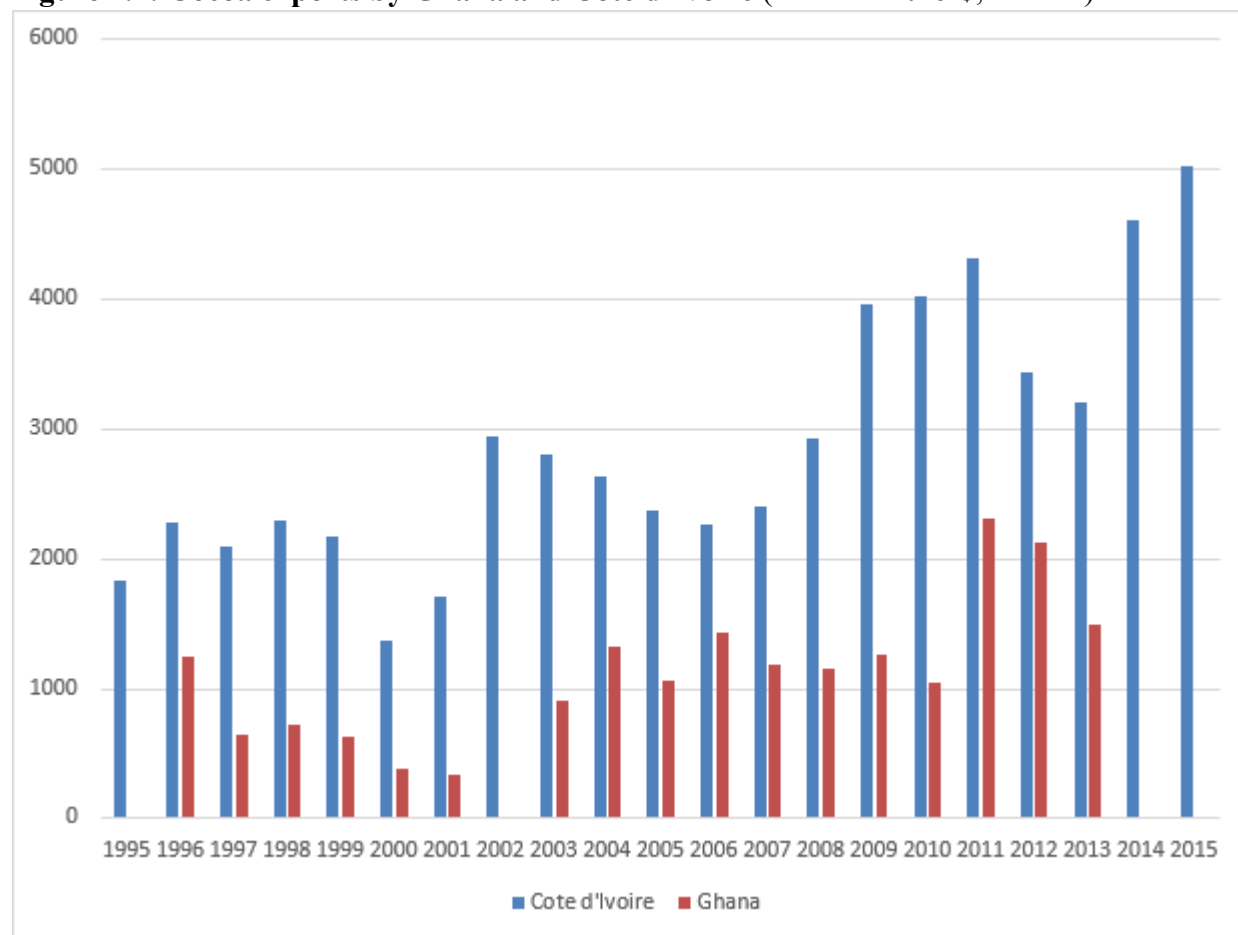
105 United Nations Group of Experts, “Letter dated 9 October 2009 from the Chair of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d’Ivoire addressed to the President of the Security Council.” UN Security Council Report S/2009/521, §243, p. 57.

106 Interview with Hütz-Adams, August 10, 2016. *Supra* note 62.

107 Interview, December 22, 2017.

UN experts rely on ICCO data, rather than European customs figures, to establish the discrepancy between the quantities produced by Togo and the quantities it ostensibly exported. Table 2.2, based on UN statistics, shows that the cocoa trade between Germany and Côte d'Ivoire's neighbors was far too small to explain the German-Ivorian statistical gap.¹⁰⁸

Figure 2.4: Cocoa exports by Ghana and Cote d'Ivoire (constant 2015 \$, million)



Source: Comtrade.

Note: No data are available for Ghana for the years 1995, 2002, 2014 and 2015.

Table 2.2 : Germany's cocoa trade, 2000-2015 (constant 2015 \$, million)

	Exports to Germany (fob)	Germany's imports (cif)
Côte d'Ivoire	3019.7	7107.4
Ghana	754.6	1783.3
Guinea	17.8	118.1
Togo	44.5	898.1

Source: Comtrade.

108 We have omitted Mali, Burkina Faso, and Liberia, for which figures were either unavailable or of no consequence.

Export reporting

The shortfall between Côte d’Ivoire’s recorded cocoa exports and the total imports recorded by its trading partners thus cannot be explained adequately by smuggling, nor by recording errors when the goods arrive in port. Instead, perhaps we should question the quality of the records made when the goods set out. Exporters have a clear financial interest in some shipments bypassing customs recording. Until recently, Ivorian export duties (the *droit unique de sortie*, or DUS) were set at 44% of the value of the goods exported. The DUS was halved to 22% for cocoa beans, and is now set at 9–13% for processed cocoa.

Might some customs officials themselves have an interest in turning a blind eye to the undervaluation of the volume or quality of certain goods, or even of a whole container? Criticisms of Ivorian customs are not new. In May 1986, a French customs mission noted that “out of a sample of sixty declarations, seventeen were false, [which] suggests a continuous, well-established tendency towards fraud in both imports and exports.” In the wake of this finding, Lamine Diabaté, Houphouët-Boigny’s Minister of Economy, published an official report which found that “under- and over-invoicing alone have cost Côte d’Ivoire between 50 and 90 billion CFA francs from year to year” (equivalent to 1.6–2.9% of GDP).¹⁰⁹ At the urging of the Bretton Woods institutions, the government announced that it was determined to fight customs and tax fraud. The results were mixed, as documented by economist Bruno Losch (see section 4).

But it may have been under Gbagbo in the first decade of the present century that Côte d’Ivoire’s export control system reached rock bottom. There was complete freedom to under-invoice exports for the operator who held a monopoly on cocoa exports at the time, the Audit Contrôle Expertise (ACE)—a monopoly presumably granted to help the war effort as well as augmenting the personal fortune of Bohoun Bouabré, the finance minister (see section 9).

Since Gbagbo’s fall, the discrepancies between recorded Ivorian cocoa exports and imports by its partners have not decreased. Far from it, as shown in Figure 2.3. Is the Ivorian customs system still as dysfunctional as ever? This is a question about customs at the port—we know how long it is taking to regain control of the border in the rest of the country. Pipitone does not dismiss this explanation, but argues that large firms would not take such risks: companies like Cargill and Barry Callebaut depend

109 Author’s calculation, based on World Bank GDP data, and on the University of Sherbrooke’s exchange rate data.

greatly on Ivorian cocoa, and would not try to avoid export taxes at the risk of losing their authorizations.¹¹⁰

As one exporter stated, “There are checks at every stage. Authorized by the Conseil Café-Cacao (CCC), concessionaires set themselves up for six months or a year at the entrance to each exporter’s factory, checking the quality of the product that the processor or the cooperative brings in by truck. They are authorized to reject any product whose quality they think is too poor, or to adjust prices and impose discounts on these products. Their word is final. Inside the factory, where the beans are dried and conditioned, another CCC agent checks the weighbridge. Another concessionaire like Bureau Veritas or SGS is selected to check the quality of the product leaving the factory, and is subject in turn to random checks by the CCC.”¹¹¹ There then follows a series of administrative procedures (registration, form F01, paying taxes) until the ship finally departs. The customs declaration is made by a forwarder like Getma, Sivom, Saga-Ci (part of the Bolloré group), or Geodis.

On paper, the system appears to leave little room for fraud with respect to reporting of export quantities. But it does not ensure accurate recording of prices, leaving room for export underinvoicing.

The statistical inconsistencies in the Ivorian cocoa trade are many and vast. This overview inclines us to caution about drawing firm conclusions as to the reasons for them. Some inconsistencies are likely the result of fraud in the recording of exports. But warehousing merchandise in transit may be equally important, and there may exist ulterior fiscal motivations in this, too. Just as a recent audit highlighted the failings of the Ivorian cocoa sector and its regulator,¹¹² an audit of Ivorian customs and freight forwarders’ activities could shed further light on the apparent problems in the recording of the country’s cocoa exports.

110 Interview, December 22, 2017.

111 Interview, December 29, 2017.

112 Claire Fages, “Cacao en Côte d’Ivoire: une gestion ‘approximative’ selon KPMG,” RFI, April 30, 2018.

3. Félix Houphouët-Boigny's Remarkable Fortune

On March 2, 1990, Michel Camdessus, then head of the IMF, expressed regret that aid to Africa “serves simply to fuel capital flight and the purchase of apartments in the most elegant parts of Europe.”¹¹³ This was undoubtedly an exaggeration. But it does raise an interesting question: Where did Ivorian capital flight go?

In an effort to pursue this question, we examined the real estate holdings of Ivorians in France. To assess property values, we used the rental value of housing reported in the FILOCOM database maintained by the French housing ministry.¹¹⁴ Estimating the average value of a property in France to be equivalent to twenty years of rent, the value of property known to be held by Côte d’Ivoire residents is around \$200 million.¹¹⁵ Many of these properties are modest in size: 60% of the value is represented by properties of less than 75 square meters (800 square feet).

We also examined the total holdings of Ivorian residents in the banks of the 44 countries that report to the Bank for International Settlements (BIS).¹¹⁶ The reporting countries include the world’s main financial centers. The data appear to show substantial flows of Ivorian capital to Western banks in the late 1980s, with recorded deposits reaching about \$2 billion (in 2015 dollars) by the end of that decade (see Figure 3.1).¹¹⁷ But capital flight that flowed to bank secrecy jurisdictions or into non-bank assets would escape this measure, as would deposits in reporting banks themselves in cases when the nationality of the beneficial owner was not disclosed.

The 1980s coincided with the global wave of economic liberalization policies championed by the IMF. In Côte d’Ivoire, this period also marked the closing years of the reign of the one who had become known as “le Vieux,” the Old Man, Félix Houphouët-Boigny, whose personal fortune provides a window on the world of Ivorian capital flight.

113 Quoted in Kessié Raymond Koudou, “Pratiques éducatives et développement moral” (PhD diss., Université de Toulouse-Le Mirail, November 1990), volume 1, p. 429.

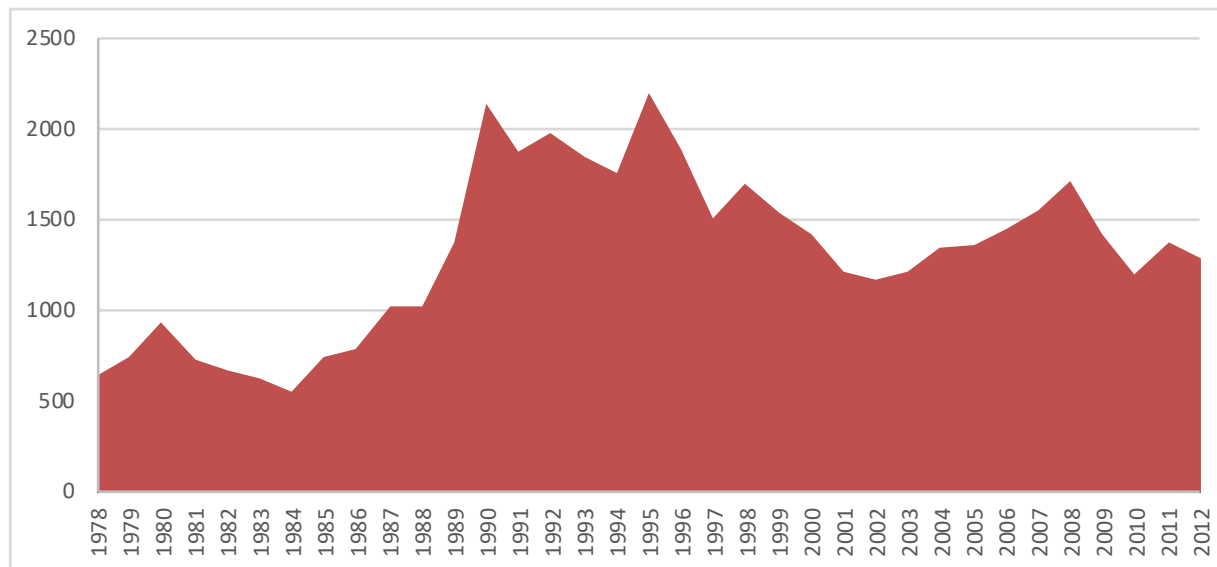
114 The author is grateful to economist Denis Cogneau for suggesting this approach and for obtaining and sharing data on non-resident real estate holdings from the French Ministry of Housing.

115 The owners could include some French citizens, since the data refer to country of residence, not nationality.

116 The author is again grateful to Denis Cogneau for assistance in accessing and interpreting these data.

117 Variations in coverage of countries and banks prior to 1996 could affect the year-to-year comparability of the BIS data. Moreover, the U.S. dollar depreciated significantly against the French franc between 1985 and 1990; since the BIS data are reported in dollars, and foreign deposits of Côte d’Ivoire residents often were held in francs, this may explain much of the apparent surge in the value of deposits in those years. For further discussion of the BIS data, see Denis Cogneau and Léa Rouanet, “Capital exit from developing countries,” Paris School of Economics, January 2015.

Figure 3.1: Deposits in BIS reporting banks by resident Ivorians (million, 2015 \$)



Source: Bank for International Settlements database.

“I Like Gold, I Was Born in It”

Houphouët-Boigny was president from independence in 1960 until his death in December 1993, and remains the central figure of Ivorian history. He did not only leave his name on a bridge, a stadium, and an airport in Abidjan. There is still a genuine aura around him in Côte d’Ivoire. Most Ivorians seem not to hold his immense personal fortune against him. At least, they say, he didn’t forget his people. And yet . . .

It is impossible to give a precise estimate of the size of this fortune. Some estimate Houphouët-Boigny had “between €50 and 100 million,” but that is surely an understatement.¹¹⁸ Others estimate €7 billion,¹¹⁹ €6–9 billion,¹²⁰ or even €15 billion.¹²¹ *Le Monde* speaks cautiously of “more than a billion.”¹²²

118 François Soudan, “Où est passé le trésor d’Houphouët?” *Jeune Afrique*, January 21, 2009.

119 Raymond Baker, *Capitalism’s Achilles Heel* (Hoboken: John Wiley & Sons, 2015), p. 52.

120 *Journal du Dimanche*, March 11, 1990. The article “Afrique: les comptes très spéciaux des dirigeants contestés,” which estimates his fortune at 40–60 billion French francs, is quoted in Koudou (1990), “Pratiques éducatives,” volume 2, p. 429. Supra note 112.

121 Christian Bouquet, *Géopolitique de la Côte d’Ivoire* (Paris: Armand Colin, 2008), p. 213, n19.

122 Marc Guéniat, “Un château, héritage d’Houphouët-Boigny, sème la zizanie dans un village français,” *Le Monde*, December 30, 2016.

Houphouët-Boigny never hid his love for money. In 1983, he claimed to have the largest fortune in the country. “People are amazed that I love gold,” he said. “It’s because I was born in it.”¹²³ Even before his rise to the presidency, he already had a small fortune: “I wasn’t yet president of Côte d’Ivoire when I bought Jean Gabin’s house [in France]. I wasn’t the president when I bought an apartment in the 11th [arrondissement of Paris] for my son!”¹²⁴

His wealth was based primarily on investments in pineapples, coffee, avocados, and poultry farming: “It’s the fruit of my labor. I have 4 billion [CFA francs] of turnover from pineapples.... I had gotten up to 3,000 tons of pineapple a month, a third of national production.... Before, we received very little, maybe a hundred million, but those hundred million are worth billions today. And I transferred all that money to bank accounts in Switzerland, which gave lots of interest. For one bank in Abidjan, my money makes up a quarter of its holdings There is even a bank that manages my profits on avocados—I believe I’m the main producer in Côte d’Ivoire. Another bank manages the modest profits from my chicken farm. But those billions—because all of this is in the billions—are all in the country.”¹²⁵ As early as 1952, however, his UBS account in Geneva held more than 150 million Swiss francs.¹²⁶

It is difficult to separate out the precise lineage of this fortune. This is particularly true because part of his fortune was, in a sense, owned collectively: “Nothing I built in Yamoussoukro [the country’s “alternative capital”] belongs to me. The hotels belong to the Party, and so to the state; the Maison du Parti, the Houphouët-Boigny Foundation, etc., are all state-owned buildings.”¹²⁷ This was no small part of his legacy, for Yamoussoukro—the small village where he grew up with his great aunt Yamoussou—became the stage for his grandest follies. In 1983, he decided to make it Côte d’Ivoire’s administrative capital, and had a number of sumptuous buildings constructed, including the town hall, a technical and engineering school, an international airport, and a basilica. The latter was to be bigger than Saint Peter’s basilica in Rome.¹²⁸ He claimed to have personally spent €115 million on the basilica, constructed by the French company Bouygues between 1985 and 1990 reportedly at a cost of €250 million.¹²⁹

123 Bernard Nantet, “Félix Houphouët-Boigny,” in *Encyclopédie Universalis*, 1999 edition.

124 Pierre Péan, *L’argent noir: Corruption et sous-développement* (Paris: Fayard, 1988), p. 176.

125 Speech by Houphouët-Boigny, *Fraternité Matin*, April 29, 1983.

126 This is according to Maître Baduel, who was Marie-Thérèse Houphouët-Boigny’s lawyer until the early 2017. Interview, December 28, 2017.

127 Péan, *L’argent noir*, p. 178. Supra note 123.

128 The basilica of Notre-Dame de la Paix in Yamoussoukro is 8,000m², with a dome inspired by St. Peter’s.

129 Some estimates put the basilica’s cost as high as \$600 million: see Amim Langer and Graham K. Brown, “Cultural Status Inequalities: An Important Dimension of Group Mobilization,” in Frances Stewart, ed., *Horizontal Inequalities and Conflict: Understanding Group Violence in Multiethnic Societies* (Basingstoke: Palgrave Macmillan, 2008), p. 47.

The origins of Houphouët-Boigny's pre-independence wealth are disputed. Some authors claim it came initially from the planters' union he led, and from gold from the Dabou region which was brought to him by supporters of the Rassemblement Démocratique Africain (RDA) to support the emancipation struggle.¹³⁰

His personal fortune flourished once he became president of Côte d'Ivoire. Developing a "peanut roaster philosophy"¹³¹—the peanut roaster must taste a few to check the quantity of salt—he set up a system of constant levies on the country's resources, especially cocoa (see section 2, above).

It is hard to imagine that Houphouët-Boigny's pre-1960 agricultural assets would have been enough to build an empire with around thirty properties in Paris, including a castle and a 33-hectare estate in Bombon (Seine-et-Marne) acquired in 1985, a Louis XIV *gentilhommière* in Soisy-sur-École, a mansion on the Rue de la Chaise in the 7th arrondissement, and in the same arrondissement the famous Hôtel Masseran, an eighteenth-century jewel also known as the Hôtel de Beaumont. There are also—still in the stylish 7th arrondissement, with its ministries and monasteries—three apartments on Avenue Bosquet, one on the Rue de Grenelle, others on the Rue de la Comète and the Passage Jean Nicot, and other handsome properties on the Rue Saint-Simon, the Boulevard des Invalides, and—if his daughter Hélène is to be believed—the Rue Duroc.¹³² The Old Man also had an apartment in the eleventh, and no fewer than seventeen villas in Marne-la-Coquette, in the western suburbs of Paris.¹³³

Of course, his holdings extended well beyond Paris. Houphouët-Boigny had apartments in London and New York, a property in the Bahamas, another in Italy in Castel Gondolfo, and others in Morocco, Senegal and, of course, Côte d'Ivoire, including eighteen luxuriously furnished and decorated villas in Yamoussoukro.¹³⁴ In Switzerland, he owned not only a house in Chêne-Bourg, but also numerous real estate companies—SI Grand Air, SI Picallpoc, Alima SCI—whose holdings included two homes close

130 See Yaya Traoré, "Problématique de la Gouvernance politique en Afrique: Sociogenèse et enjeux de la crise de l'État-nation en Côte d'Ivoire" (PhD dissertation, Paris 2 University, 2014), pp. 201, 213–14.

131 "You shouldn't stop a peanut roaster from checking how much salt there is." In Côte d'Ivoire this metaphor is applied to the normalization of corruption. See Yaya Traoré, « Problématique de la Gouvernance politique en Afrique : Sociogenèse et enjeux de la crise de l'État-nation en Côte d'Ivoire ,» Political Science PhD Thesis, 18 December 2014, p. 14.

132 All these properties are named in the well-respected *La Lettre du Continent*. See 'Les comptes secrets d'Houphouët,' *La Lettre du Continent*, no. 455, September 30, 2004. The precise addresses, including that of the Rue Duroc property, are given by Hélène Houphouët-Boigny in a post on her blog, <http://succession-mr-f.houphouet-boigny.over-blog.net/article-11257253.html> (accessed December 27, 2018).

133 Benoît Collombat, "Les milliards envolés de Félix Houphouët-Boigny," France Inter, December 4, 2015.

134 Philippe Madelin, *L'or des dictatures* (Paris: Fayard, 2013), pp. 307-315, and Soudan, "Où est passé le trésor d'Houphouët?" Supra note 117.

to Geneva, one in Collonges-sous-Salève in Haute-Savoie (France) and the other on “Billionaires’ Hill” in Coligny (Switzerland).¹³⁵

In addition to real estate, he had numerous foreign accounts in France, Luxembourg, and especially Switzerland, with UBS, SIB, and Merrill Lynch,¹³⁶ and a substantial stock portfolio that included holdings in the coffee-cocoa firm Intercafeo and in Genevan jewelry stores and watchmakers.¹³⁷ According to the records of transfers from UBS that the author consulted, the Old Man’s UBS account alone was used to spend more than \$10 million at the jewelers and watchmakers Piaget and Harry Winston over four years in the mid-1980s.

Houphouët-Boigny was amused by accusations about his Swiss assets, asking “What serious man doesn’t have some of his fortune in Switzerland?”¹³⁸ This may not have seemed very amusing to the striking Ivorian teachers he was addressing, who were suffering from deep cuts in social spending made by a state bled dry by disappearing public funds.

A coveted inheritance

Félix had five children from his first marriage to Kady Racine Sow: Félix (who died as a child), François (who died in 2011), Augustin (who died in 2015), Guillaume, and Marie. The patriarch and his second wife, Marie-Thérèse Brou, adopted two children, Hélène and Olivier. In addition, he had a daughter, Florence, by one of his mistresses. More than twenty years after the Old Man’s death, the battle over his fortune is still raging among his surviving heirs.

Houphouët-Boigny left a will, but his successor as president, Henri Konan Bédié, and the children from his first marriage managed to circumvent it.¹³⁹ They argued for the existence of an oral will leaving his property to the Ivorian state. The state was recognized as the owner of two mansions close to the Ivorian embassy in Paris,¹⁴⁰ another on the Boulevard Suchet, two floors of offices in the Tour Norma in La Défense (part of which was leased to the Total group), and the “Château Masseran,” which under Gbagbo

135 According, at least, to the blog post by Hélène Houphouët-Boigny cited above.

136 According to Baduel, the existence of this last account is based on transfers flagged by UBS to the courts in Geneva. Interview, December 28, 2017.

137 See Antoine Dulin and Jean Merckaert, “Biens mal acquis: À qui profite le crime?,” CCFD-Terre solidaire, 2009.

138 See Madelin, *L’or des dictatures*, p. 314. Supra note 133. See also the blog post by Hélène Houphouët-Boigny, cited in note 131.

139 According to Baduel, “Félix Houphouët-Boigny had Normand working for a month to draw up a will.” Interview, December 28, 2017.

140 These two properties were rented for laughably small sums, one for thirty years to a Belgian company, and the other for fifteen years to one of Gbagbo’s lawyers.

would become the Ivorian head of state's Paris residence.¹⁴¹ By 2010, a dozen Parisian apartments and houses in upmarket suburbs had been sold, with the proceeds going to the state,¹⁴² and the Hôtel Masseran's sumptuous collections of art and furnishings, including paintings by Renoir and Bonnard, had been auctioned off on Gbagbo's orders for €7.5 million—officially, to restore the mansion.¹⁴³

In French law, even if there is an oral will which favors the state, it can in theory appropriate only one-quarter of the estate with the remainder being earmarked for the children in cases where the deceased has three or more children. Marie-Thérèse Houphouët-Boigny, the second wife, has started a legal battle to recover what she considers her due. Hélène Houphouët-Boigny, their daughter, who felt she had also been “dispossessed,” also has been involved. In particular, she has sought to understand a number of mysterious disappearances, like the project to build the Saint-Joseph-Moscato hospital in Yamoussoukro, something Houphouët-Boigny promised Pope John Paul II. To finance this, Christie's and Sotheby's held an auction of old masters in New York in November 1993, a month before Houphouët-Boigny's death. This brought in at least \$40 million.¹⁴⁴ The furniture in the Hôtel Masseran was part of the sale, according to the widow's former lawyer, and included personal gifts from the Shah of Iran.¹⁴⁵ When the hospital finally came into existence in January 2015, it was funded by the government and the Vatican at a cost of €22.8 million, and there was not enough money to equip it properly.¹⁴⁶

Like her adoptive mother, Hélène suspected the first four children had divided the auction proceeds among themselves. She demonstrated that her signature had been faked during the transfer of goods before the UBS accounts were closed and she was recognized by the Court of Bouaké (Côte d'Ivoire) a legitimate heir of her father.¹⁴⁷ Referring to a press article in the French weekly magazine *Jeune Afrique*, she has also raised questions on her blog about two transfer orders signed by Houphouët-Boigny in

141 ‘L'immobilier de Gbagbo à Paris (II),’ *La Lettre du Continent*, January 25, 2007, reproduced in *Capital*, January 30, 2007, “La Côte d'Ivoire fait fortune dans l'immobilier parisien.”

142 François Soudan, “Où est passé le trésor d'Houphouët?” *Supra* note 117.

143 See “Laurent Gbagbo vend les bijoux d'Houphouët-Boigny,” *La Lettre du Continent*, June 11, 2008. In his book *L'enquête explosive* (Paris: Flammarion, 2000), p. 57, Paul Barril also mentions a painting by Modigliani which seems to have disappeared before the auction in 2008.

144 Soudan, “Où est passé le trésor d'Houphouët?” *Supra* note 117.

145 Interview with Baduel. Bernard Houdin also notes that the initiative for the sale came from Robert Dal Sasso, Houphouët's designated decorator, who was well established in the sixteenth arrondissement, and who later became the Ouattaras' decorator.

146 Joan Tilouine, “L'infortunée veuve du ‘Vieux’,” *Le Monde*, February 3, 2015.

147 Tribunal de Première Instance de Bouaké, Jugement Civil N°118 - Role Général N°14/96 , Audience Civil du 27 juillet 2000. This legal decision is available on Helene Houphouet-Boigny's blog at < <http://succession-mr-f.houphouet-boigny.over-blog.net/article-introduction-au-jugement-civil-n-118-ministere-de-la-justice-cour-d-appel-de-bouake-tribunal-d-122515657.html>> (accessed August 15, 2019).

January and February 1989 that would have sent 240 million French francs, or €36.6 million, to the “strange Everlasting account at UBS Geneva.”¹⁴⁸

The heirs have attacked legal and financial middlemen in France, Switzerland, and Côte d'Ivoire for their dealings in relation to Houphouët-Boigny's fortune, accusing them of expropriation and extortion. *Le Monde* reports that one of them is the former banker Philippe Rideau, who acted for the four first children and claims to have worked *ex gratia*.¹⁴⁹ Others are two Parisian lawyers, Paul Chardon and Jean-Michel Normand, who received more than 3.5 million francs (around €530,000) in charges and miscellaneous fees from the Old Man's estate.¹⁵⁰

Maître Bégué, a lawyer, has been entrusted with assessing the part of the Houphouët-Boigny estate that is on French soil. On 16 January 2020, the Tribunal de Grande Instance of Paris rejected the request of Hélène Houphouët-Boigny regarding the properties located in France. She has appealed the judgement.¹⁵¹

148 François Soudan, *Jeune Afrique*, n°1938, March 3-9, 1998, as quoted by Hélène Houphouët-Boigny on her blog <http://succession-mr-f.houphouet-boigny.over-blog.net/article-11257253.html> (accessed on August 15, 2019). Our translation.

149 Tilouine “L’infortunée veuve du ‘Vieux’.” Supra note 145.

150 See Tilouine “L’infortunée veuve du ‘Vieux’.” Supra note 145. See also Guéniat, “Un château, héritage d’Houphouët-Boigny.” Supra note 121.

151 See “Héritage d’Houphouët-Boigny: à Paris, l’hôtel de la discorde”, *Jeune Afrique*, February 12, 2020, available at <https://www.jeuneafrique.com/mag/893450/societe/heritage-dhouphouet-boigny-a-paris-lhotel-de-la-discorde/> (accessed April 10, 2020). For previous reporting on this case, see “L’Interminable Dossier sur l’héritage d’Houphouët Relancé à Paris,” *La Lettre du Continent* 773, March 21, 2018.

4. CAISTAB: An Official Channel for Capital Flight

When CAISTAB, the government-backed Fund for the Stabilization and Support of Agricultural Products, closed in 1999, it wasn't just a matter of dogmatically applying the neoliberal ideology that held sway in Washington. CAISTAB had become a centerpiece of “corrupt and patrimonial practices,” in the words of a study published in 2007 by Global Witness, an international NGO based in London. “By regularly asking for and receiving money from the cocoa trade via CAISTAB without being made to account for it, the president, Félix Houphouët-Boigny, effectively encouraged those handing him the money to help themselves to a share.”¹⁵²

An opaque fund

Created in 1962 to “oversee the entire process of buying and selling coffee and cocoa in order to stabilize and improve the incomes of those working in the sector,”¹⁵³ the Fund's job was to guarantee a minimum price for producers in case prices fell, using a reserve fund supplied by tax levies on exports.

But the reserve fund was not used solely for producers. In 1966, 40% of the funds were used to finance the state budget, a share that rose to 60% or even 70% when cocoa prices were at their highest in the 1970s. CAISTAB was heavily involved, for instance, in debt repayment in the 1980s.¹⁵⁴

Nor was it characterized by transparency. This was true for its revenues: between 1978 and 1985, according to a contemporary report by a major French bank, there was a difference of 830 billion CFA francs between actual receipts and official receipts—equivalent to two to three billion dollars.¹⁵⁵ It was also true for its expenses, including many classified as “unforeseen.” CAISTAB financed infrastructure projects unrelated to cocoa: in Yamoussoukro, Houphouët-Boigny's home village, these included “an international airport, a golf course, splendid technical and civil engineering schools, luxury hotels, Olympic swimming pools, stadiums, the Maison du Parti complex, the grandiose Houphouët-Boigny Foundation, an international hospital, and a sumptuous guest residence whose profusion of marble and gold sometimes unsettled its tenants All this cost CAISTAB at least 500 billion CFA francs.”¹⁵⁶

152 Global Witness, “Hot Chocolate: How Cocoa Fuelled the Conflict in Côte d'Ivoire,” June 2007, p. 46.

153 Study on the cocoa sector in the West African Economic and Monetary Union by BCEAO, June 2014, p. 11.

154 See Losch, “Le complexe café-cacao de la Côte d'Ivoire,” volume 1, 423. *Supra* note 9.

155 See Pierre Péan, *L'argent noir*, pp. 172-4. *Supra* note 123. NB: 830 billion CFA francs was equal to 16.6 billion French francs. One dollar was worth 4–5 French francs at the start of the period, and 10 French francs towards the end.

156 Péan, *L'argent noir*, p. 182. *Supra* note 123.

The reserve fund was supposed to stabilize the incomes of growers. But with much of it diverted from this goal, it had difficulty maintaining stability when prices fell in the 1980s.

Political quota-holders

Its other role, allocating approvals and export quotas, made CAISTAB the focal point for the pursuit of wealth by the president and his family. It was not initially planned that the state would intervene directly in cocoa exports. But there were controversies about the omnipresence of foreign exporters, and the young Ivorian state decided to encourage the creation of locally-owned companies. Beginning in 1966, it started creating public or mixed companies.¹⁵⁷

The idea came from the young deputy minister to the ministry of economy and finance, Konan Bédié, who also actively promoted the development of a quota system. This came into existence in 1969, and was officially meant to encourage new Ivorian entrepreneurs to take their place alongside established European firms. CAISTAB allocated export quotas to companies it had approved.¹⁵⁸ This system meant CAISTAB not only set prices, but also determined which companies could export and in what quantities.

Each year, thirty or so exporters were approved, rising to an average of forty-five in the 1980s. Bruno Losch divided these into three categories: “autonomous exporters (possessing all the necessary technical facilities), dependent exporters (with no equipment, limited to contractual transactions), and fictitious exporters (or *quotataires politiques*, political quota-holders) who give up their rights to other exporters in return for money.”¹⁵⁹

The president personally oversaw the list of approved companies every year.¹⁶⁰ Each was given a percentage of the total volume of cocoa to be exported. The political quota-holders, who weren't really involved in the business, resold their quotas to actual exporters. This was how a company like SIFCA, an Ivorian industrial group founded in 1964, could end up selling a quarter of the country's cocoa in the 1980s, supplementing its quota of less than 5% with those of political quota-holders and companies under its control.¹⁶¹

157 See Losch, “Le complexe café-cacao de la Côte d’Ivoire,” volume 1, p. 385. *Supra* note 9.

158 *Ibid.*, p. 388.

159 Bruno Losch, “A la recherche du chaînon manquant,” in *Le modèle ivoirien en question*, edited by Bernard Contamin and Harris Memel-Fotê (Paris: Karthala, 1997), p. 215.

160 See Losch, “Le complexe café-cacao de la Côte d’Ivoire,” volume 1, p. 389. *Supra* note 9.

161 *Ibid.*, pp. 400–1.

The happy élus

Who benefited from these quotas?

While it is “extremely difficult to collect data on the sixty or so companies created during the quota period,”¹⁶² Losch has sketched a typology of the *élus*, the chosen ones: the political class, children of the “companions of Liberation,” and individuals personally close to Houphouët-Boigny. Some of the beneficiaries are still shaping Côte d’Ivoire’s political and economic life forty years later.¹⁶³ Here we give just a few examples.

Georges Ouégnin, director of state protocol from 1960 to 2001, was among those closest to Houphouët-Boigny. He was rewarded in 1973 with a quota for his company, SAIE, which amounted to roughly 2% of national production between 1978 and 1990¹⁶⁴—worth a comfortable net profit that can be estimated at 700 million CFA francs.¹⁶⁵ “Monsieur Georges” remained in office under Bédié, and was a close friend of the King of Morocco and a key figure in Franco-African networks. He was even godfather to one son of Jacques Foccart, de Gaulle’s “Monsieur Africa” and Jacques Chirac’s adviser on African affairs. Ouégnin later set up a lobbying firm, GEO7, and returned to politics in 2011 to work for Ouattara.¹⁶⁶

Houphouët-Boigny also rewarded his very first companions. The Gon Coulibaly family—descendants of the patriarch Senoufou, who sheltered young Félix when he fled colonial repression—enjoyed a quota of nearly 2% in the 1970s and 1980s, directly through their company, Comivoire (bought by Bolloré in 1999), and through Comivoire’s purchase of a 35% stake in a large exporter, DAF-CI. This gave profits of at least 2 billion CFA francs.¹⁶⁷ In spite of changes in government, the family has never left the spheres of political and economic power. Amadou Gon Coulibaly served as Gbagbo’s minister of agriculture, became secretary general of the presidency during Ouattara’s presidency, and in 2017 was appointed prime minister. In March 2020, he was chosen by Ouattara’s party to stand for the forthcoming presidential election after Ouattara himself decided not to run for another term.

162 In total, 86 received quotas in the period. See *ibid.*, volume 2, appendix G.

163 *Ibid.*, volume 1, pp. 390–1.

164 *Ibid.*, volume 2, appendix G-8.

165 The author’s calculation based on the work of French economist Bruno Losch, who reported that someone holding a 1% quota could generate an average 25 million CFA francs net profit in the mid-80s (with considerable variations from one year to another). See Bruno Losch, “Le complexe café-cacao de la Côte d’Ivoire,” volume 1, 392. *Supra* note 9. NB: SAIE was rewarded a 2% quota during 12 years and a lower quota during previous years (cf. “Le complexe café-cacao de la Côte d’Ivoire,” volume 2, Appendix G-8).

166 Interview with a French businessman in Côte d’Ivoire.

167 Over this period, COMIVOIRE was granted quotas fifteen different times. See Losch, “Le complexe café cacao,” volume 2, appendices G-7 and H-10. *Supra* note 9.

Marcel Amon Tanoh was the son of an “old friend of Houphouët-Boigny’s,”¹⁶⁸ Lambert Amon Tanoh. He was also Hélène Houphouët-Boigny’s husband until their divorce in 1992. In the late 1980s he received a quota of 1% of national production through the company SIEPAM.¹⁶⁹ He had a large personal fortune—quotas alone can be estimated to have brought in a profit of at least 100 million CFA francs¹⁷⁰—and an excellent way with people. He became Ouattara’s cabinet director in 1999, and a minister under Gbagbo from 2002 to 2010.¹⁷¹ He later became Ouattara’s foreign minister, before stepping down in March 2020.¹⁷²

Although the Old Man was magnanimous with his old friends and their children, Houphouët-Boigny didn’t neglect his own interests. A colossal quota was reserved for himself. In 1987, no less than 100,000 tons of cocoa—a sixth of Ivorian production at the time—went to the president via Intercafcó. He appointed Jean Benaïm to manage this in Geneva, and tasked Abdoulaye Diallo, who handled his private affairs, with following it up. The customs fees of 2 CFAF/kg (200 million CFA francs in 1987) were not paid to the Treasury, but into Intercafcó’s special account. This sovereign privilege meant the president could sell his cocoa when he wanted, even sacrificing a small part of the customs duties to be more competitive.¹⁷³

A tangle of interests

The favors the president dispersed did not just take the form of export quotas, but also seats on the boards of foreign firms.¹⁷⁴ The exporters from the colonial period—CFAO, CFCI-Unilever, SCOA¹⁷⁵—had controlled 80% of the market up to the 1950s,¹⁷⁶ but they were rapidly losing ground to importing companies based in Le Havre (DAF-CI, SHAC), Switzerland (CCA), and the Netherlands (CCHA, CIPEXI).¹⁷⁷ They were also threatened by the development of local exporters who had come from abroad: Borro (from Lebanon), SMF (founded by Jean-François Massyère), JAG (founded by Jean Abile-Gal), and SIFCA (founded by Henri Tardivat). These last two firms gradually acquired dominant

168 Jean-Louis Gombeaud, Corinne Moutout and Stephen Smith, *La Guerre du Cacao: Histoire secrète d’un embargo* (Paris: Calmann Levy, 1990), p. 57.

169 See Losch, “Le complexe café cacao,” volume 2, appendix G-5. Supra note 9.

170 Author’s calculation (for the methodology, see note 146).

171 See http://www.gouv.ci/doc/photos/CV-AMON-TANOI_Marcel.pdf (accessed December 20, 2018).

172 See <http://www.gouv.ci/legouvernement.php?recordID=15> (accessed December 20, 2018).

173 Gombeaud, Moutout and Smith, *La Guerre du Cacao*, p. 34.

174 Bruno Losch, “Libéralisation économique et crise politique en Côte d’Ivoire,” *Critique internationale* 19 (April 2003).

175 See Losch, “Le complexe café cacao,” volume 1, p. 76. Supra note 9.

176 *Ibid.*, p. 209.

177 *Ibid.*, p. 78.

positions. To consolidate its relationship with the authorities, JAG opened its capital to Houphouët-Boigny, granting him 26% of its shares.¹⁷⁸ Unicafé, which was created by SIFCA at the end of the 1970s, allowed Guillaume and Marie Houphouët-Boigny to claim 6.25% of its capital each.¹⁷⁹ And Intercafc, the president's company, acquired significant shares in UNICAO (23%), USIKRO (20%), COMIVEX (35%), and so on.

Henri Konan Bédié developed these systems to promote Ivorian entrepreneurship, and the finance minister was one of the best at navigating this tangle of capital. Comafrique was the first company created under the new mixed capital regime, in 1966, specializing in importing vehicles and, later exporting coffee and cocoa. Bédié was one of its key shareholders. So were Pierre Billon, the father of Jean-Louis Billon, minister of commerce from 2012 to 2017, who remained close to Bédié, and Philippe Yacé, who was president of the National Assembly at the time and a member of another prominent Ivorian family.¹⁸⁰

When the quota system was set up in 1969, the approved exporters in the first growing season included Comafrique and other Ivorian companies created expressly for the occasion, including two formed at Bédié's instigation, API and SOGIEXCI. Over time, Comafrique acquired shares in other cocoa exporters, including SIFCA, Unicafé, UNICO, and UNICAO. Bédié's friend Billon was one of SIFCA's shareholders, and the majority shareholder in SEC, which itself invested in UNICAFE, UNICO, UNICAO, and COMIVEX. Between them, SEC and Comafrique initially held around 10% of Ivorian cocoa export quotas, a share that only declined slightly (to around 7%) when Bédié was ousted in 1977. Bédié held a substantial stake (8%) in JAG, which along with SIFCA became one of the leading cocoa exporters.

The system goes off the rails

The system was so profitable that it began to whet a lot of appetites. A breach had opened in the late 1960s, and everyone wanted to rush in. In 1975 a new director was appointed to the CAISTAB, who enjoyed less power to oppose the president. The breach became a gaping hole those in power could use to increase their own wealth. Cocoa money evaporated, although the high prices of the late 1970s may have given an illusion of a functional system.

178 *Ibid.*, p. 384. See also *ibid.*, volume 2, appendix H-5.

179 See *ibid.*, volume 1, pp. 394–5.

180 The Yacé family made its fortune especially in rubber, and is now also heavily invested in livestock.

New “fictional companies” kept appearing and receiving quotas in the 1980s. This decade saw “the system go off the rails for good.”¹⁸¹ Power became excessively personalized around Houphouët-Boigny, who granted favors to his courtiers depending on the balance of power among them. In 1986, reported Losch, “31% of Ivorian politicians officially held shares in 33% of the country’s 750 companies. [They acted as] these companies’ intermediaries, brokers, and even protectors, both in dealing with the state and with the banking system, securing them aid, advantages, dispensations, and other arrangements.”¹⁸²

CAISTAB’s accounts, and the conditions under which it intervened, became ever more opaque. In 1987, the board of directors passed a reform of its statutes by fifteen votes to three. All those in favor were representatives of the state, and the general director was also chairman of the supervisory board.¹⁸³ Prices had fallen sharply and popular protests increased. The coffers were soon empty. Crisis was close at hand.

Losch describes a series of stages by which the Fund’s practices went further and further awry.¹⁸⁴ Initially, CAISTAB was the victim of the sophistication of the very price indexes it managed. From reimbursing mileage to repairing weigh scales, the export companies’ accountants went through the orders in minute detail, always following the same rule: make the fund pay for everything. People then began to exploit flaws in the system: the fund was supposed to accumulate a surplus during the good times, so that it could support the sector when the going was tough. What exporters paid into the fund or received from it depended on their export contracts. There was a great temptation to falsify the value of these contracts, either by paying less than the fund was owed or by receiving more.

The Fund ultimately lost all credibility. We have already seen that the president’s own shipments of coffee and cocoa were exempt from exit duties. More trivially, there were many falsified “car bills” which illegitimately claimed transport expenses. A more costly form of fraud involved manipulating dates, volumes, and values to exploit price fluctuations between the moment the Fund released a contract and the moment the sale was carried out, sometimes with the complicity CAISTAB insiders.¹⁸⁵

Losing the cocoa war

For the Ivorian cocoa industry, the late 1980s was marked by a losing struggle against the world market that turned into a rout. Global cocoa prices continued to fall. Houphouët-Boigny suspended debt

181 Losch, “Le complexe café cacao,” volume 1, p. 430. *Supra* note 9.

182 See *ibid.*, p. 379; and *ibid.* volume 2, appendix H-1.

183 *Ibid.*, volume 1, p. 430.

184 These practices are described and analyzed in *ibid.*, pp. 433–5.

185 *Ibid.*, pp. 434–5.

repayments in May 1987. In order to avoid selling at a loss, CAISTAB suspended cocoa sales in July, aiming to increase prices. In his public pronouncements on the crisis, Houphouët-Boigny attacked speculation and unequal exchange, returning to themes of his 1930s trade unionism. “The Old Man’s final battle,” ran the headline in the weekly *Jeune Afrique* in November 1988.¹⁸⁶

In 1988, he entered into a deal with the French company Sucden (*Sucres et Denrées*, sugar and food), which owned Barry, the global leader in cocoa processing.¹⁸⁷ At a time when global production had a surplus of 150,000 tons, Côte d’Ivoire sold 400,000 tons to Sucden, which withdrew half of this from the market and sold the other half to the Soviets and the Chinese. The withdrawn 200,000 tons were stored in Europe for two years at a cost of 400 million French francs. This was financed by CAISTAB with a loan from the French Caisse Centrale de Cooperation Economique, acting under French president François Mitterrand’s direct instructions.¹⁸⁸ The effort to bolster sagging prices failed, however, as “the cocoa market immediately deciphered the move, and prices began to fall again.”¹⁸⁹

The situation for Ivorian growers became nightmarish, who sold their beans at half price and sometimes for promissory notes called *bons* instead of cash. These would be later described as “scribbled pieces of paper with no real value.”¹⁹⁰ In effect, “the 1988–89 season was mostly financed by a forced loan from the farmers, who were never reimbursed.”¹⁹¹

But not everyone lost out. The Fund was used to pay exporters their arrears in the early 1990s. Traders, particularly among the Lebanese diaspora, took advantage of the embargo to buy beans at a bargain price.¹⁹² Sucden had hedged against price fluctuations by selling its stockpiled beans at the initial price, which was now higher than the market price. Did the company have an interest in the price drop? Sucden benefited above all from the payment of 400 million French francs. The bill seems lavish given the actual cost of the operation, which was probably less than 300 million French francs, and the amount was deposited “in a trustee account in a tax haven, Jersey, managed from London by the BNP.”¹⁹³ Radio France International correspondents Jean-Louis Gombeaud and Corinne Moutout and Stephen Smith, at the time a reporter for *Libération* (later the Africa editor of *Le Monde* and now a professor at Duke

186 *Jeune Afrique* n°1453, November 9th of 1988.

187 “Sucres et denrées, de la régence à la gestion,” *Le Monde*, October 25, 1991.

188 See “Un élément de détente entre Paris et Abidjan,” *Le Monde*, January 5, 1989; “Haro sur le cacao,” *Le Monde*, May 14, 1989; and Gombeaud, Moutout and Smith, *La Guerre du Cacao*, pp. 127–8.

189 Christian Bouquet, *Géopolitique de la Côte d’Ivoire*, Armand Colin, Paris, 2008, p. 210.

190 *Ibid.*

191 Gombeaud, Moutout and Smith, *La Guerre du Cacao*, pp. 127–8.

192 *Ibid.*, p. 98.

193 *Ibid.*, p. 128. BNP later became BNP-Paribas.

University), who told this story in their 1990 book *La Guerre du Cacao*, reported that Sueden was “generous to those who allowed it to win the contract.”¹⁹⁴

By 1989 the Ivorian government was boxed into a corner, and the IMF forced it to halve the official prices it was paying to cocoa farmers. Ultimately, CAISTAB’s guarantee fund was so drained that it could no longer help stabilize farmers’ income. Resigned to the turn of fortune, Houphouët-Boigny lamented that “cocoa has made us all sick.”¹⁹⁵ The country was sick, too, and its dependence on cocoa revenues came to haunt it: the poverty rate rose from 10% in 1985 to 36.8% in 1995.¹⁹⁶

In 1990, with protests in the street and under constant pressure from his creditors, Houphouët-Boigny was forced to make concessions. He created the post of prime minister, which he entrusted to Alassane Ouattara—a manager picked to reassure Washington—and opened the country up to a multiparty system. The liberalization of the cocoa sector also began in 1990, something the authorities sought desperately to slow down. It took ten years to reach its conclusion with the dismantling of CAISTAB in 1999 (see section 6).¹⁹⁷

194 *Ibid.*, p. 129.

195 *Ibid.*, p. 216.

196 Denis Cogneau and Sandrine Mesplé-Somps, “L’économie ivoirienne, la fin du mirage?” DIAL (Développement et insertion internationale) Working Paper DT/2002/18, 2002, p. 73, available at http://www.dial.ird.fr/media/ird-sites-d-unites-de-recherche/dial/documents/publications/doc_travail/2002/2002-18 (accessed June 2, 2020).

197 See Losch, “Le complexe café cacao,” volume 1, p. 460. *Supra* note 9.

5. Bédié's Political Fortune

If there is one Ivorian who has seldom been far from political power and the wealth it offers, it is Henri Konan Bédié. In 1992, the fortune of Houphouët-Boigny's future successor was already estimated at \$400 million.¹⁹⁸ And he had not yet reached the highest office in the land. The succeeding government's budget minister, Mamadou Koulibaly, described his presidency as a "kleptocracy," comparing Bédié to Mobutu in Zaire and Suharto in Indonesia.¹⁹⁹

Bédié served as deputy minister and then minister for the economy and finance from the 1960s until he was dismissed in 1977 by Houphouët-Boigny. Bédié had a great appetite for business, investing in construction and public works (Licotra), portfolio management and real estate (Socipec), import-export (Sociexi), metallurgy (Imci), cocoa grinding (API), agricultural equipment imports (Sociagri), and mineral water. He placed his friends (especially Pierre Billon) on the boards of directors of each of these.²⁰⁰

In 1977, Houphouët-Boigny, having discovered that 20 billion CFA francs (€60 million) were missing,²⁰¹ set out to "put an end to a system of corruption and deceit infecting the entire state."²⁰² The sugar complex affair may have been the straw that broke the camel's back. In his 1988 book *L'Argent Noir (Black Money)*, the French investigative journalist Pierre Péan reported that Bédié was among those involved with overbilling in agro-industrial sugar production complexes in the north of the country to the tune of 35 billion CFA francs (€107 million).²⁰³ According to Jacques Baulin, a former advisor to Houphouët-Boigny, Bédié is "by far the most compromised minister in the sugar complex affair."²⁰⁴ Bédié himself denies this, claiming that this affair was a pretext for the president to oust him.²⁰⁵

Bédié's exile to the political wilderness did not last long. He became head of the National Assembly in 1983, and when Houphouët-Boigny died in December 1993 he became the nation's second president—a position he occupied until he was overthrown by Gueï in December 1999. Koulibaly, who served as

198 Madelin, *L'or des dictatures*, p. 310. Supra note 133.

199 Bernard Contamin and Bruno Losch, "Côte d'Ivoire: Entretien avec Mamadou Koulibaly, ministre du Budget du gouvernement de transition," *Politique africaine* 77 (2000), pp. 129–42.

200 Jacques Baulin, *La succession d'Houphouët-Boigny* (Paris: Karthala, 2000), p. 94. Note that Baulin was Houphouët-Boigny's advisor until 1970.

201 Koudou, "Pratiques éducatives," volume 2, p. 430. Supra note 112.

202 Bernard Houdin, *Les Ouattara: une imposture ivoirienne* (Paris: Éditions du Moment, 2015), pp. 32ff.

203 Péan, *L'argent noir*, pp. 187–89. Supra note 123.

204 Jacques Baulin, *La succession d'Houphouët-Boigny* (Paris: Karthala, 2000), p. 113.

205 Henri Konan Bédié, *Les Chemins de ma vie* (Paris: Plon, 1999), pp. 99–104; Frédéric Grah Mel, *Félix Houphouët-Boigny, La fin et la suite* (Abidjan : Cerap et Paris: Karthala, 2010), pp. 312–15.

budget minister for the transitional government in 2000, offered a frank assessment of the era: “Whatever we gained after the devaluation [of the CFA franc in January 1994] was wasted in embezzlement and theft, and that hurt public finances. It involved more than 500 billion CFA francs (€760 million). . . . A local mafia was systematically established, one whose job was to appropriate state property.”²⁰⁶ Bédié used this prosperous period to build an extravagant palace in Daoukro at a cost of 100 billion CFA (€152 million), according to the Ivorian press.²⁰⁷ His other property holdings included a luxury apartment in the glamorous 16th arrondissement of Paris.²⁰⁸ His family also may have benefited from his generosity. The name of his son, Patrick Bédié—a cocoa exporter who reinvented himself in the agricultural products trade and then in finance—surfaced in the “SwissLeaks” scandal, when *Le Monde* reported that he held at least two HSBC accounts in Geneva between 1992 and 2000.²⁰⁹

At the time of his overthrow, Bédié was in his native village near Daoukro. In the presidential residence in Abidjan, he had left behind 6 billion CFA francs (more than 9 million €) in bundles of banknotes, which were immediately donated to the public Treasury.²¹⁰ After Bédié’s fall from power, although the former president denied owning Swiss bank accounts, the Federal Office of Justice announced that it had frozen his accounts in Switzerland.²¹¹ This followed a formal request for mutual legal assistance from the Ivorian judiciary. Five to seven million Swiss francs were blocked in nine banks. Bédié was charged with “misappropriation of public funds” by the Ivorian Attorney general.²¹² The French *newspaper* *L’Express* reported that he was suspected of having embezzled \$24.8 million in European health aid.²¹³ The Ivorian authorities issued an international arrest warrant against Bédié, who then was living in France, but Paris didn’t comply. The Ivorian authorities eventually relaxed the pressure, failed to provide sufficient evidence to the Swiss judiciary, and mutual legal assistance with Switzerland came to an end.²¹⁴

Bédié, often described as the “number one opponent” of Alassane Ouattara, remains an important figure on the Ivorian political chessboard nowadays. In February 2019 he received former Ouattara ally

206 Contamin and Losch, “Entretien avec Mamadou Koulibaly.” *Supra* note 198.

207 *Fraternité Matin*, 30 avril 2000, cited by Christian Bouquet, *Géopolitique de la Côte d’Ivoire* (Paris: Armand Colin, 2008 – 2nd ed.), p. 206.

208 Hofnung, *La crise ivoirienne*, p. 49.

209 Joan Tilouine, “Swissleaks: qui sont les millionnaires africains de HSBC?” *Le Monde*, February 13, 2015.

210 Julia Ficatier, “Le coup d’Etat fait appel au culte des ancêtres,” *La Croix*, January 14, 2000.

211 “Un mandat d’arrêt international lancé contre l’ex-président Bédié,” *Le Monde*, June 8, 2000.

212 “Henri Konan Bédié poursuivi par la justice ivoirienne,” *Libération*, June 7, 2000.

213 The case is well documented in Jérôme Dupuis and Jean-Marie Pontaut, “Main basse sur l’aide européenne,” *L’Express*, April 06, 2000, available at https://www.lexpress.fr/actualite/monde/afrique/main-basse-sur-l-aide-europeenne_493143.html.

214 Dulin and Merckaert, “Biens mal acquis,” p. 102, *supra* note 136; Thierry Fabre, “Nigéria: le trésor du clan Abacha est dans nos coffres,” *L’Expansion*, July 6, 2000.

Guillame Soro at his residence near the town of Daoukro, hosting him at a poolside dinner “surrounded by peacocks” and the next day touring “his vast plantations of cocoa and rubber.”²¹⁵

215 “Guillame Soro dans l’intimité de Bédié,” *La Lettre du Continent* 795, February 27, 2019.

6. The 1990s: The Liberalization Free-For-All

To comply with the demands of the Bretton Woods institutions, the heavily indebted Ivorian government's declared goals in the early 1990s were in line with the "Washington consensus" policies of economic liberalization. CAISTAB was quickly reformed: export quotas were abolished, private individuals were appointed to the board of directors, industrial hulling and export rights were opened up to competition, public levies were reduced, quality controls were removed, funding was given to support commercialization by cooperatives, and many of the activities that CAISTAB had funded, like transportation projects, were transferred to private hands. Gradually, the guaranteed purchasing price for cocoa beans disappeared.²¹⁶

Here we will focus on three key features of the 1990s, the decade of liberalization.

The first is the massive growth of illegal exports through neighboring countries, a phenomenon connected to the end of guaranteed prices in Côte d'Ivoire. Clandestine cross-border traffic of Ivorian cocoa to Ghana began in earnest in 1992–93 to offload some of what the Ivorian government had decided not to sell in order to maintain the global price.²¹⁷ The traffic became vast in scale once Ghana announced, in July 1994, a guaranteed price equivalent to 425 CFA francs/kg, at a time when the price in Côte d'Ivoire was only 240 CFA francs. But the price paid in transactions at the border was lower than the declared rate, and once the Ivorian price rose to 315 CFA francs in October, the flow diminished.

CAISTAB's long swan song

The decade's second feature is unsurprising: those close to power came out of the new deal relatively well off. Bédié, who became president after the Old Man's death, gave CAISTAB a highly political orientation. He appointed one of his relatives, Yves-Marie Koissy, to lead it. In 1995, out of twenty-one accredited companies, nine had close links to the president, and his political rivals were shut out.²¹⁸

The number of fictitious exporters and newly licensed brokers grew. The 1999 season—the last one before CAISTAB shut down and Bédié was overthrown—marked a kind of apotheosis. "Several of the

216 BCEAO, "Study on the cocoa sector in the West African Economic and Monetary Union," June 2014, p. 11.

217 Bruno Stary, "Dévaluation et espaces transfrontaliers: Les marchés transfrontaliers de la Côte-d'Ivoire et du Ghana," in *Le modèle ivoirien en question: crises, ajustements, recompositions*, edited by Bernard Contamin and Harris Memel-Fotê (Paris: Karthala, 1997), p. 152.

218 Guy-André Kieffer, "Le cacao 'politique' est de retour en Côte d'Ivoire," *La Tribune*, October 24, 1995, and Losch, "Le complexe café cacao," volume 1, p. 468–9. Supra note 9.

Fund’s managers or their associates received a sort of seniority bonus, paid before the Fund closed down to reward their faithful services. Some state officials and a number of manufacturers were also involved.”²¹⁹ Bypassing existing procedures, one-quarter of the harvest (300,000 tons) was allocated to about thirty exporters.²²⁰

Apart from this clientelist approach to granting quotas, there were gaping holes in the Fund’s accounts. In the 1998 campaign, the Ivorian government announced the sale of one million tons of cocoa at 904 CFA/kg—a price that was undervalued by about 100 CFA/kg, according to the Bretton Woods institutions, meaning 100 billion CFA francs (about €150 million) had disappeared.²²¹ The Bretton Woods institutions were clearly not reassured by the explanations offered by the authorities, and commissioned an audit from Arthur Andersen in 1999. This time there was a gap of 80 billion CFA francs (about €120 million) between CAISTAB’s declared and actual revenues.²²²

With CAISTAB closed for good and Bédié was toppled, some hoped that Ivorian cocoa would become less vulnerable to wealth extraction: “Real and fake quotas, privileges, fraud, and the crudest misdealings involving cocoa and coffee exports, will be eliminated by the newly liberalized environment.”²²³

When foreign giants take over

In the end, though, the change did little to benefit growers and ordinary Ivoirians.

The third major feature of the 1990s was the reshaping of the exporting landscape. The historically dominant French operators lost ground: Sucden sold Cocoa Barry, and Tardivat eventually sold its shares to SIFCA. The future giants of the sector were making their first moves. Foreign firms took a stake in the capital of local exporters, who had been made vulnerable by price changes and CAISTAB’s demise. In some cases they took complete control, as when ADM bought ED&F Man and Grace Cocoa in 1996–97.²²⁴ Barry Callebaut, which already had a stake in SACO, bought one-third of shares in the Nouvelle SHAC.

219 *Ibid.*, pp. 467–8.

220 *Ibid.*, pp. 469–70.

221 See François-Xavier Verschave, *Noir Silence: Qui arrêtera la Françafrique?* (Paris: Les Arènes, 2000), p. 269.

222 See Campbell, “Réinvention du politique en Côte d’Ivoire et responsabilité des bailleurs de fonds multilatéraux”. *Politique Africain 2000/2* (No. 78) pp. 143–4.

223 Losch, “Le complexe café cacao,” volume 1, p. 528. *Supra* note 9.

224 *Ibid.*, pp. 478–9.

Cargill had to wait until 1999 to receive an approval, after an initial attempt to buy JAG in 1993 failed because it was opposed by France, which worried about American encroachment on its terrain. Houphouët-Boigny instead directed the buyout to an Ivorian company, OCTIDE, which was owned by François Bakou, a close friend of his adviser, Abdoulaye Diallo—a deal that Losch reports was likely financed by the “presidential pot.”²²⁵ In 1999, JAG was eventually bought by SIFCA in a deal brokered by Jean-Luc Bédié, the president’s son.²²⁶ The shareholders of SIFCA's parent company, SIFCOM, created in 1993 after the Ivorians at Comafrique carried out a coup against Tardivat, included prominent politicians—Billon held 36%, Yacé 15%, Bédié 9.5%²²⁷—and the firm continued to diversify, taking advantage of the various privatizations.

In 1999, Côte d’Ivoire’s cocoa production reached 1.2 million tons. The top five exporters (SIFCA, Cargill, Tropival, Barry Callebaut, and DAFCI) controlled two-thirds of the market.²²⁸ Small local exporters saw their market share decline following the sector’s liberalization, from 43% in 1997 to 10% in 2002.²²⁹ The demise of CAISTAB made the local market less stable, leaving growers more exposed to price fluctuations.

In July 2000, the American firm ADM acquired SIFCA’s cocoa assets as part of a financial package involving the Franco-Senegalese group Mimran.²³⁰ Although it had become the world’s largest cocoa exporter, SIFCA had relied heavily on external financing, using Bédié and the Fund as its guarantee on the international credit markets. The loss of these foundation stones signed its death warrant. Three years later, Losch wrote: “Most of the other major Ivorian firms have suffered the same fate: taking on too much debt and being bought up. Today, the three biggest cacao processors in the world are well established in Côte d’Ivoire and control its exports.”²³¹

225 *Ibid.*, p. 472.

226 *Ibid.*, p. 473.

227 See ‘A qui appartient la SIFCA?’ *La Lettre du Continent*, No. 332, July 1, 1999.

228 See Losch, “Le complexe café cacao,” volume 1, pp. 489–91.

229 Sid Amiri et Alain Gourdon, “Étude diagnostic des organisations et des procédures de la filière café-cacao de Côte d’Ivoire,” *Rapport du cabinet Ghelber et Gourdon*, for the Ivorian government (a report financed by the European Union), May 2006, p. 33.

230 Reported in the leading French financial newspaper *La Tribune*, July 26, 2000. Cited in Losch, “Coup de cacao en Côte d’Ivoire”. *Critique internationale*, n°9, October 2000, p. 14.

231 Losch, “Libéralisation économique et crise politique,” pp. 52–3.

7. Gbagbo's Contested Wealth

Like other Ivorian presidents, Laurent Gbagbo, who occupied the office from 2000 until 2011, has faced numerous accusations about the accumulation of personal wealth. These are difficult to corroborate, and the extent of his wealth is contested.

A cascade of charges

In 2010 the Senegalese website seneweb.com republished a list of “38 billionaires in CFA francs” who had links to the Gbagbo clan. Laurent and Simone Gbagbo were at its head, reported to be worth the equivalent of €4.3 billion and €2.6 billion, respectively.²³² The list had first appeared in an issue of an Ivorian newspaper called *Le Rebond* which is almost impossible to find in Abidjan. The information is unverified, and the amounts listed are inconsistent with the frozen assets reported by the UN: \$1.48 million for the former president, \$370,800 for his wife.²³³

During the standoff between Gbagbo and Ouattara at the end of 2010, the international community sided with Ouattara. In this context, on January 19, 2011, the Swiss judiciary ordered all the assets of the ousted president and his entourage to be frozen—a total of 85 individuals and 11 entities.²³⁴ The assets totaled 70 million Swiss francs, the equivalent of €56 million.²³⁵ Elisabeth Eckert, of the Swiss newspaper *Le Matin Dimanche*, wrote that these quantities were limited because the Gbagbos transferred more than \$5 billion to less exposed countries, including Lebanon, South Africa, and Iran.²³⁶ The French newspaper *Le Figaro* also reported that “unconfirmed rumors attribute [to Gbagbo] holdings in the United States and South Africa.”²³⁷ But how credible are those charges?

232 See http://www.seneweb.com/news/International/cote-d-rsquo-ivoire-les-details-des-fortunes-du-couple-gbagbo-et-leurs-proches-liste-des-38-milliardaires-amis-de-gbagbo-et-leurs-banques_n_38790.html%20, (accessed January 9, 2019).

233 UN Group of Experts, “Letter dated 11 April 2012 from the Chair of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d’Ivoire addressed to the President of the Security Council.” UN Security Council Report S/2012/196, §203-206, pp. 45-46.

234 Swiss Federal Council, “Ordonnance instituant des mesures à l’encontre de certaines personnes originaires de la Côte d’Ivoire,” January 19, 2011.

235 See Agathe Duparc, “Laurent Gbagbo et son entourage visés pour blanchiment d’argent en Suisse,” *Le Monde*, May 11, 2011, available at http://abonnes.lemonde.fr/afrique/article/2011/05/10/laurent-gbagbo-et-son-entourage-vises-pour-blanchiment-d-argent-en-suisse_1519640_3212.html (accessed January 14, 2019).

236 Elisabeth Eckert, “Les milliards volés du clan Gbagbo ont déjà quitté la Suisse,” *Le Matin Dimanche*, January 1, 2011. While asked by the author, the journalist refused to give any indication on her sources.

237 Cyrille Louis, “L’indigence’ de Laurent Gbagbo reconnue par la CPI,” *Le Figaro*, January 6, 2012, available at <http://www.lefigaro.fr/international/2012/01/06/01003-20120106ARTFIG00412-l-indigence-de-laurent-gbagbo-reconnue-par-la-cpi.php> (accessed January 14, 2019).

One may safely surmise that Abidjan never saw any of the €56 million frozen in Switzerland. It is hard to imagine the new government recovering these assets without boasting about it publicly. So what happened to the money? The author asked the Swiss Federal Department of Foreign Affairs, which is given the authority to freeze assets by the Federal Council. The answer: “The order imposing measures against certain persons from Côte d’Ivoire . . . expired on January 18, 2014. There are no more Ivorian assets blocked in Switzerland. The holders of the assets regain their power to dispose of them.”²³⁸

Gbagbo’s man in Paris?

In 2011 the Ouattara government’s state prosecutor accused Laurent and Simone Gbagbo of “economic crimes,” including “embezzlement of public funds and pillage.”²³⁹ No evidence in the form of bank details or account numbers was provided. In the complaint, Ivorian businessman Charles Kader Gooré was alleged to be Gbagbo’s representative in Paris. Whether that is true or not, one thing is clear: the Ouattara government holds a grudge against Kader Gooré. As recently as October 2017 he was barred from returning home for his daughter’s funeral.²⁴⁰ Is he still paying for his proximity to the deposed president, for whom he worked as campaign director?

It was under Gbagbo’s rule that Kader Gooré founded the group that bears his initials, CKG Holding. The CKG empire includes the Société Abidjanaise de Dépannage et de Vente de Pièces Détachées (Abidjanaise Breakdown and Spare Parts Company), a coffee grinding operation purchased from Barry Callebaut in 2008 (Chocodi); security services (Omeifra); and the distribution of fertilizer and phytosanitary products (Hydrochem). Before the 2010-11 election crisis, CKG’s turnover exceeded €100 million.²⁴¹ After Ouattara’s accession to power, Kader Gooré was barred from going to Abidjan, and he exiled himself to Ghana, relocating CKG’s headquarters to Accra’s elegant East Cantonment district.

238 Email communication with the author, December 14–15, 2017.

239 Kim Willsher, “Ousted president Laurent Gbagbo charged in Ivory Coast,” *The Guardian*, August 19, 2011.

240 See “Charles Kader Gooré toujours persona non grata,” *La Lettre du Continent* 763, October 25, 2017.

241 Baudelaire Mieu, “Charles Kader Gooré n’a pas dit son dernier mot,” *Jeune Afrique*, October 5, 2012, available at <http://www.jeuneafrique.com/25647/economie/charles-kader-goor-n-a-pas-dit-son-dernier-mot/> (accessed January 14, 2019).

Much of Gooré’s property in Côte d’Ivoire was confiscated by those close to the new regime.²⁴² *Jeune Afrique* omitted CKG Group from its list of the top 500 African companies in 2016.²⁴³ The author tried to ask Kader Gooré for an explanation—without success.²⁴⁴

Contradictory claims

Reports by the UN Group of Experts on Côte d’Ivoire provide glimpses of assets that Gbagbo and his wife accumulated during his rule. Following the adoption of the UN sanctions regime in 2004, which provided for a freeze on assets of persons who “constitute a threat to the peace and national reconciliation process” or are determined to be “responsible for serious violations of human rights and international humanitarian law,”²⁴⁵ Société Générale’s Ivorian subsidiary froze bank accounts of Laurent and Simone Gbagbo that amounted respectively to 741 and 185 million CFA francs (about €1.1 million and €300,000).²⁴⁶ In September 2013, the Banque pour le Financement de l’Agriculture announced that it had frozen accounts of Laurent and Simone Gbagbo that held 11.8 million and 59.7 million CFA francs, respectively.²⁴⁷

The Group of Experts also found indications of payments of dividends, which point to the existence of underlying financial assets. In its final report, in 2016, the Group stated that it had learned “from reliable sources” that Simone Gbagbo had accumulated dividends amounting to nearly 90 million CFA francs (\$141,317), but that this money was not made available to her.²⁴⁸

According to his close associates Bernard Houdin and Guy Labertit, Laurent Gbagbo, a former history professor, was guided by political ideals rather than private gain. They concede that he may have turned

242 See ‘Charles Kader Gooré toujours persona non grata’. *La Lettre du Continent* 763, October 25, 2017.

243 See Frédéric Maury, “Top 500 des entreprises africaines: une nouvelle année dans le rouge,” *Jeune Afrique*, October 5, 2016, available at <http://www.jeuneafrique.com/mag/334226/economie/top-500-entreprises-africaines-nouvelle-annee-rouge/> (accessed January 14, 2019).

244 Kader Gooré did not respond to our questions on any of the addresses listed on LinkedIn.

245 UN Security Council, “Resolution 1572 (2004), Adopted by the Security Council at its 5078th meeting, on 15 November 2004,” p. 3.

246 See UN Group of Experts, Report S/2012/196, Annex 68, p. 348. *Supra* note 232.

247 UN Group of Experts, “Letter dated 14 April 2014 from the Chair of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d’Ivoire addressed to the President of the Security Council.” UN Security Council Report S/2014/266, §305, p. 47.

248 UN Group of Experts, “Letter dated 15 March 2016 from the Chair of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d’Ivoire addressed to the President of the Security Council.” UN Security Council, Report S/2016/254, §204, p. 43.

a blind eye to the considerable fortunes that some of his associates accumulated while in power, but maintain that he himself was not motivated by money.²⁴⁹

Gbagbo's children do not seem to have taken pecuniary advantage of their father's position. In 2015, the French newspaper *La Croix* met with Gbagbo's son, Michel, in his father's house in Cocody, a suburb of Abidjan. The neighborhood is fancy, but the residence is nothing like the "ostentatious, rather flashy one used by his rival, the current president, Alassane Ouattara."²⁵⁰ Michel had been incarcerated with his father in 2011 and spent two years in prison. He now supports himself by teaching criminology at the University of Abidjan.²⁵¹

In November 2011, the International Criminal Court (ICC) in the Hague charged Gbagbo with crimes against humanity committed during the 2010-11 crisis, and he was extradited from Côte d'Ivoire where he was held at the time under house arrest. The ICC concluded that Gbagbo was destitute, and offered aid to finance his defense. His supporters see this as proof that he was innocent of economic crimes. But in an interview with the author, a lawyer for the victims at the ICC suggested that this is far from conclusive: "If investigators didn't find any funds, that doesn't mean they don't exist. The ICC's resources for such an investigation are far from sufficient."²⁵²

While there remains much uncertainty as to the extent to which Gbagbo and his family personally used their power to accumulate wealth, there is no doubt that some of those close to them profited from his years in office. The next two sections review some of the evidence.

249 Interviews conducted, respectively, in December 2017 and September 2016.

250 Laurent Larcher, "Michel Gbagbo, fils de . . .," *La Croix*, November 23, 2015.

251 *Ibid.*

252 Interview, December 14, 2017.

8. When Brown Gold Turns Red

Cocoa was the heart of the violent conflict that tore Côte d’Ivoire apart in the Gbagbo years. On both sides, the country’s economy was made to serve the war effort. Cocoa cultivation is concentrated in the south, which remained under government control. But it was also a major source of income in the rebel-held area. As money was drained from the cocoa sector to fund the war, some used the opportunity to enrich themselves on the side.

Fortunately, this turbulent period is relatively well documented: in the investigative work of the Franco-Canadian journalist Guy-André Kieffer, who disappeared in Côte d’Ivoire in 2004 while investigating cocoa money;²⁵³ in audits commissioned by creditors and by the government itself; and in substantial reports by others, including the UN Group of Experts and the NGO Global Witness. Together, these offer a reasonably clear picture of how the cocoa economy functioned in the Gbagbo years.

Taxing cocoa

Ivorian cocoa production continued to grow at the start of the 21st century. Between 2002 and 2007, exports increased by 39% — bringing an additional \$1.1 billion into the country’s economy.²⁵⁴ Initially, the government accessed this windfall through heavy taxation. The exit duty, DUS, rose from 120 CFAF/kg in 2000 to 220 CFAF/kg in 2003. This brought in revenue of 179 billion CFA francs (\$343 million) for the main 2005–2006 season, in addition to 36 billion CFA francs (\$69 million) in registration fees.²⁵⁵ Adding “para-fiscal” revenue, such as payments to regulatory bodies, cocoa brought about \$500 million per year into government coffers.²⁵⁶

The use of this money was far from transparent. In 2005, the minister of finance, Paul Antoine Bohoun Bouabré, compelled cocoa exporters to pay at least \$20 million of the DUS in advance. We know nothing about how these funds were used.²⁵⁷ Nor did the UN experts who revealed this mystery get any official answer about how tax revenues for 2006–2007 were used.²⁵⁸

253 On Kieffer’s disappearance, see Rory Carroll, “Missing reporter stirs trouble on three continents,” *The Guardian*, June 6, 2004.

254 UN Group of Experts, Report S/2009/521, §216, p. 52. Supra note 104.

255 Global Witness, “Hot Chocolate,” p. 22. Supra note 151.

256 UN Group of Experts, Report S/2009/521, §221, p. 53. Supra note 104.

257 Global Witness, “Hot Chocolate,” p. 22. Supra note 151.

258 See UN Group of Experts, Report S/2009/521, §225, p. 54. Supra note 104.

The Gbagbo government set up a sort of Rube Goldberg scheme to regulate the cocoa sector. No fewer than five institutions were created—in addition to the existing Fonds de Prudence and Sacherie Brousse—to make up for the loss of CAISTAB: the Autorité de Régulation du Café et du Cacao (ARCC), the Bourse du Café et du Cacao (BCC), the Fonds de Régulation et de Contrôle du Café et Cacao (FRCC), the Fonds de Développement et de Promotion des Activités des Producteurs de Café et de Cacao (FDPCC), and the Fonds de Garantie des Coopératives Café et Cacao (FGCC).²⁵⁹ Power in these organizations was held mainly by the cocoa growers’ nominal representatives—who were designated by the Ministry of Agriculture—in the Association Nationale des Producteurs de Café- Cacao de Côte d’Ivoire (ANAPROCI). State officials, the banks, and large international firms were represented, too, but they were in the minority “and simply had to resign themselves to accommodating any wrongdoing, and what they perhaps viewed as local custom.”²⁶⁰

Various audits of the sector pointed out how odd this system was, especially as “these structures behave autonomously, almost independently of any supervisory bodies, [even though they] exist only because the state wants them to.”²⁶¹ The organizations “have no accounts or budget.”²⁶² As an indication of the mismanagement involved, an audit commissioned by the European Union found that “CAISTAB was operating on a budget three times smaller than that of the three regulatory structures, the ARCC, BCC, and FRCC.”²⁶³

Although “good governance” may have been in short supply, these technically private organizations owed their existence to the regime and they didn’t forget it. Each contributed to the war effort. In 2002, for instance, the BCC and the ARCC gave 40 million CFA francs to the Forces Armées Nationales de Côte d’Ivoire.²⁶⁴ But the FRCC and the FDPCC were the regime’s real cash cows.

When war broke out in October 2002, FDPCC president Henri Amouzou—a former member of an opposition union connected to Gbagbo’s FPI—wrote the president a series of checks totaling 10 billion CFA francs (about \$20 million).²⁶⁵ In October 2005, an Ivorian newspaper reported that the FDPCC, an

259 See Global Witness, “Hot Chocolate,” p. 60, where the status, role, and sources of financing for each of these is explained. *Supra* note 151.

260 See Jean-François Bayart et Béatrice Hibou, “Libéralisation économique et crise politique en Côte d’Ivoire. Entretien avec Bruno Losch,” *Critique internationale*, n°19, April 2003, p. 54.

261 See Investissement Développement Conseil (IDC), “Audit des flux financiers de la filière Café Cacao de Côte d’Ivoire,” September 4, 2004, 29–30, quoted by Amiri and Gourdon, “Étude diagnostic des organisations et des procédures de la filière café-cacao de Côte d’Ivoire,” p. 90. *Supra* note 228.

262 See Bayart and Hibou, “Libéralisation économique,” p. 55. *Supra* note 259.

263 Amiri and Gourdon, “Étude diagnostic des organisations des procédures de la filiere café-cacao de Côte d’Ivoire” p. 135. *Supra* note 228.

264 Global Witness, “Hot Chocolate,” p. 25. *Supra* note 151.

265 *Ibid.*, p. 24.

entity ostensibly meant to finance development in the cocoa sector, was providing vehicles to national security forces.²⁶⁶ In the meantime, the Fund increased the number of transfers from its official account at the Banque Centrale des États de l'Afrique de l'Ouest (BCEAO) to other commercial banks. Between September 2002 and March 2003 alone, more than 70 billion CFA francs (\$140 million) were withdrawn from the fund.²⁶⁷ Audit missions also noted that between 2000 and 2008 the Fund paid 33 billion CFA francs for intellectual services that could not be justified.²⁶⁸ A financial audit conducted for the EU found that the FRCC also “lent” billions of CFA francs to the government as part of the “war effort.”²⁶⁹

About 90% of Ivorian trade passes through the port of Abidjan, which accounts for the overwhelming majority of the country’s customs income. The port was therefore a hub for financing the regime. In November 2000, Gbagbo appointed Marcel Gossio—one of his most loyal followers—to run the Autonomous Port. Gossio quickly took on another role: he became the grand financier of Gbagbo’s party, the FPI, and of the Jeunes Patriotes, the pro-Gbagbo militia.²⁷⁰

Missing money

The apparatus that Gbagbo’s government built enabled colossal sums to be siphoned from the cocoa sector.

As early as 2002, state inspector François Kouadio estimated that 32 billion CFA francs (about \$65 million) had been misappropriated, a report that almost cost him his life and was quickly buried.²⁷¹ In 2013 the weekly news magazine *Jeune Afrique* reported an *ex post* assessment of the scale of missing funds: “The audits of the coffee and cocoa sector carried out by KPMG and SEC Diarra, at the request of the Bretton Woods institutions, show the disappearance of some 370 billion CFA francs between 2002 and 2008. The organizations affected are the FRCC (183 billion CFA francs), the FDPCC (136 billion), the BCC (43 billion), and the ARCC (8 billion).”²⁷² In total, this is equivalent to roughly \$740 million.

266 *Ibid.*, p. 25.

267 *Ibid.*, p. 29.

268 Ministère de l’économie et des finances, “Synthèse des audits du FDPCC et de l’ARCC,” Republic of Côte d’Ivoire, February 2010, p. 3.

269 Global Witness, “Hot Chocolate,” p. 27. *Supra* note 151.

270 See Vincent Hugué, “La guerre des ports africains,” *L’Express*, January 31, 2009.

271 See Jean-Philippe Rémy, “Côte d’Ivoire: le sang du cacao,” *Le Monde*, October 21, 2005.

272 Vincent Duhem, “Côte d’Ivoire: 20 ans de prison pour 14 anciens barons de la filière café-cacao,” *Jeune Afrique*, November 6, 2013, available at <http://www.jeuneafrique.com/167460/politique/c-te-d-ivoire-20-ans-de-prison-pour-14-anciens-barons-de-la-fili-re-caf-cacao/> (accessed January 14, 2019).

The individuals at the helm of these institutions were well rewarded. The NGO Global Witness reported in 2007 that the monthly salary and benefits of the BCC's president amounted to \$31,000—almost twice the official salary of the President Gbagbo himself.²⁷³ Henri Amouzou, the FDPCC president who presented Gbagbo with checks on TV, also chaired the main organization of cocoa producers, ANAPROCI. With the money from its Promotion Fund, Amouzou gave a company whose board included directors of the producers' association an allocation “to buy back certain of SIFCA's assets which had not been taken over by ADM.”²⁷⁴ A new company, Sifca-Coop, was created for the occasion. And who ran it? Amouzou, of course—who found a tidy sum of 5 billion CFA francs for this company “to finance small cooperatives.”²⁷⁵ Those who profited from these arrangements knew how to spend it: Global Witness reported that Amouzou, for example, bought luxury cars including a Hummer H2 and a Porsche Cayenne.²⁷⁶

In the end, some of the president's associates paid dearly for their excesses. In 2008, at the urging of the international community, Gbagbo launched a clean-up effort. About twenty “cocoa barons” were arrested and detained. They were granted interim release in January 2011,²⁷⁷ but the Ivorian courts showed no mercy when they finally made their decision in 2013, after Gbagbo himself had been overthrown. Fourteen defendants were sentenced to twenty years in prison.²⁷⁸ The court also ordered the seizure of their personal property and real estate.²⁷⁹

While money continued to be made in the cocoa trade, Ivorian growers were suffocated. The government and its affiliated organizations were siphoning more than 300 CFA francs per kilogram, widening the gap between world market prices what growers received. The farm-gate price paid to growers—between 200 and 320 CFA francs (roughly 40-64 U.S. cents) per kilogram in 2004–05—often amounted to less than half the world market price.²⁸⁰

One result of the burden posed by these exactions was an increase in smuggling, particularly across the country's eastern border into Ghana. Between the 2002–03 and 2004–05 seasons, Ghana's recorded

273 Global Witness, “Hot Chocolate,” p. 52. Supra note 151.

274 Bayart and Hibou, “Libéralisation économique,” p. 55 Supra note 259.

275 Global Witness, “Hot Chocolate,” p. 55. Supra note 151.

276 Global Witness, “Hot Chocolate,” p. 52. Supra note 151.

277 “Côte d’Ivoire: les anciens ‘barons’ du cacao en liberté provisoire,” *Le Monde*, January 7, 2010.

278 See Duhem, “Côte d’Ivoire: 20 ans de prison pour 14 anciens barons de la filière café-cacao.” Supra note 271.

279 See “Café-cacao: les avocats de la défense dénoncent ‘un procès politique’ après la condamnation de leurs clients à 20 ans de prison,” *Abidjan.net*, November 6, 2013, available at <http://news.abidjan.net/h/479571.html> (accessed January 14, 2019).

280 Global Witness, “Hot Chocolate,” p. 18. Supra note 151.

exports of cocoa bean almost doubled.²⁸¹ In 2005 the UN estimated that illegal sales of Ivorian beans via Ghana amounted to around 150,000 tons per season, equivalent to more than 10% of Côte d’Ivoire’s total production.²⁸²

In 2008, when many of the “barons” were thrown in jail in what turned out to be a *trompe l’oeil* reform effort, the organizations they ran were closed one after another. Farewell, then, to the FDPCC, the FRCC, the ARCC, and the BCC. But the regime showed great institutional creativity: in their place, the Fonds Interprofessionnel pour la Recherche et le Conseil Agricoles, the Fonds d’Investissement, and the Comité de Gestion de la Filière Café-Cacao quickly filled the void. Although levies imposed by regulatory bodies fell, transparency was still lacking.

The UN Group of Experts expressed concern in 2009 that “the Government of Côte d’Ivoire has replaced a para-fiscal scheme, which proved highly inefficient and corrupt, with an equally opaque system [T]here remains the potential for the unaccountable use of funds, funds that could, conceivably, be used to purchase arms and related materiel.” An example: “The Comité de gestion du café et du cacao is listed as the purchaser of 24 Isuzu trucks that are of a type in service with the Ivorian defense and security forces. The Group does not understand why a management committee should require such vehicles and suspects they may have been purchased for military use.”²⁸³

In its 2011 report, the UN Group of Experts provided an estimate of oil and cocoa revenues not recorded in the national budget. Three-quarters of the total came from oil, but the report put the cumulative unrecorded cocoa income at close to \$400 million from 2007 to 2010.²⁸⁴

Points where exports and imports were inspected and taxed became strategic points for pumping cash into the system. On the export side, weigh stations for cocoa at the port became a key revenue collection point. But imports were also important. Some products entered Ivorian territory overland via a non-computerized customs post on the Ghanaian border, where registration data were entered manually, making it easier to redirect the funds collected. The UN Group of Experts estimated in 2011 that this

281 *Ibid.* p. 45.

282 *Ibid.*

283 UN Group of Experts, Report S/2009/521, §226-227, p. 54. *Supra* note 104.

284 More precisely, \$389 million. Author’s calculation based on data from UN Group of Experts, “Letter dated 20 April 2011 from the Chair of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d’Ivoire addressed to the President of the Security Council.” UN Security Council, Report S/2011/271, §135, 148, pp. 32, 35.

“allowed the annual diversion of around \$200 million to the benefit of the former President’s administration.”²⁸⁵

Having been ostracized by the international community after the November 2010 electoral crisis, the desperate Gbagbo regime resorted to “ad hoc measures” to obtain money to pay civil servants, the security forces, and foreign mercenaries. The UN Group of Experts reported that its victims were the BCEAO’s offices, from which it took \$400 million, and private banks, including the two largest – the Société Générale de Banques en Côte d’Ivoire (SGBCI) and the Banque Internationale pour le Commerce et l’Industrie en Côte d’Ivoire (BICICI), a subsidiary of BNP-Paribas – that together managed more than half of accounts in the country. The Group characterized these activities as “an unregulated appropriation of private funds.”²⁸⁶

It may never be possible to expose fully the extent of the misappropriations because, as the UN Group of Experts noted, “in an apparent deliberate effort to destroy all evidence of financial embezzlement, the former Government of President Gbagbo destroyed, at almost every ministerial agency, multiple records that may have assisted the Group in determining the nature of the diversion of public funds and their use in violation of the arms embargo.”²⁸⁷ Moreover, the Group of Experts added, “[m]any of the suspicious transactions were reportedly made through verbal agreements in order to avoid possible retracing.”²⁸⁸

The Forces Nouvelles in the north

In 2005, in its first report, the UN Group of Experts observed that cocoa “gave the government resources for its extrabudgetary and off-budget military purchases.”²⁸⁹ The same could be applied to the Force Nouvelles rebels in the north of the country.

About one-tenth of the country’s cacao production was in the north, constituting a valuable resource for the Forces Nouvelles. Some of this was exported from the ports in Abidjan and San Pedro, but in 2004 the rebels moved to block exports to the south to deprive the Gbagbo government of this source of

285 UN Group of Experts, “Letter dated 20 April 2011 from the Chair of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d’Ivoire addressed to the President of the Security Council.” UN Security Council, Report S/2011/272, Box 2, pp. 42-43.

286 *Ibid.*, §154-159, pp. 38–39.

287 UN Group of Experts, “Letter dated 17 October 2011 from the Chair of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d’Ivoire addressed to the President of the Security Council.” UN Security Council, Report S/2011/642, §24, p. 9.

288 *Ibid.*, §26, p. 9.

289 Jean-Philippe Rémy, “Côte d’Ivoire, le sang du cacao,” *Le Monde*. Supra note 270.

revenue. About 60% of northern cocoa production was diverted to other markets.²⁹⁰ Much went through to Burkina Faso en route to being exported from the port of Lomé in Togo.²⁹¹

In March 2004, the Forces Nouvelles set up a “Centrale” to collect taxes in the territory they controlled—including, of course, taxes on cocoa. To be competitive, the tax rate on beans was lower than the government’s, but on top of this came bribes, escort taxes, the cost of passes, and taxes in countries of transit. Global Witness estimates that the Forces Nouvelles obtained an average of around 15 billion CFA francs (\$30 million) annually from this parallel cocoa trade between 2004 and 2007—a figure similar to that of the UN experts.²⁹² Depending on the number of anarchic border posts, trucks could be taxed multiple times before leaving the country, and the UN experts observed that not all the money extracted was faithfully transferred to La Centrale, the Forces Nouvelles treasury.²⁹³

Cocoa revenues particularly benefited certain zone commanders. The UN Group of Experts estimated the revenues collected in 2009-10 by the FN commanders Ouattara Issiaka, known as “Wattao,” and Losseni Fofana, known as “Loss,” at more than \$5 million each.²⁹⁴ This came not only from cocoa but also from trade in gold and diamonds. Evidently, not all of this was used to finance the war effort. A 2013 documentary for French television showed Wattao relaxing at his residence in the elegant Abidjan district of Cocody, his Ferrari and Maserati, his expansive seafront villa, his €40,000 watch, a solid gold gun said to be taken from Gbagbo’s residence, and associates brandishing weapons. He claimed that his fortune came from an import-export business in luxury cars between the United States and Côte d’Ivoire.²⁹⁵ The truth may never be fully revealed, as Wattao died in January 2020.

Many of the trucks carrying cocoa from the rebel zone went to Bobo Dioulasso, the second largest city in Burkina Faso, where packing plants had been set up. The main plant was created by means of an investment by a French company based in Saint-Denis and owned through a Luxembourg holding company. The NGO Global Witness reported in 2007 that Adama Bictogo, a businessman and national secretary of Alasanne Ouattara’s RDR, was “effectively running the factory” with a turnover estimated at around \$100 million per year.²⁹⁶

290 Global Witness, “Hot Chocolate,” pp. 33–35 and 41–43. *Supra* note 151.

291 *Ibid.*, pp. 39–43. See also UN Group of Experts, Report S/2009/521, §235, 238, pp. 55–56, *Supra* note 104.

292 Global Witness, “Hot Chocolate,” pp. 33–35. *Supra* note 151. The UN Group of Experts reported annual incomings of between \$22 and \$38 million between 2007 and 2010 (Report S/2011/271, §165, p. 38. *Supra* note 283.)

293 UN Group of Experts, Report S/2009/521, §194, p. 47. *Supra* note 104.

294 UN Group of Experts, Report S/2011/271, §162, pp. 37. *Supra* note 283.

295 See Lionel Langlade and Christophe Hondelatte, “Passeport pour le crime: Abidjan,” documentary by CAPA, broadcast September 27, 2013, on *13ème Rue*, <https://www.youtube.com/watch?v=rqD-2Itye3c>.

296 Global Witness, “Hot Chocolate,” p. 40. *Supra* note 151. See also “Affaire Bictogo-Soeximex: la guerre du cacao,”

Global Witness reported that two French companies were at the forefront of transporting conflict cocoa from Burkina Faso to the Togolese port of Lomé. By comparing the volumes of cocoa produced in Togo and those leaving the port of Lomé, the UN Group of Experts inferred that Ivorian cocoa smuggling grew from about 16,000 tons in 2003–04 to 96,000 tons in 2007–08.²⁹⁷ Buyers included Dutch, Polish, and French companies.²⁹⁸ “In its meetings with company representatives,” the UN experts stated, “the Group has made clear the risk that revenues from cocoa sales might fund the acquisition of arms and related materiel.”²⁹⁹ This warning apparently did little to deter the trade.

Jeune Afrique, December 21, 2016; and “Affaire Soeximex-Bictogo: droit de réponse d’Adama Bictogo,” *Jeune Afrique*, January 16, 2017.

297 UN Group of Experts, Report S/2009/521, §243, p. 57. *Supra* note 104.

298 Global Witness, “Hot Chocolate,” p. 43. *Supra* note 151.

299 The UN Group of Experts, Report S/2009/521, §248, p. 58. *Supra* note 104.

9. With Friends Like These...

The word “ministry” comes from the Latin *ministerium*, service. For some, it is a small step from serving others to serving yourself. Consider the case of Paul Antoine Bohoun Bouabré, a key figure in Gbagbo’s regime, who served as minister of economy and finance from January 2001 to December 2005, and minister of planning and development from 2005 to 2010.

Bouabré became a senior official in the ministry of economy and finance in 1998, in which capacity he launched a guide to external finance that he said reflected “the government’s clearly stated desire to improve transparency in administration, a guarantee of confidence and security.” He added: “Isn’t it a fine example of the promotion of good governance?”³⁰⁰

A prominent member of Gbagbo’s Front Populaire Ivoirien, in the following decade this proponent of good governance became the keeper of any number of murky affairs. Pursued by the Ivorian authorities after the regime’s downfall, he took his secrets to his grave, dying in Israel in 2012 at the age of 54.

The Luxembourg money trail

Yet, some traces have been found. As early as October 2002, Bouabré was organizing the transfer of funds from the FRCC to the Ivorian state to finance the war.³⁰¹ He appears to have been an enthusiast of secretive finance for more personal reasons, too.

According to French journalist Benoît Collombat, “the copies of two accounts in Luxembourg ... that were assigned to minister Bouabré anonymously reached the desk of judge Ramaël,” the French magistrate then in charge of the investigation about the disappearance and suspected assassination of the journalist Guy-André Kieffer in Côte d’Ivoire in 2004.³⁰² The accounts were held at Dexia Luxembourg, the Luxembourg unit of the Franco-Belgian bank Dexia.

A review of these financial records indicates that one well-stocked euro account had a balance of €5.3 million at the end of June 2008. This account, which held €7.3 million a few months earlier, was explicitly

300 Preface, *Guide des Finances Exterieurs*, Abidjan: Ministère de l’Economie et des Finances, 1999. See <http://www.gouv.ci/doc/guidedesfinex.pdf>, accessed January 9, 2019.

301 Global Witness, “Hot Chocolate,” p. 27. Supra note 151.

302 Benoît Collombat, “Préface: Une affaire d’État franco-ivoirienne,” in Bernard Kieffer, *Le frère perdu: L’affaire Guy-André Kieffer, enquête sur un crime d’État au cœur de la Françafrique* (Paris: La Découverte, 2015), p. 32. The present author gained access to these account statements for October 2007 to June 2008. These were missing a three-month period during which more than €3 million was spent.

assigned to Paul Antoine Bohoun Bouabré by name. The other was a linked US dollar account with \$19 million, whose owner was not specified by name on the bank statements.³⁰³

“Asked about these documents,” Collombat reported, “Dexia Luxembourg replied on September 5, 2008, that the accounts were not registered ‘on its books,’ and suggested looking to Belgium.”³⁰⁴ So the present author contacted Belfius (formerly Dexia Belgium), which assured us that Bouabré had never been a client, and explained that Dexia Luxembourg (now BIL) is a separate entity. We thus returned to where we started. BIL’s denial was less categorical: “BIL is not authorized to provide such information about a person, whether a customer of our bank or not.”³⁰⁵

There were a number of regular contributors to the accounts in the six months of records that the present author examined. These include thirteen transfers received from different entities of the company Audit Control and Expertise (ACE).³⁰⁶ ACE today has a presence in 46 countries, with 4,800 employees, assets over \$9 billion, a headquarters in Geneva, and a CEO in Dubai. Acting on behalf of the Ivorian state, the Chamber of Commerce and Industry had granted ACE a monopoly on weighing and quality control in the cocoa and coffee sector at the port of Abidjan in 2003, moves subsequently denounced in a 2006 EU-financed audit as “unlawful” and as “acts that can be considered favoritism.”³⁰⁷ Compared with its predecessors, SGS and Cornelder, “the cost of controls went from 147 CFAF/ton to 2,000 CFAF/ton”—a thirteen-fold increase.³⁰⁸

The records indicate that each month ACE transferred an average of nearly €240,000 to the Luxembourg accounts. Did ACE’s founder, André Soumah, who served as managing director from 1996 to 2008 and as chairman of the board almost until his death in August 2016,³⁰⁹ also want to express his personal gratitude? On October 12, 2007, according to the Dexia statements, Soumah—who happened to be the former husband of Félix Houphouët-Boigny’s daughter Florence³¹⁰—wrote Bouabré a personal check for more than €42,000.

303 Collombat, p. 32. *Supra* note 301.

304 *Ibid.*

305 Communication with the author, September 28, 2018.

306 The entities included ACE Private Holdings, ACE Global Travel Tours, ACE Ltd Geneva, and ACE SA Senegal.

307 Amiri and Gourdon, “Étude diagnostic,” p. 122. *Supra* note 228.

308 *Ibid.*, p. 123. ACE lost its monopoly position as the Gbagbo decade ended, but regained it in 2012: see “ACE reprend des couleurs à Abidjan,” *La Lettre du Continent*, December 1, 2011.

309 “Executive Profile: André Soumah,” [bloomberg.com](https://www.bloomberg.com/research/stocks/private/person.asp?personId=67098053&privcapId=46510764&previousCapId=46510764&previousTitle=ACE%20-%20Audit%20Control%20and%20Expertise%20SA). Link: <https://www.bloomberg.com/research/stocks/private/person.asp?personId=67098053&privcapId=46510764&previousCapId=46510764&previousTitle=ACE%20-%20Audit%20Control%20and%20Expertise%20SA>, accessed June 20, 2019.

310 See municipality of Gland (Switzerland), “Préavis municipal n°31 relatif à l’octroi de la bourgeoisie de Gland en faveur de Félicia Marie-Aude Soumah,” August 17, 2007. André Soumah died in Geneva on August 9, 2016. Link:

Other companies also transferred money regularly to the accounts, which may speak to Bouabré's crucial role in facilitating business in Côte d'Ivoire. A leading commodities brokerage on the Chicago Mercantile Exchange paid almost every month, with an average transfer of €100,000.

Several individuals also appear to have made transfers to the accounts. The records indicate that Victor Nembelessini-Silué, to whom we return below, made three transfers of €47,500 each. Kouassi Oussou, director general of the ministry of economy and finance, is listed as having made three transfers averaging €80,000 each.

According to the bank statements, Bouabré's account at Dexia also received large transfers from accounts at other banks whose owners are not identified—notably from AIG Private Bank³¹¹ (€650,000 by check) and AIG DKR (€228,000 by transfers).

Banks at this time were moving away from physical currency, but Dexia Luxembourg had no problem handling cash. Nine times in the space of the six months, one or more unidentified persons stood at the counter and deposited a total of €435,000 in cash into Bouabré's account. The cash transactions also record a withdrawal of €600,000 in small denomination bills in November 2007.

EU directives require banks receiving deposits of more than €10,000, whose origin they cannot account for, to file a suspicious transaction report to the national anti-money laundering unit.³¹² This requirement is particularly important in the case of politically exposed persons (known as PEPs): ministers and their entourage, members of parliament, magistrates, and so on. It would have been reasonable, in light of these rules, for Dexia Luxembourg to question the transfers into the Ivorian finance minister's account. Did it exercise due diligence? When asked, the bank (now BIL) declined to comment.

In addition to these and other generous contributors, the account had some fortunate beneficiaries. One was Bouabré himself, to whom the records show transfers totaling €935,000. A real estate company located near Saint Tropez (on the French Riviera), is recorded as having received nearly €430,000 cumulatively over the period. Was the minister building a refuge for himself on the Côte d'Azur at the

http://www.gland.ch/fileadmin/documents/pdf/Preavis_ancienne_leg/Preavis-municipal-no-31-relatif-a-loctroi-de-la-bourgeoisie-de-Gland.pdf, accessed November 5, 2019.

311 AIG Private Bank is a Swiss bank owned by IPIC (International Petroleum Investment Company), and now known as Falcon Private Bank. See <https://www.falconpb.com/en/company/about.html>.

312 Each of the member states had to adopt the third anti-money laundering directive before December 15, 2007. This directive increased the requirements for non-financial professions, and for any transaction involving politically exposed persons. Earlier EU directives already contained due diligence provisions, including Know Your Customer (KYC) rules.

time? Perhaps he enjoyed traveling, too? A travel agency is recorded as having received €122,000 in three transfers.

Bouabré was subsequently blacklisted by the Ouattara government, which froze his accounts – or at least, the ones they could identify.³¹³

The Nembelessini affair

One name that appears among the contributors to Bouabré's Dexia account may not surprise those who follow Ivorian affairs: Victor Jérôme Nembelessini-Silué. But there are two very different versions of his story. One owes much to the writings of the late journalist Guy-André Kieffer, who dubbed Nembelessini “a little Mozart of finance in Côte d'Ivoire” and described him as a close friend of Bouabré: the two studied together, with the Nembelessini “doing his apprenticeship in the secret funding networks of Angola and South Africa,” according to Kieffer.³¹⁴ The other is the version according to Nembelessini himself, whom the present author personally interviewed at length. He denies having a close relationship with Bouabré, and claims to be the victim of fake news, and brought a thick file in the hope of restoring the truth.³¹⁵

Victor Nembelessini indeed studied economics at the University of Abidjan at the same time as Bouabré, but says that at the time he only knew him by face. Why did Bouabré, when he became Minister of Finance in January 2001, hire him as an advisor and subsequently appoint him to head the Caisse Autonome d'Amortization (CAA)? “With HSBC-Equator Bank, I had restructured debts and encouraged Côte d'Ivoire to buy back its debt on the secondary market, which was a brilliant success,” Nembelessini explained. “Bouabré was so impressed he asked me to become the chief of his ministerial cabinet, which I refused because I was a private sector man. I eventually accepted to become his special advisor, a position I held gracefully for six months.”³¹⁶

The CAA (which became the Banque Nationale d'Investissement, BNI, in 2004) was the state bank that handled Ivorian public debt. When Nembelessini became its director in 2001, it had come to look so

313 Touré Adams, “Obsèques de Bohoun Bouabré. Sa famille refuse des millions de Ouattara: Voici la raison,” *Ivoirebusiness.net*, March 28, 2012. Available at <https://www.ivoirebusiness.net/articles/obsèques-de-bohoun-bouabré-sa-famille-refuse-des-millions-de-ouattara-voici-la-raison>, accessed 30 September 2019.

314 Guy-André Kieffer, “Le montage CAA-Lev Mendel Group,” 2004. This unpublished note is quoted in Bernard Kieffer, *Le frère perdu: L'affaire Guy-André Kieffer, enquête sur un crime d'État au cœur de la Françafrique* (Paris: La Découverte, 2015). See also Global Witness, “Hot Chocolate,” supra note 151.

315 The interview, held on December 11, 2018, at my office in Secours Catholique-Caritas France, lasted almost four hours.

316 Interview with the author, December 11, 2018.

much like a slush fund for the state and the president that international financial circles refused to touch it. “The World Bank wanted the liquidation of the CAA,” Nembelessini admits. As a matter of fact, the World Bank suspended loans until privatization took place or an external partner was brought in to participate in managing the fund.

In July 2003, BNI entered into a partnership with the company Lev Mendel (which later became Lev Group, both being trading names of HTM Beheer BV, a company registered in 1990 in the Netherlands).³¹⁷ They formed a joint subsidiary, Lev-Ci, with Lev Mendel owning a 75% share and BNI 25%, and Nembelessini as its chairman.³¹⁸ A fellow board member, according to Global Witness, was the Israeli arms dealer Moshe Rothschild who had brokered the purchase of two Mi-8V helicopters for the Ivorian army.³¹⁹ Rothschild was later named by Paris-based *Jeune Afrique*, the most widely read pan-African news magazine, as one of the main players in arms sales in Côte d’Ivoire under Gbagbo.³²⁰

According to Guy-André Kieffer’s account, Nembelessini initially conceived this partnership as a response to the World Bank’s concerns.³²¹ But its true goal, Kieffer believed, was to siphon funding from creditors that was meant for public works into the hidden financing networks of Ivorian political life.³²² Kieffer had no time to prove his suspicions: he was abducted in Abidjan in April 2004, never to be seen again.

According to Kieffer, Lev-Ci supported a near-bankrupt company called Gold 2000, whose shareholders included the infrastructure minister, the mayor of Le Plateau (the central business district of Abidjan), and Nembelessini’s offshore investment fund.³²³ Gold 2000 had been awarded a public contract in 2000 to refurbish San Pedro’s roads and port for 4.4 billion CFA francs (about \$6.2 million), 80% of which was financed by the World Bank. The firm could only justify 400 million CFA francs of expenses, and “absorbed” the rest of the money, in Kieffer’s words. The firm—to which BNI had provided an overdraft

317 HTM Beheer BV’s unique shareholder was Euro Trade Services NV, a company based in Curaçao, a secrecy jurisdiction in the Dutch Antilles. See Global Witness, “Hot Chocolate,” pp. 30-3. *Supra* note 151.

318 Global Witness, “Hot Chocolate,” pp. 30, 32. *Supra* note 151. As of this writing, Nembelessini is in litigation with BNI. See <http://www.ohada.org/index.php/fr/ohada-au-quotidien/role-des-audiences-publiques-de-la-cour-ccja/2599-affaire-victor-jerome-nembelessini-silue-contre-banque-nationale-d-investissement-bni>, accessed January 9, 2019.

319 *Ibid.*, p. 30.

320 Maxime Perez, “Security business,” *Jeune Afrique*, April 5, 2010.

321 Kieffer, “Le montage CAA-Lev Mendel Group.” *Supra* note 313. See also Global Witness, “Hot Chocolate,” p. 30, *supra* note 151.

322 Kieffer, “Le montage CAA-Lev Mendel Group.” *Supra* note 313.

323 *Ibid.*

of 5.5 billion CFA francs³²⁴—also was entrusted with dredging the port of San Pedro for 12 billion CFA francs.³²⁵

Nembelessini had trouble keeping calm when hearing this account. “How would Lev have reassured donors about the problems of the BNI?” he asked. “Yes the BNI had problems, but we developed structured financing, by recovering some of the coffee and cocoa deposits that were at the BCAO. This allowed us to finance SMEs (small and medium enterprises) and help the cooperatives, and that was the strength of the BNI.”

Why did Lev Mendel become a partner? “The BNI financed SMEs in all sectors in Côte d'Ivoire, because there had been a disengagement of French banks. The Ministry of Infrastructure asked us to help a company named Gold 2000 that had an important contract from the World Bank, without having the necessary funding. When a partner came to me and said ‘We have heavy equipment - tractors, shovels – that we can get you cheaper,’ I thought this would be useful to Ivorian SMEs in a time of crisis. That was Lev Mendel.”

Nembelessini does not deny having had troubles with Lev-Ci and Gold 2000. A 2006 audit by PricewaterhouseCoopers supported accusations that Lev-Ci misappropriated funds to the tune of 7 billion CFA francs (\$13 million). But Nembelessini contends that he was the one chasing corruption: “When the managers are not in good faith, it falls on you, and that's what happened. We provided equipment to Gold 2000, but that was not enough. We realised that the guy from Gold 2000 had committed embezzlement. I also dismissed the managing director of Lev-Ci who had begun to make personal enrichment and I lodged a complaint against him, which brought me a lot of trouble.”

Nembelessini questions the sincerity of Guy-André Kieffer: the late journalist, at the time, was an employee of Commodities Corporate Consulting, a company meant to support the government in reforming the cocoa sector. Nembelessini was outraged by the contract awarded to them (3bn CFA francs, or €4.5 million) with a comfortable financial advance even though the company was not yet incorporated, and had convinced Bouabré to stop the payment. This was, in his view, the origin of a grudge held by Kieffer against him. Nembelessini was so upset by what he considered “fake news” against him that he

324 Global Witness, “Hot Chocolate,” p. 32. *Supra* note 151.

325 Kieffer, “Le montage CAA-Lev Mendel Group.” *Supra* note 313.

thought of taking it to court: “I am gonna sue you until your last shirt,” he told Kieffer. But he was advised by a lawyer not to do so.³²⁶

One question that remains is why would Nemelessini have transferred funds into Bouabré’s Luxembourg account — we spotted three deposits by check, in November 2007 and May and June 2008? When asked, he appeared quite surprised by this question: “I did not manage any account in Luxembourg. I don’t even know Dexia. Who could have put my name? Where would I have found all this money? I don’t have coffee or cocoa, I don’t take levies. I don’t know how my name could show up there. You would do me a great service if you help me understand.”

Nemelessini also expressed some bitterness against Bouabré, whom he characterized as having been a valuable politician until the September 2002 *coup d’état*, when he had to bow to the bosses of his party who accused him of playing into the hands of the World Bank and blamed him for not having cleared enough means to arm the country. “Henceforth he became like a carpet, he couldn’t say no. From then on, we could not agree any more. We stopped talking to each other.”³²⁷

Is Nemelessini a good actor? He seemed sincere, although he may have overplayed the score of one who would have been unable to release a few tens of thousands of euros: Global Witness described him as “the president and director, as well as the majority shareholder, of Nembel Invest, a private investment project in Côte d’Ivoire, with estimated costs of US\$9.6m.”³²⁸ Either our bank document is a fake, which we believe highly unlikely, or he was the victim of some manipulation. The latter is not impossible given what Bouabré was able to do in order to discredit opponents. We can only leave the question open at this stage.

Nemelessini was not purged after Gbagbo’s downfall. He says he initially feared for his life when Ouattara came to power in April 2011, but was protected by the German embassy.³²⁹ Ouattara appointed him administrator of Côte d’Ivoire for Afreximbank, the African Export-Import Bank.³³⁰

326 Interview of Victor Nemelessini with the author, December 11, 2018.

327 Interview with the author, December 11, 2018.

328 See Global Witness, “Hot Chocolate,” p. 30. *Supra* note 151.

329 Interview with the author, December 11, 2018.

330 “Afreximbank: Nemelessini, nouvel administrateur pour la Côte d’Ivoire,” *Abidjan.net*, August 2, 2011. <http://news.abidjan.net/h/406445.html>

10. In the Shadow of the Speculators

The cocoa war of the late 1980s, recounted above in section 4, not only involved Côte d’Ivoire’s attempts – in the end, unsuccessful – to control the global cocoa market. It also saw contests among powerful international firms, whose influence was growing with the financialization of the cocoa trade.

Sixty transactions for a single sale

“Paper cocoa moves ten times faster than physical cocoa,” remarks former Gbagbo adviser Bernard Houdin.³³¹ Indeed, this may be an understatement. Youssouf Carius, an Ivorian investment fund director, says that “a cocoa bean sold physically out of the port of Abidjan may represent as many as sixty transactions on the international markets.”³³²

The increasingly important role of financial institutions in the cocoa trade was rooted, first and foremost, in the substantial financing requirements for anticipated purchases of cocoa (as well as other commodities like coffee and rubber). The Ivorian banking sector was still weak in the 1980s, having long been “controlled by subsidiaries of the major French banks (BNP-Paribas, Société Générale, Crédit Lyonnais), who limited themselves to small-scale customer services.”³³³

Financialization also met a need on the part of cocoa buyers and sellers to hedge against risk in a context where the bulk of the harvest is sold as futures. There is no single “spot” price for immediate delivery of cocoa, as there is for oil or gas. Instead prices are fixed for a given quantity and date of delivery—the global cocoa market has five delivery deadlines, in March, May, July, September, and December—and can be renegotiated. Contracts may include possible price increases or reductions when they mature, depending on how the price has changed in the interim. These futures transactions ultimately determine global prices in London and New York. Along with associated insurance derivatives, they became objects of intense speculation.

There now appeared in the market financial agents who were uninterested in the “real” side of the cocoa trade, that is, in the beans or processed cocoa itself. “About 30% of cocoa transactions were made by

331 Interview, December 5, 2017. According to SEO Amsterdam Economics, the remark is accurate: “The trading turnover on cocoa futures markets is about ten times higher than actual world production.” See SEO Amsterdam Economics, “Market Concentration and Price Formation in the Global Cocoa Value Chain,” Report commissioned by the Dutch Ministry of Foreign Affairs, November 15, 2016, p. 31.

332 Cyril Bensimon, “Côte d’Ivoire: ‘ce qui fait chuter les cours du cacao, c’est la spéculation,’” *Le Monde*, April 6, 2017.

333 Losch, “Coup de cacao en Côte d’Ivoire,” p. 12. *Supra* note 229.

investment funds,” according to Carius, “not by professionals working in the sector.”³³⁴ This reflected a broader trend in world agricultural markets. Cocoa speculation increased fourfold between 1986 and 2005, and has continued to grow since then.³³⁵ Financiers treat cocoa much like any other commodity. This has been accompanied by tendency to greater product standardization, which doesn’t necessarily guarantee quality—to the irritation of chocolate makers, who at times complain of deliveries of beans “that an animal wouldn’t touch!”³³⁶

Banks and pension funds played the leading role in these futures markets at the turn of the millennium.³³⁷ Their room for maneuver shrank somewhat, however, with new regulations introduced following the 2008 financial crisis. There are now limits on the number of contracts they can hold. Most importantly, the Volcker Rule banned proprietary trading (trades with the firm’s own money) in the United States, although the Trump administration made the rule more flexible³³⁸ and the European Commission eventually decided against a total ban on the practice. As banks pulled back from commodity markets, this opened space for traders, many of whom have set up shop in Switzerland (like Bunge, Cargill, Louis Dreyfus, and ADM’s agricultural concerns) and Singapore (like Noble and Olam). These commodities giants can continue trading on their own account—this makes up roughly 80% of their electronic exchanges—while at the same time acting as asset managers for big investors.³³⁹ The general public may not be well aware of the sector, but today commodity trading is highly profitable – and we’re talking here of any type of commodities. By 2012, the total turnover of the ten largest traders was €916 billion, equivalent to the GDP of South Korea. Between 2003 and 2012, the total profit of the twenty largest traders was €191 billion³⁴⁰—slightly more than Côte d’Ivoire’s cumulative GDP over the same period.

Fruits of financialization

For Ivorian producers, financialization had two important effects.

334 Bensimon, “Ce qui fait chuter les cours du cacao,” April 6, 2017.

335 See Williams Ohemeng, Bo Sjo, and Michael Danquah, “Market efficiency and price discovery in cocoa markets,” *Journal of African Business* 17, number 2 (2016): pp. 209–24.

336 Interview with the former director of the chocolate firm Beussant, based in the north of France, July 21, 2017.

337 See Marc Roche, “Heurs et malheurs des négociants internationaux de matières premières,” *Le Monde*, February 8, 2001.

338 See Raphaël Bloch, “Banques : les Etats-Unis recalibrent la « règle Volcker »,” *Les Echos*, October 9, 2019.

339 See Mathilde Damgé, “Les négociants prennent la main sur le marché des matières premières,” *Le Monde*, April 6, 2012.

340 See Mathilde Damgé, “Les profits des négociants de matières premières dépassent ceux des banques,” *Le Monde*, April 16, 2013.

The first was greater price instability. The large fluctuations in cocoa prices in recent years cannot be explained by market forces of supply and demand alone—we also must factor in the speculative reactions of financial markets to political instability, the vagaries of climate, and diseases affecting the crop.³⁴¹ When Ivorian cocoa lost 30% of its value on world markets between March and October 2016, speculation was widely regarded as the primary cause. According to Gaël Giraud, then chief economist at the Agence Française de Développement (AFD), “commodity prices were no longer dictated by actual supply and demand, but by speculative capital movements.”³⁴²

These fluctuations have had serious consequences for growers. After CAISTAB’s abolition, the Ivorian government took a laissez faire approach to the cocoa sector between 2000 and 2012, exposing producers directly to the ups and downs originating in international finance. When Ouattara came to power, he set up the Conseil Café-Cacao (CCC) to guarantee prices for producers so as to counter these fluctuations.

Based on its expectations of the volume and quality of the upcoming harvest and how prices will move, the CCC sets a farmgate price that must be at least 60% of the export price. It holds daily auctions of future rights to export, in which any exporter accredited by the CCC can participate. Exporters name a quantity and a price, and the CCC “unblocks” a future quantity of cocoa at a particular price for a particular exporter. The contracts are confidential. Eighty percent of the future harvest is sold in this way.³⁴³ The system has many advantages over the previous laissez-faire approach. But it also has pitfalls: the potential for cronyism in how local exporters are selected, and the risk of inaccurate estimation or valuation of the harvest by the CCC.

After the sharp fall in world cocoa prices in 2016, speculative exporters—who had purchased 400,000 tons of cocoa in advance, wagering that prices would go up—defaulted on their payments and canceled purchase orders amounting to around 15% of the country’s annual production. Côte d’Ivoire ended up with entire shipments of cocoa on its hands. Prices slid a further 10% between January and March 2017.³⁴⁴ The farmgate price, which is based on the CCC’s rate and is supposed to guarantee the income of planters, was not paid in early 2017. The CCC was so slow to tap its reserve fund that SYNAP-CI, a

341 Fairtrade Belgium, “Le cacao et le commerce équitable,” December 18, 2014, p. 11–13. Available at https://issuu.com/fairtradebelgium/docs/brochure_cacao_fr-19web_fsc, accessed November 20, 2019.

342 See Clémentine Vergnaud, “*Franceinfo* (Radio France), October 1, 2017.

343 The CCC directly sold the remaining 20% to brokers in London, New York, Geneva, and Amsterdam, working on behalf of smaller local Ivorian producers who could not easily find foreign buyers for the quantity of cocoa permitted by their export rights.

344 See Laurence Girard, “Le cacao broie du noir,” *Le Monde*, March 18, 2017.

union for nearly 100,000 cocoa producers, began to suspect the 140 billion CFA francs (€213 million) in the fund had been stolen.³⁴⁵

This episode left the CCC bruised and wary, and it reduced the prices it guaranteed producers from 1,100 CFA francs per kilogram in 2016 to 750 CFA francs for the 2017–18 season. At this price, a majority of Ivorian growers earned less than \$1.20 per day.³⁴⁶ The World Bank estimates that it takes \$1.90 per day for workers to rise above extreme poverty—a far lower bar, of course, than earning a decent wage as defined by international labor standards.

The basic problem, according to AFD chief economist Giraud, arises from a simple fact: “The speculators in their Manhattan offices never take delivery of a single cocoa bean. The underlying physical product doesn’t interest them at all—lucrative deals are the only thing they care about.”³⁴⁷ Proposals have been made to require speculators to take delivery themselves of part of the contract on which they are speculating. But the World Trade Organization, which is responsible for rules regarding trading in commodities, has no authority over financial transactions involving them, and so it is the financial hubs that would have to legislate. And they, of course, are reluctant to constrain or ban any activities that might simply be relocated to a competitor.

The second important effect of financialization has been to siphon money to parties that contribute no value to the product itself. We’re not talking here about the major industrial firms in the supply chain, nor about exporters, who often report very thin profit margins (1 to 2%). We are talking about financial speculators.³⁴⁸

In commodity markets where a small number of players buy a large percentage of the product, speculators can take positions substantial enough to move prices up or down. Trading houses operating in the cocoa market watch the situation in Côte d’Ivoire very closely – with nearly 40% of world production, it has a

345 Charles Bouessel, “Comment la Côte d’Ivoire se retrouve avec 400,000 tonnes de cacao invendues sur les bras,” *Le Monde*, February 16, 2017.

346 In 2014-15, despite somewhat higher prices (850 CFA francs per kilogram), almost 55% of Ivorian growers lived on less than 757 CFA francs (US \$1.20) per day. See Banque Mondiale, “Situation Economique en Cote d’Ivoire : Au pays du cacao - comment transformer la Cote d’Ivoire,” July 2019, p. 31.

347 See C. Vergnaud, “Journée mondiale du cacao et du chocolat: quand la spéculation appauvrit les petits producteurs,” *Franceinfo*, October 1, 2017. Available at https://www.francetvinfo.fr/economie/emploi/metiers/agriculture/journee-mondiale-du-cacao-et-du-chocolat-quand-la-speculation-appauvrit-les-petits-producteurs_2394980.html (accessed June 2, 2020).

348 Interview with Christophe Alliot, December 23, 2017.

major influence on the path that markets take – and employ their own observers to evaluate reserves.³⁴⁹ Sometime speculators may even use political destabilization to influence prices.

Chocolate Finger

“Chocolate Finger” would be a suitable title for a thriller whose anti-hero is a former British secret service operative. The story shifts between the poverty of an unstable African country, the frenetic activity of the trading floor, and luxury suites in Paris and New York. To our knowledge, no one has bought rights to the script yet. But some Ivorians think they have already seen the film—or lived through something like it.

Here is a synopsis of the plot, as reported in 2003 by the authoritative London-based fortnightly newsletter *Africa Confidential*:

The cocoa price recovered last year as Cote d'Ivoire, the world's biggest producer, was plunged into chaos. A supply deficit pushed prices to their highest levels for 15 years by mid-2002, even before the 19 September army mutiny. London trading house Armajaro, founded by former Phibro boss Anthony Ward, made a killing by stockpiling five per cent of world production from the 2001-2002 season. Then as the Ivorian conflict deepened, a conspiracy theory circulated claiming Armajaro had funded the rebellion to boost the cocoa price and raise cash to cover its partner AIG Fund's losses from the destruction of the World Trade Center on 11 September 2001.³⁵⁰

The story is recounted in greater detail by Guy-André Kieffer, the Franco-Canadian journalist who disappeared in Abidjan in 2004.³⁵¹ Its main character, Anthony Ward, is portrayed by Kieffer as a former

349 See Mathilde Damgé, “Les profits des négociants de matières premières dépassent ceux des banques,” *Le Monde*. Supra note 339.

350 “Rebel forces, market forces,” *Africa Confidential*, Vol. 44, No. 3, February 7, 2003.

351 Guy-André Kieffer, “Origine d’un des financements des mutins.” This document was published on various websites after Kieffer’s disappearance: see, for example, Ivoirebusiness.net, “Financement de la rébellion des Forces nouvelles: Voici l'article de Guy-André Kieffer qui a signé son arrêt de mort!” available at <https://www.ivoirebusiness.net/articles/financement-de-la-rebellion-des-forces-nouvelles-voici-l'article-de-guy-andr%C3%A9-kieffer-qui> (accessed May 21, 2020); Atelier des Medias, “Voici l’article qui a coûté la vie à Kieffer,” available at <http://atelier.rfi.fr/forum/topics/voici-l-article-qui-a-coute-la-vie-a-kieffer-les-soutiens-de> (accessed May 21, 2020). See also K. Martial Frindethie, *From Lumumba to Gbagbo: Africa in the Eddy of the Euro-american Quest for Exceptionalism* (Jefferson, North Carolina: McFarland, 2016), pp. 116-117.

secret service agent who cut his teeth at Britain's MI5.³⁵² He entered the private sector, and joined the American commodities trading firm Phibro in 1994.³⁵³

In the late 1990s, Ward and several other former Phibro employees decided to strike out on their own. They founded Armajaro, a trading company with offices in London and a headquarters in the British Virgin Islands. Armajaro specialized in cocoa, coffee, and sugar futures markets.

Between November and December 2001, according to Kieffer, AIG Fund transferred 150,000 tons of cocoa to Armajaro. Ward's company purchased almost 650,000 more tons of "paper cocoa" on the futures market, and stockpiled another 210,000 tons of cocoa beans—bringing its total holdings to about 5% of the global supply.³⁵⁴ At the time, the price of cocoa was oscillating between £750 and £900 per ton. When the price rose early in 2002, Ivorian producers emptied their stocks, and by the summer of 2002 their reserves were at their lowest point.

The Ivorian government wanted to sell some future production in advance, so as to give producers some advance indication of the likely prices for the coming year, a move that could have dampened the price fluctuations that are the lifeblood of speculation. Kieffer claimed that, with help from Victor Nembelissini, whom we met in section 9, Armajaro persuaded individuals close to the government to convince Bouabré, the finance minister, to abandon this move.³⁵⁵ Ward himself categorically denies the claim: "I have never heard of this man [Nembelissini] and, I don't do politics."³⁵⁶ Nembelissini denies it, too: "Armajaro? I don't know him. I heard the word 'fake news' much later, but that's what I've endured."³⁵⁷

In Kieffer's words, "botany interfered with this plan."³⁵⁸ The incoming Ivorian harvest was bountiful, and there was a risk that prices would fall. But political destabilization could disrupt the harvest. The

352 *Ibid.*, p. 161. This claim has been repeated in the Ivorian media and also reported in Jean-Christophe Notin, *Le crocodile et le scorpion: La France et la Côte d'Ivoire (1999-2013)* (Paris: Rocher, 2013), p. 207. But a profile of Ward in the *Financial Times* says no word about this alleged part of his life. See Javier Blas, "Man in the News: Anthony Ward," *Financial Times*, July 23, 2010.

353 On the history of Phibro, see Helmut Waszkis, *Philipp Brothers: The Rise and Fall of a Trading Giant 1901-1990* (London: Fastmarkets, 1992). Philipp Brothers (as the firm was earlier known) was where the well-known commodities trader and financier Marc Rich learnt the job. See Daniel Ammann, *The King of Oil: The Secret Lives of Marc Rich* (New York: Saint Martin's Press, 2009); A. Craig Copetas, *Metal Men: How Marc Rich Defrauded the Country, Evaded the Law, and Became the World's Most Sought-After Corporate Criminal* (New York: Harper Perennial, 2001).

354 Alan Cowell, "War Inflates Cocoa Prices But Leaves Africans Poor," *New York Times*, October 31, 2002; Guy-André Kieffer, "Origine d'un des financements des mutins," pp. 161-2, *supra* note 350.

355 *Ibid.*, p. 163.

356 Communication with the author, September 25, 2018.

357 Interview with the author, December 11, 2018.

358 Kieffer, "Origine d'un des financements des mutins," p. 165. *Supra* note 350.

country's volatile situation was favorable for such a move: there was discontent with the central government in the northern districts, and the instability was compounded by the presence of deserters from the Ivorian army in the neighboring countries of Burkina Faso, Mali, and Ghana. Kieffer claimed that in the final weeks of the summer of 2002, Armajaro provided \$50 million to a group of persons aiming to undertake "a destabilization of Côte d'Ivoire."³⁵⁹ Ward himself categorically denies this claim.³⁶⁰

When the rebel offensive was launched on September 19, 2002, it targeted the cocoa belt. Cacao bean exports from the port of San Pedro fell to roughly one-third of the normal pace. Prices stayed above £1,400 per ton, and Armajaro was able to sell its holdings at a profit. According to Kieffer, the firm's profit amounted to more than \$500 million.³⁶¹ An article by senior *Le Monde* journalist Alain Faujas put the profit lower at a mere £40 million.³⁶² When contacted by the present author, Ward refused to comment on the profitability of these trades.³⁶³

This alleged episode earned Ward the nickname "Chocolate Finger" in the British press.³⁶⁴ Years later, from his prison cell in The Hague, Laurent Gbagbo bitterly remarked that "in the last few years, if you wanted to find out whether a coup was on the horizon in Côte d'Ivoire, all you had to do was watch the price of cocoa!"³⁶⁵

A winning bet

Chocolate Finger's adventures in the cocoa trade were not over. In July 2010, Armajaro reportedly put €776 million (roughly a billion dollars) on the table to buy 240,000 tons of cacao beans—6.3% of world production.³⁶⁶ Reserves were at a historic low, and prices were high at around £2,500 a ton. Ward's

359 Kieffer, "Origine d'un des financements des mutins," pp. 159-162. Supra note 350.

360 Communication with the author, September 25, 2018. Hayat Gazzane, "'Chocolate Finger' laisse tomber le cacao," *Le Figaro*, November 14, 2013, reports that Ward is "suspected of fueling local rebellions to serve his cause," and that Ward denies this claim: "He presents himself as a simple financier, who thanks to his personal fortune and his sense of timing, manages to make rain and good weather on the cocoa market."

361 Kieffer, "Origine d'un des financements des mutins," p. 165. Supra note 350.

362 Alain Faujas, "Le financier 'Chocolate Finger' tente d'assécher le marché mondial du cacao," *Le Monde*, July 21, 2010, available at https://www.lemonde.fr/economie/article/2010/07/21/le-financier-chocolate-finger-tente-d-assecher-le-marche-mondial-du-cacao_1390560_3234.html (accessed January 28, 2019).

363 Communication with the author, September 25, 2018.

364 See, for example, Richard Fletcher, "'Chocolate finger' makes a £10 million bean as stockpiling gamble pays off," *The Telegraph*, July 13, 2003, where the nickname is explained as follows. "Although the scheme was compared to James Bond villain Goldfinger's plan to stockpile gold, Ward always denied claims that he was trying to 'corner' the market."

365 Laurent Gbagbo and François Mattei, *Pour la vérité et la justice* (Paris: Éditions du Moment, 2014). Quoted in Mathieu Olivier, "Côte d'Ivoire: les extraits du livre-choc de Laurent Gbagbo," *Jeune Afrique*, June 26, 2014.

366 Faujas, "Le financier 'Chocolate Finger'," *Le Monde*. Supra note 361. See also Alex Salkever, "This Hedge Fund

confidence must have come from “information to which we don’t have access,” a strategist at the global asset management firm Axa Investment Managers told *Le Monde*.³⁶⁷

There is a significant cost to raising a billion dollars. For the plan to succeed, Armajaro would have to resell by September at a price closer to £3,000 per ton. This was a risky move if ever there was one, since a substantial increase in global production would likely bring down prices. But a few days later, Côte d’Ivoire’s pre-election crisis broke out and the cocoa price soared.³⁶⁸ Asked what had encouraged him to make such a bet, Ward replied simply that “the cocoa we bought was hedged.”³⁶⁹

The gamble paid off nicely: “Between September 2010 and September 2011,” reported *Jeune Afrique*, “Armajaro Trading sold \$2.9 billion of soft commodities, and realized a net profit of \$15.4 million.”³⁷⁰

On May 20, 2011, the new Ivorian first lady invited Ward to sit at the table of honor during Alassane Ouattara’s gala inauguration dinner.³⁷¹ *The Telegraph*, in a 2012 profile, estimated his personal fortune at £36 million.³⁷²

On November 10, 2013, the *Financial Times* reported that Armajaro was exiting the cocoa trade, selling its cocoa, coffee, and sugar concerns to a Swiss trading firm.³⁷³ It would now focus on the less risky business of wealth management. *Le Monde* reported that Ward had “learned a lesson from the banks’ withdrawal from physical trading, linked to demands for transparency and good governance by their shareholders,” and that speculators’ lives had become more “complicated” in the face of the growing activism of non-governmental organizations like Berne Declaration and Global Witness.³⁷⁴ In December

Sure Has a Sweet Tooth for the Cocoa Market,” *aol.com*, July 20, 2010, available at <https://www.aol.com/2010/07/20/hedge-fund-armajaro-huge-cocoa-buy/> (accessed May 13, 2020); and Marc Roche, “Le plus célèbre spéculateur du cacao rend son tablier,” *Le Monde*, November 12, 2013.

367 See Faujas, “Le financier ‘Chocolate Finger’.” Supra note 361.

368 Fanny Pigeaud, *France Côte d’Ivoire, une histoire tronquée* (La Roque-d’Anthéron: Vents d’Ailleurs, 2015), p. 214.

369 Communication with the author, September 25, 2018.

370 See “Armajaro quitte le négoce du café-cacao,” *Jeune Afrique*, November 13, 2013. Ward refused to comment on this figure.

371 See Pigeaud, *France Côte d’Ivoire*, p. 214. Supra note 367.

372 See “The rise of Anthony ‘Chocfinger’ Ward,” *The Telegraph*, August 6, 2012. When contacted by the author, Ward declined to confirm the extent of his wealth (communication with the author, September 25, 2018).

373 E. Terazono, “‘Chocfinger’ looks to offload Armajaro Trading,” *Financial Times*, November 10, 2013, available at <https://www.ft.com/content/47c1b5da-489d-11e3-a3ef-00144feabdc0> (accessed March 9, 2020). Roche, “Le plus célèbre spéculateur du cacao rend son tablier,” *Le Monde*. Supra note 365. See also Jean-Pierre Boris, *Traders, vrais maîtres de monde: Enquête sur le marché des matières premières* (Paris: Tallandier, 2017), p. 25.

374 Roche, “Le plus célèbre spéculateur du cacao rend son tablier,” *Le Monde*. Supra note 365.

2017, Ward announced that the firm was closing its hedge fund, CC+, which had specialized in coffee and cocoa.³⁷⁵

Asked whether he has any regrets regarding how Ivorian cocoa has been managed in international markets over the last decades, or the role of Armajaro or CC+, Ward answered in a word: “No.”³⁷⁶

375 Commodafrica, “Armajaro ferme son hedge fund cacao café CC+, fuyant les 'quants', mais pour rebondir,” <http://www.commodafrica.com/13-12-2017-armajaro-ferme-son-hedge-fund-cacao-cafe-cc-fuyant-les-quants-mais-pour-rebondir> (accessed January 28, 2019).

376 Communication with the author, September 25, 2018.

11. Reforming the Cocoa Sector

Alassane Ouattara became president of Côte d'Ivoire in 2010 with the support and military backing of France, which proved decisive in the wake of a controversial election. On taking office, he made reorganization of the country's cocoa sector a top priority.

Origins of Ouattara's wealth

The confidence that President Ouattara inspires in many Ivoirians may be attributable in part to his personal wealth. His reputation “has been constructed around the supposedly immense fortune his supporters claim he accumulated during his high-flying career as an IMF official and head of the BCEAO [Central Bank of West African States],” writes political scientist Yaya Traoré. “The myth of Ouattara as the *père de l'argent* conveyed an image of a future president who was already rich, and so wouldn't steal public money and would lead the country in an honest, upright, disinterested way.”³⁷⁷ It is difficult, however, to obtain a clear picture of the extent of Ouattara's wealth.³⁷⁸

French socialist MP François Loncle has traced Ouattara's political influence to what he describes as the “colossal fortune” of first lady Dominique Ouattara.³⁷⁹ Dominique Nouvian (her maiden name) was born in Algeria in 1953, before that country's war of independence. In 1975 she accompanied her first husband, Frenchman Jean Folloroux, to Abidjan. After his accidental death in 1983, she took over a local real estate agency called AICI. The business quickly prospered, with Ivorian president Felix Houphouët-Boigny entrusting her to manage his properties in France, Italy, and Switzerland. She was also rumored to be his mistress, a claim that *Le Monde* reports was repeated in a 2005 telegram sent by the U.S. embassy Paris that was classified as “secret” and subsequently unearthed by WikiLeaks.³⁸⁰

Dominique met Alassane Ouattara in Dakar in 1984, and they married the following year in the town hall of the 16th arrondissement of Paris. The wedding guests included Martin Bouygues (the CEO of the

377 Yaya Traoré, “Problématique de la Gouvernance politique en Afrique: Sociogenèse et enjeux de la crise de l'État-nation en Côte d'Ivoire” (PhD diss., Paris 2 University, 2014), p. 436.

378 Conforming to an obligation in the Constitution, Ouattara announced in 2012 that he had produced a declaration of assets—but this has not been made public. (In theory, he was constitutionally obliged to make such a declaration the moment he took office.) He then reprimanded those of his ministers who were hesitating to make their own declarations. See *Jeune Afrique*, July 1–7, 2018.

379 Quoted in Raphaël Granvaud and David Mauger, *Un pompier pyromane: L'ingérence française en Côte d'Ivoire d'Houphouët-Boigny à Ouattara*. Paris: Agone, 2018, p. 33.

380 Philippe Bernard, “Dominique Ouattara, une ‘première dame’ d'influence,” *Le Monde*, May 20, 2011.

French construction giant Bouygues, discussed in the next section) and Jean-Christophe Mitterrand, the son and adviser on African affairs of the French president.³⁸¹

The real estate group AICI had grown to 250 employees in 2011, with branches not only in Abidjan but also in Paris, Cannes, and Libreville, the capital of Gabon.³⁸² Dominique Ouattara's wealth today includes a residence in Mougins, in the hills above Cannes on the Côte d'Azur, acquired in 1995 for 6.5 million French francs.³⁸³ The couple's vacation retreat grew when the president acquired a neighboring home in 2016 with the aim of joining the two properties.³⁸⁴

Dominique Ouattara's critics report that she acquired several properties with assistance from Houphouët-Boigny, including a luxuriously furnished apartment at 140 Avenue Victor Hugo decorated with paintings by Picasso and Buffet.³⁸⁵ She acquired the apartment in 1988 for the sum of 8.6 million French francs (equivalent to €1.3 million), paying cash.³⁸⁶ Her ownership of this property was contested in a legal action brought by Marie-Thérèse Houphouët-Boigny, wife of the late president, whose complaint alleged that it was her own late husband who actually bought the apartment. During the eighteen months before the purchase, 22 million French francs were transferred from an account of Felix Houphouët-Boigny at UBS in Geneva to accounts of Dominique Folloroux at the Société Générale in Monaco and Sanary in the Côte d'Azur.³⁸⁷

Madame Houphouët-Boigny relinquished her claims against the first lady in December 2016. A report in *Le Monde* speculates that she may have feared losing her official pension, estimated at €30,000 per month. "I'm on very good terms with the Ivorian authorities, and I want it to stay that way," she told the paper.³⁸⁸

381 *Ibid.*

382 *Ibid.*

383 Bernard Houdin, *Les Ouattara: une imposture ivoirienne* (Paris: Editions du moment, 2015), p. 254. The Mougins residence is also mentioned in "Sur la piste des présidents dans leurs villégiatures d'été," *La Lettre du Continent* 735, August 24, 2016.

384 "Ouattara agrandit son domaine de Mougins," *La Lettre du Continent* 741, November 16, 2016.

385 Jean-François Julliard, "La fortune tombée du ciel d'une Française d'Afrique," *Le Canard enchaîné*, October 2015; Bernard Houdin, *Les Ouattara: une imposture ivoirienne* (Paris: Editions du moment, 2015), p. 254.

386 Bernard Houdin, *Les Ouattara: une imposture ivoirienne* (Paris: Editions du moment, 2015), p. 254.

387 Guéniat gives the figure of 24 million French francs, and writes that, "when approached by *Le Monde*, Dominique Ouattara made no comment." Marc Guéniat, "Un château, héritage d'Houphouët-Boigny, sème la zizanie dans un village français," *Le Monde*, December 30, 2016. *Supra* note 121. By consulting the records of transfers from UBS for the period 1984-1990, the author has been able to establish that eight transfers were made to Dominique Folloroux between August 1986 and February 1988, totalling 22 million French francs.

388 Marc Guéniat, "Un château, héritage d'Houphouët-Boigny." *Supra* note 121.

The CCC: Re-regulating the cocoa sector

In January 2012 Ouattara established the CCC (Conseil de Régulation, de Stabilisation et de Développement de la Filière Café-Cacao, or Conseil Café-Cacao for short). Its members—officials, exporters, and producers—were appointed by presidential decree. The state became the main player in the cocoa sector, in charge of commercialization all the way from the farmgate to export. The system aimed to shield producers from market instability. Some 80% of the next year’s crop was sold in advance on the global market, and producers were guaranteed a rate somewhere between 50% and 60% of the world price.³⁸⁹ In addition, funds were allocated for rural infrastructure projects—schools, medical centers, water pumps, access roads for farms.

Economists are divided on the benefits of state regulation, and there is some evidence that cacao growers typically receive a higher share of the world price in countries with less regulated sectors, such as Cameroon and Indonesia.³⁹⁰ But Ouattara’s reform quickly bore fruit, driven by rising global prices: producer prices rose to 725 CFAF/kg, and then 1,100 CFAF/kg, before dropping back to 700 CFA/kg in 2017 when world prices fell.

Cocoa smuggling from Côte d’Ivoire reportedly declined by 80% from earlier levels.³⁹¹ But its scale remained substantial. In the 2010–11 season, as fighting still prevented beans from being harvested and wholesalers from taking delivery, and before Ouattara ordered exports to be suspended in order to suffocate his rival Gbagbo, a sizable portion of the Ivorian harvest was smuggled out through Ghana.³⁹²

A parallel economic system persisted in the north, a legacy of the *de facto* partition of the country during the civil war. Between 2012 and 2015, an estimated 120,000 tons of cocoa and 20,000 tons of coffee were smuggled out annually, generating a total loss for the Ivorian treasury estimated at 106 billion CFA francs (about \$182 million).³⁹³ The smugglers know the terrain well, and have created producer cooperatives as well as working with existing producer organizations.³⁹⁴

389 Assi Tano, “Crise cacaoyère et stratégies des producteurs,” pp. 153–4.

390 See SEO Amsterdam Economics, “Market Concentration and Price Formation,” especially p. 49.

391 UN Group of Experts, “Letter dated 14 October 2013 from the Chair of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d’Ivoire addressed to the President of the Security Council.” UN Security Council, Report S/2013/605, §59, p. 12.

392 That year, Ghana announced a record harvest of 920,000 ton. See Alain Faujas, “La Côte d’Ivoire exporte à nouveau du cacao, qui finance 20% de son budget,” *Le Monde*, May 11, 2011.

393 UN Group of Experts, “Letter dated 15 March 2016 from the Chair of the Security Council Committee established pursuant to resolution 1572 (2004) concerning Côte d’Ivoire addressed to the President of the Security Council.” UN Security Council, Report S/2016/254, §141, p. 34.

394 Interview with BASIC’s Marion Feige-Muller and Christophe Alliot, June 7, 2016.

After a temporary decline, smuggling to Ghana rebounded in 2017: whereas Côte d'Ivoire's CCC passed on the drop in world prices to the farm gate, its Ghanaian counterpart, Cocobod, kept the amount it paid to producers constant. The price was \$1,735 per ton in Ghana, compared to \$1,270 in Côte d'Ivoire—enough of a difference that between 80,000 and 100,000 tons were smuggled from April to October 2017, stoking fears that in the next year one-fifth of all Ivorian production could disappear to the port of Accra.³⁹⁵ The Ivorian and Ghanaian authorities finally addressed the issue in 2018, agreeing to consult each other before setting farmgate prices with the aim of reducing the disparity between the two sides of the border.³⁹⁶

A model of good governance?

International institutions looked favorably upon Ouattara, who is a former IMF official, and welcomed improvements in the Ivorian business environment. This perception was reflected in the Mo Ibrahim Foundation's governance rankings, which claim that since 2010 Côte d'Ivoire has made the greatest progress among African countries in terms of security, public transparency, and rule of law.³⁹⁷ But the verdict of business community has been far from unanimous. Many complain about the ruling family's grip on the national economy, and the handling of the cocoa sector has remained controversial.

In 2015–16, the CCC authorized 1.5 million tons to be sold in advance to exporters, but due to poor weather conditions the harvest yielded little more than 1.2 million tons.³⁹⁸ In the following season the situation reversed itself: the CCC underestimated the harvest, prices fell by 30%, and some operators failed to honor their promises to purchase cacao beans at the agreed price, with the result that Côte d'Ivoire still had 350,000 tons on its hands in early 2017.³⁹⁹

An audit of the sector by KPMG was delivered to the Ivorian Ministry of Agriculture on March 12, 2018. Its conclusions were harsh: because of state support for overproduction (16% more had been produced than expected), and the resale of contracts that had fallen into default, the CCC incurred losses of nearly

395 See “Le Ghana maintient son prix du cacao, alimentant les craintes de contrebande depuis la Côte d'Ivoire,” *Jeune Afrique*, October 13, 2017; “La Côte d'Ivoire pourrait perdre 400 000 tonnes de cacao en 2017/2018 en raison de la contrebande,” *Agence Ecofin*, September 1, 2017.

396 Fages, “L'Afrique peut-elle former un cartel du cacao?”

397 Serge Michel, “Les progrès de la Côte d'Ivoire et six autres leçons du classement africain de Mo Ibrahim,” *Le Monde*, October 5, 2016.

398 ‘Le CCC sous tension avec les exportateurs,’ *La Lettre du Continent* 735, August 24, 2016.

399 Marion Douet, “Le ministre ivoirien de l'Agriculture annonce un audit de la filière de commercialisation du cacao,” *Jeune Afrique*, February 23, 2017; Claire Fages, “Cacao en Côte d'Ivoire: une gestion «approximative» selon KPMG,” Radio France International, April 30, 2018.

185 billion CFA francs (€280 million) in the 2016–17 season.⁴⁰⁰ International institutions pressed the government to publish the audit, and an abbreviated version was posted online.⁴⁰¹ It does not discuss the fate of the 326 billion CFA francs (€ 497 million) in cocoa levies collected by the state during the last few cocoa seasons, an issue that was raised in the original audit report.⁴⁰²

Apart from failures in forecasting, the auditors criticized the favoritism that continues to plague the cocoa sector, mentioning “dysfunctional application of the rules for managing commercial operations,” “export authorizations which were not always justified,” “exporters being awarded volumes out of line with their financial capacities,” and “[possible] conflicts of interest between the directors and CCC’s politics.”⁴⁰³

A new firm called Africa Sourcing, founded by the first lady’s son, Loïc Folloroux, has emerged as a significant player in Ivorian cocoa exports. Folloroux previously worked at Armajaro, the commodity trading firm we encountered in section 10. In 2012, he and another former employee bought the firm’s Ivorian subsidiary, Armajaro Négoce.⁴⁰⁴ It was renamed Africa Sourcing in 2014. Though not on a par with Cargill, which exported 181,000 tons of beans in the 2015–16 season, with 41,000 tons purchased Africa Sourcing was not small fry.⁴⁰⁵

Loïc’s firm received a helping hand in the 2016–17 season, when the CCC granted tax exemptions on 200,000 tons of cocoa, at a cost to the public exchequer of roughly 11 billion CFA francs (€17 million). Africa Sourcing was a prime beneficiary, with its exemption for 60,000 tons representing a gift from the taxman of more than 3 billion CFA francs. Other well-connected exporters also benefited, including the brother of the interior minister.⁴⁰⁶

A new CCC director was appointed in August 2017, but old habits often die hard. Prime Minister Amadou Gon Coulibaly is reported to be reluctant to order another audit of the cocoa sector’s management.⁴⁰⁷

400 See “Côte d’Ivoire: Audit KPMG, les fossoyeurs de la filière cacao (enfin) arrêtés?,” *Afrique sur 7*, April 28, 2018, available at <https://www.afrique-sur7.fr/392322-audit-kpmg-fossoyeurs-cacao-arretes> (accessed January 28, 2019); “Le rapport explosive qui met à nu la filière du cacao,” *La Lettre du Continent* 775, April 25, 2018.

401 See http://www.conseilcafecacao.ci/index.php?option=com_k2&view=item&id=853&Itemid=18 (accessed August 22, 2019).

402 “Les comptes alambiqués du gouvernement sur le cacao,” *La Lettre du Continent* 785, October 3, 2018; and “Cacao: la transparence du secteur bloquée à la prémature,” *La Lettre du Continent* 795, February 27, 2019.

403 KPMG, “Audit du système de commercialisation du cacao.” Ministère de l’Agriculture et du Développement Rural (MINADER). March 12, 2018, pp. 8, 124.

404 Maggie Fick, “Ivory Coast president’s stepson defends cocoa export role,” *Financial Times*, July 16, 2015.

405 “Cargill domine le négoce de cacao,” *La Lettre du Continent* 735, August 24, 2016.

406 “Cadeau en chocolat pour les proches du Palais!” *La Lettre du Continent*, May 25, 2016.

407 “Cacao: la transparence du secteur bloquée à la primature,” *La Lettre du Continent* 795, February 27, 2019.

Folloroux is now entering the country's burgeoning cashew industry with a dedicated company, Ivory Cashew Nut, that has built a processing plant in Bouaké.⁴⁰⁸ Practices in this sector have been borrowed from the cocoa world—indeed, the excesses may be even greater.⁴⁰⁹ A May 2016 report by the international accounting firm Deloitte “identified major dysfunctions in the management of the Conseil du Coton et de l’Anacarde [Cotton and Cashew Council]: contracts awarded directly, huge payments in cash, unpaid checks, unjustified cash withdrawals, dubious transactions... All this points towards embezzlement within the sector on a vast scale.”⁴¹⁰

Tensions over land ownership

A further challenge facing the Ivorian cocoa sector involves land ownership. Traditionally, land in Côte d’Ivoire was the collective property of rural communities, and usage rights for livestock and agriculture could be superimposed on the same piece of land. Land transactions emerged with the development of cash crops in the 1920s and 1930s, but these included “social clauses” that meant sales did not subsume all rights in the property.⁴¹¹

With independence, the new Ivorian state aligned its land policy with that of the former colonial power, “retaining a prerogative over the land and its ownership.”⁴¹² This arrangement became an avenue for clientelism, as Losch wrote in the 1990s: “The allocation of land—including ‘forest decommissioning’—for the benefit of state or party officials is common and well known.”⁴¹³

A land reform instituted in 1998 marked a break from past practice. It gave landowners ten years to assert customary rights over their property and convert this into a formal written title.⁴¹⁴ Otherwise the land would become property of the state. Ownership was made exclusive to a single proprietor. In practice, this owner may or may not be the person who had developed the land and held rights to it in the past.

408 “Loïc Folloroux se lance dans la noix de cajou,” *La Lettre du Continent* 785, October 3, 2018.

409 “Ismaël Koné pour l’industrialisation de l’anacarde,” *La Lettre du Continent* 735, August 24, 2016.

410 Assemblée Nationale, “Rapport d’information n° 4481 sur la Côte d’Ivoire,” by Philippe Cochet (president) and Seybah Dagoma (rapporteur), commissioned by the Commission des Affaires Étrangères, February 15, 2017, available at <http://www.assemblee-nationale.fr/14/pdf/rap-info/i4481.pdf> (accessed January 25, 2019), 123-124. The remarks are based on an article by Joan Tilouine, “Côte d’Ivoire: vers une enquête sur les milliards disparus de la noix de cajou,” *Le Monde*, June 9, 2016.

411 Assemblée Nationale, “Rapport d’information n° 4481,” p. 123. *Supra* note 409.

412 Losch, “Le complexe café cacao,” volume 1, p. 127.

413 Losch, “Le complexe café cacao,” *Supra* note 9.

414 International Crisis Group, “Côte d’Ivoire’s Great West: Key to Reconciliation,” *Africa Report* 212, January 28, 2014, p. 3.

Predictably, the new law sparked considerable conflict. Fifteen years after its introduction, only 20,000 hectares (out of 23 million total) had been registered, less than 0.1% of the land.⁴¹⁵ Ouattara has extended the deadline for the reform's implementation to 2023. In this muddled context, with most land still governed by customary law, it is often the strongest and most cunning who prevail. "The market is largely unregulated and speculation is rife," reports the International Crisis Group. "The situation is often summarized in the words: 'Everybody sells to everybody'. . . . Land is often sold to several 'customers' at the same time."⁴¹⁶

The 1998 law includes a prohibition on land ownership by non-Ivorians, a provision that would seem to be impossible to enforce since "foreigners" – immigrants from neighboring countries – today comprise close to half of the cacao growers in some parts of the country. A 2013 nationality law that should allow many of them to claim Ivorian nationality may add to the tensions around land ownership.

During the civil war, the state lost much of its control over the nominally protected areas for which it is responsible. As a result, the International Crisis Group reported in 2014, "[u]nless they are patrolled, protected areas are illegally cultivated."⁴¹⁷ Until recently, for example, Mont Péko National Park sheltered elephants and chimpanzees, and its trees grew more than 40 meters tall. But 70% of the reserve was deforested during the war, with much of the land being converted to cacao cultivation. The UN Group of Experts reported that a system of racketeering was put in place on these lands that netted 1.2 billion CFA francs (more than \$2 million) each year.⁴¹⁸

Seven of Côte d'Ivoire's 23 protected areas reportedly have been entirely converted to cocoa production.⁴¹⁹ The director of the Société de Développement des Forêts, the state agency in charge of protecting the forests, has estimated that roughly 40% of Ivorian cocoa now originates from what are supposed to be protected areas.⁴²⁰ In 2016, the Ivorian government launched a project to protect its parks and nature reserves, and to evict illegal growers. Land-related violence flared the following year in a 133,000-hectare region in one of the country's classified forests, where 90% of the area is now planted.⁴²¹

415 Assemblée Nationale, "Rapport d'information n° 4481," p. 124. *Supra* note 409.

416 International Crisis Group, "Côte d'Ivoire's Great West," p. 5. *Supra* note 413.

417 *Ibid.*, p. 7.

418 UN Group of Experts, Report S/2016/254, §153, pp. 35-36. *Supra* note 392.

419 Etelle Higonnet, Marisa Bellantonio, and Glenn Hurowitz, *Chocolate's Dark Secret: How the Cocoa Industry Destroys National Parks*, report by Mighty Earth, September 2017, p. 7.

420 *Ibid.*, p. 10.

421 Haby Niakaté, "Dans l'ouest de la Côte d'Ivoire, une terre trop convoitée," *Le Monde*, December 7, 2017, available at http://www.lemonde.fr/afrique/article/2017/12/07/dans-l-ouest-de-la-cote-d-ivoire-une-terre-trop-convoitee_5226378_3212.html#rEPMphpl7S5zYK0r.99 (accessed January 25, 2019).

An uncertain future

As of this writing, the future of the Ivorian cocoa sector remains uncertain. The prices received by farmers still do not allow most families to meet their basic needs, and many cannot afford the investments needed to regenerate their plants. “The final price of chocolate is still too low. If we’re going to be sure that farmers are still producing cocoa in twenty years, we have to pay more for it,” worries Patrick Poirrier, the CEO of the French chocolate firm Cémoi.⁴²²

A certified fair-trade sector has developed, involving a substantial quantity of cocoa (650,000 tons in 2012), but its impact has mainly been limited to the fair-trade premium which helps in ensuring a basic income and investing in basic services and cooperatives.⁴²³ There has been little effect, so far at least, on labor standards or environmental practices. Moreover, the total production of certified cocoa has significantly outstripped demand for it.⁴²⁴

The cocoa quota system implemented by Houphouët-Boigny was a way to build and maintain a wealthy clientele dependent on the president. The most savvy beneficiaries of this system used it as a starting point to move up in business.⁴²⁵ Yet even today, Ivorian entrepreneurs do not lead the world in exporting or processing cocoa. Only two firms are still in existence that were founded by Ivorian passport-holders (one of whom is also French, the other also Lebanese): one, Africa Sourcing, owes its favorable position to its proximity to power; the other, Saf Cacao, has been in financial difficulty and caught up in the rivalry between Ouattara and Bédié.⁴²⁶

As the current state of the Ivorian cocoa sector demonstrates, reliance on clientelist relationships with those in power for the accumulation of personal wealth remains deeply entrenched in Ivorian elite culture and practice. The same pattern is repeated in other parts of the nation’s economy, as discussed in the next section.

422 Olivier Détoyat, “Les chocolatiers à la peine dans le cacao durable,” *Le Figaro*, October 4, 2018.

423 BASIC, “Dark Side of Chocolate,” pp. 55–59. *Supra* note 28.

424 *Ibid.*, p. 36.

425 See Losch, “Le complexe café cacao,” volume 1, p. 440. *Supra* note 9.

426 Bédié intervened with Ouattara in the hope of having the company rescued, but after the former refused to merge his political party with that of the president, the liquidation of Saf Cacao was accelerated. See “Le Palais ruine les espoirs de Saf Cacao,” *La Lettre du Continent* 783, September 5, 2018.

12. Privatization and Public Procurement

Before concluding, let us take a step back from cocoa to examine other arenas from which money is siphoned in Côte d'Ivoire. Privatization and public procurement offer particularly lucrative opportunities. Starting in the early 1990s, individuals were able to use their cocoa fortunes to occupy strategic positions in the privatization of state-owned enterprises. A similar clientelist approach – that is, a political-economic order in which patron-client relationships play a key role – can be seen in public procurement. In both spheres, the importance of international connections and, in particular, the advantages wielded by large French firms, stand out.

Privatization was big business in Côte d'Ivoire. The state was actively involved in the economy following independence, creating numerous state-owned companies (there were 254 of them in 1977) as well as holding stakes in semi-public companies. In the late 1970s, 40% of Ivorian employees worked for firms that were majority-owned by the state.

State interventionism was paired with what the French scholar Bernard Contamin described as “a self-sustaining system of spheres of influence and self-enrichment, closely integrated with politics.”⁴²⁷ Private investors often welcomed having the state as a business partner, because this was the surest way to obtain tax exemptions.

Although Houphouët-Boigny announced in 1980 that the state would withdraw from many public companies, the following decade instead saw an increased public presence in the economy. Only as the 1980s drew to a close did Côte d'Ivoire implement its first wave of privatization, under sustained pressure from international donors. Some 30 companies were privatized, often by direct award with little transparency.⁴²⁸

Bouygues takes off

The privatization of the EECI, Côte d'Ivoire's electricity company, in the early 1990s sparked the first major controversy.

427 Bernard Contamin, “Entreprises publiques et désengagement de l'Etat en Côte-d'Ivoire,” in *Le modèle ivoirien en question: crises, ajustements, recompositions*, edited by Bernard Contamin and Harris Memel-Fotê (Paris: Karthala, 1997), p. 94.

428 Bonnie Campbell, “Le modèle ivoirien de développement à l'épreuve de la crise,” in *Le modèle ivoirien en question: crises, ajustements, recompositions*, edited by Bernard Contamin and Harris Memel-Fotê (Paris: Karthala, 1997), p. 52.

When Alassane Ouattara was appointed prime minister in June 1990, he initiated the selling of state-owned electricity production, transmission, and distribution facilities to a new firm, the Compagnie Ivoirienne d'Électricité (CIE). The CIE was controlled by SAUR, in turn a subsidiary of the French industrial group Bouygues, which was working at the time with the largely state-owned French utility, Electricité de France (EDF). The stated aims of this privatization were to restore financial equilibrium to an almost bankrupt company – it had a deficit of 37 billion CFA francs in 1989–90 against a turnover of 100 billion – and to improve efficiency so as to lower the cost of electricity.⁴²⁹ In this initiative, Houphouët-Boigny received strong encouragement from the World Bank and the French government's Caisse Centrale de Coopération Économique, the forerunner of the French development agency, AFD.

ECCI was the first major Ivorian public company to be privatized, and the sale, which took the form of a fifteen-year concession agreement, was controversial.⁴³⁰ International observers were struck by the conditions under which the sale took place. There was no call for tenders.⁴³¹ Some members of the government subcommittee on privatization were “directly involved in buying stakes through investment companies.”⁴³² The Economist Intelligence Unit reported suspicions about the existence of an “old boy network” actively involved in distributing shares and previously public assets, adding that there appeared to be no suggestions of illegality.⁴³³

Bouygues was a familiar actor in Côte d'Ivoire. The French investigative journalist Pierre Péan wrote in the late 1980s, “the big beneficiaries [of CAISTAB's vast expenditures] were once again the big construction companies, and first among them Bouygues, which has always had a solid friendship with Abidjan.”⁴³⁴ Bouygues became the undisputed leader in Côte d'Ivoire's construction sector: the market was shared between its profitable subsidiary, SETAO, and Colas, which Bouygues took over in 1985.⁴³⁵ In 1991, Bouygues' turnover in Côte d'Ivoire was 2 billion French francs, 5 billion in the rest of Africa, and 7.7 billion in Europe.⁴³⁶

429 Patrick Plane, “La privatisation de l'électricité en Côte-d'Ivoire: évaluation et interprétation des premiers résultats,” *Tiers-Monde* 38, number 152 (1997), pp. 859–78.

430 Contamin, “Entreprises publiques et désengagement de l'Etat en Côte-d'Ivoire,” pp. 98-99. *Supra* note 426.

431 Jean-Claude Lavigne, “Les leçons des contrats de concessions en Côte d'Ivoire,” *Annale des Mines* 88 (August 1999), available at <http://www.anales.org/ri/1999/ri08-99/lavigne83-88.pdf> (accessed January 29, 2019).

432 Campbell, “Le modèle ivoirien de développement,” in *Le modèle ivoirien en question: crises, ajustements, recompositions*, edited by Bernard Contamin and Harris Memel-Fotê (Paris: Karthala, 1997), pp. 52-53.

433 Economist Intelligence Unit, “Côte d'Ivoire: Country Report No. 4,” 1991, pp. 14-15.

434 Péan, *L'argent noir*, p. 182. *Supra* note 123.

435 See Granvaud and Mauger, *Un pompier pyromane*, p. 64. *Supra* note 378.

436 Quoted in Granvaud and Mauger, *Un pompier pyromane*, p. 65. *Supra* note 378.

SODECI (Société de distribution d'eau de la Côte d'Ivoire), a semi-public company in which Bouygues was the majority shareholder, had held a public service concession contract to manage water distribution in urban areas since independence. A similar contract was used for the EECI privatization. It required CIE to pay royalties to Côte d'Ivoire and to take charge of routine maintenance, while the state remained liable for debts and major investments. "The risk is that managing the business becomes disconnected from market constraints, and that short-term profitability is guaranteed at the cost of long-term investment," wrote French economist Bernard Contamin. "Rentier capitalism," he observed, "doesn't only happen in the public sector."⁴³⁷

Shortly after EECI was privatized, the Bouygues subsidiary SAUR created a new electricity generating firm, CIPREL. The firm obtained a twenty-year concession, and installed gas turbines in Vridi that produced electricity to sell to CIE. Lenders for this project included the French government's Caisse Française de Développement. By 1995, CIPREL was producing 12% of the country's electricity.⁴³⁸

Ahoua Don Mello, the controversial former director of the Bureau National d'Études Techniques et de Développement (BNTED) in Abidjan, opined that Bouygues made a substantial profit from this arrangement: "Gas, which made up 12% of electricity costs in 1996, now [in 2012] makes up almost 70%.... Bouygues controls more than half of gas production, with a contract that indexes the price of Ivorian gas to the world oil price.... It is as though the gas were taken from Côte d'Ivoire for free, bought on the international market, and then resold to Côte d'Ivoire."⁴³⁹

Bouygues renewed its contract which was due to expire in 2005, but then gradually pulled out of the Ivorian energy sector. Temporarily, at least. Recently, Saur Energy Côte d'Ivoire (SECI) and Foxtrot International, two Bouygues subsidiaries,⁴⁴⁰ obtained valuable shares in Ivorian gas and offshore oil production.⁴⁴¹

437 Contamin, "Entreprises publiques et désengagement de l'Etat en Côte-d'Ivoire," p. 92. Supra note 426.

438 Lavigne, "Les leçons des contrats de concessions." Supra note 430.

439 Ahoua Don Mello, "Côte d'Ivoire, PPTE, BCEAO : la face économique de la guerre," *La Dépêche d'Abidjan*, September 10, 2012 (initially published in *Le Nouveau courrier* 594, August 27, 2012), available at https://www.ladepechedabidjan.info/COTE-D-IVOIRE-PPTE-BCEAO-LA-FACE-ECONOMIQUE-DE-LA-GUERRE-Par-DON-MELLO-Ahoua_a9685.html (accessed August 19, 2019). These remarks have been deemed plausible by experienced observers of the Ivorian economy, but it is important to set their author in context. Ahoua Don Mello is an associate of Gbagbo, having served as a minister in his government and a member of the coordinating council of his party, the FPI, while in exile. Ouattara's government put out an international arrest warrant for Don Mello for his role in the post-electoral chaos of 2011. He subsequently has served as an advisor to a number of governments, including those in Angola, Cameroon, Guinea, and Equatorial Guinea.

440 Foxtrot's website makes no mention of its stakeholders on its website. See <http://www.foxtrot-international.com/?page=foxtrot&record=61&lang=fr> (accessed January 25, 2019).

441 "Martin Bouygues se renforce dans l'offshore," *La Lettre du Continent* 767, December 20, 2017.

The Bouygues group was also asked to build Abidjan's third bridge, which is named after Henri Konan Bédié, in a deal that includes a 30-year concession on tolls. Another promising prospect is the construction of the Abidjan metro as part of a Franco-Korean consortium. This billion-euro project was long been held back by Bouygues' demands for compensation in the event that there are too few users.⁴⁴² Work finally began "when France managed to get Dongsan Engineering and Hyundai to withdraw and make way for Alstom, in a consortium which also included Bouygues, Keolis (an SNCF subsidiary), and Colas Rail."⁴⁴³

Who's buying?

Apart from EECI, there were only seven rather minor privatizations between 1990 and 1993, when Ouattara was prime minister.⁴⁴⁴ The pace accelerated with Bédié's accession to the presidency in December 1993 and the subsequent devaluation of the CFA franc: six privatizations took place in 1994 and seven more in 1995, in strategic sectors like rubber, palm oil, textiles, sugar, and telecommunications.

Some procedural advances were made after the privatization of the EECI, particularly in opening up calls for tenders. Still, even Bruno Losch, a keen observer of the Ivorian economy, had "a hard time understanding the rules of the game, or understanding the offers made and the results obtained."⁴⁴⁵ In his view, this opacity was deliberate: "The end of public money from government-owned companies, and the sharing out of the spoils, led to a strategic reorganization of the national economic and political landscape. The conditions under which the assets sold were valued, the bids made, and the transactions themselves carried out all became highly sensitive, and demanded confidentiality."⁴⁴⁶

Translation: some well-connected people had been able to siphon money from parastatal firms in the past simply because they were in or close to the government, but now they had to find a way to relocate their money-making arrangements to the private sector. In effect, what was privatized were the methods for draining off public money.

442 "Métro d'Abidjan: le consortium de Bouygues prié de revoir le coût du projet à la baisse," *La Tribune Afrique*, March 19, 2017.

443 Granvaud and Mauger, *Un pompier pyromane*, p. 443. Supra note 378.

444 This paragraph relies on Losch, "Le complexe café cacao," volume 1, 504–11 (supra note 9) and Contamin and Memel Fotê, *Le modèle ivoirien en question* (supra note 426).

445 See Losch, "Le complexe café cacao," volume 1, p. 506. Supra note 9.

446 *Ibid.*

The most active in the privatization market under Bédié was SIFCOM, in which Bédié himself owned almost a 10% stake.⁴⁴⁷ In 1995, SIFCA (which it controlled) bought a stake in the oil and soap market in 1995, and in 1996 it acquired the majority of Palmindustrie's palm groves for a total price of 34 billion CFA francs. In 1997, SIFCOM acquired a 30% stake in the sugarcane enterprise SODESUCRE for 16 billion CFA francs. The group diversified into telecommunications with the acquisition of CI-Télécom, and also into the audiovisual sector, refrigeration, medicine, car rental, duty free operations at Abidjan airport, among other activities. In entering into these multiple endeavors, SIFCOM forged links with international firms, including France Télécom in the telecommunications sector and Canal+ in the audiovisual sector.

Bolloré the unstoppable

The growing presence of foreign firms in Côte d'Ivoire included American corporations in the cocoa sector, Unilever in palm oil, and South African, Australian, and Canadian firms in the mining sector. But French firms continued to lead the way. When French president François Hollande journeyed to Côte d'Ivoire in 2014, he visited two large construction projects. One belonged to Bouygues, and the other to Bolloré.⁴⁴⁸

For more than 30 years, the Bolloré group has been extending its control of supply chains in Côte d'Ivoire. Its port freight empire was built by a series of acquisitions: the company bought SCAC in 1986, carried out a merger with Delmas-Vieljeux in 1997 to create SDV, and bought its competitor, SAGA, in the same year. It took over management of a first terminal at the port of Abidjan in 2003, and a second in 2014. These operations—complemented in 1995 by the newly privatized Sitarail, which runs the railway connecting Ouagadougou to Abidjan—have been grouped under Bolloré Africa Logistics (BAL) since 2009. Today, Bolloré Transport & Logistics Côte d'Ivoire exports almost half of the country's cocoa (900,000 tons for the 2016–17 season), and the firm is still building warehouses to store all its beans.⁴⁴⁹

A former employee explained the strategic importance of Bolloré's position: "Africa is like an island, connected to the world by the seas. Those who control the ports control the continent."⁴⁵⁰ Bolloré also operates port facilities in Douala, Cotonou, Tema, Tincan (Lagos), and Pointe-Noire: "African ports are

447 See 'A qui appartient la SIFCA?' *La Lettre du Continent*, No. 332, July 1, 1999.

448 Granvaud and Mauger, *Un pompier pyromane*, p. 440. *Supra* note 378.

449 Mieu, "Côte d'Ivoire: le groupe Bolloré investit près de 10 millions d'euros pour booster l'exportation de cacao," *Jeune Afrique*, February 23, 2018.

450 These remarks, which were made in 2006, are quoted in Thomas Deltombe, "Les guerres africaines de Vincent Bolloré," *Le Monde diplomatique*, April 2009.

so coveted because they are bottomless sources of both political and economic power. As long as customs plays along, states can use them to fill their coffers. And they can be used to inspect the flows going into and out of the continent—valuable information.”⁴⁵¹

The French financial newspaper *La Tribune* reported that Bolloré was a determined opponent of the cocoa sector reforms Gbagbo proposed in 2001, citing sources close to the Ivorian government who said that the firm was worried about “transparency about freight costs for some exporters with connections to cocoa multinationals, as well as any challenge to its quasi-monopoly on cocoa processing and packaging.”⁴⁵² Yet in 2004 Gbagbo himself entrusted the firm with the management of the port at Abidjan, granting the contract directly: “This port is a gold mine reserve for heads of state,” wrote the French journalist Vincent Hugué. “Autonomous ports are very rarely autonomous in reality.”⁴⁵³

No one knows what arguments Bolloré used to win this contract in the midst of the civil war, but they must have been weighty enough to withstand the flood of criticism with which the decision was greeted. Evidently no one consulted infrastructure minister Patrick Achi, who declared that the agreement was null and void. The President of the Ivory Coast Chamber of Commerce, Jean-Louis Billon, denounced it as a private agreement that contained a number of “absurdly unbalanced clauses” and established a de facto monopoly over transport in Côte d’Ivoire.⁴⁵⁴ The director of the World Bank in Côte d’Ivoire described the contract as “a fundamental departure from the principles of good governance.”⁴⁵⁵

Asked about its activities in Cameroon, the firm’s managing director explained its strategy for building relationships in Africa to the French newspaper *Libération* in 2008: “We know all the ministers down there. They’re friends. So, to be clear, from time to time, when they’re no longer ministers, we give them the chance to direct one of our subsidiaries. It’s to help them save face. And we know that one day they might be ministers again.”⁴⁵⁶

After power changed hands in Côte d’Ivoire in 2011 and Ouattara became president, he launched a project to build a second container terminal at the port of Abidjan. The stated goal was to open the port to greater competition. It came to many as a surprise, then, when the concession for the second terminal was granted in March 2013 ... to Bolloré!

451 *Ibid.*

452 Quoted in Granvaud and Mauger, *Un pompier pyromane*, p. 80. Supra note 378.

453 Vincent Hugué, “La guerre des ports africains,” *L’Express*. Supra note 269.

454 Quoted in Granvaud and Mauger, *Un pompier pyromane*, p. 170. Supra note 378.

455 Pascal Airault, “Abidjan fait-il encore rêver Bolloré?,” *Jeune Afrique*, June 14, 2004.

456 “Le groupe français, refuge des ministres retraités,” *Libération*, October 17, 2008.

Once again, the decision was met with fierce criticism. Maureen Grisot wrote in *Le Monde*, “some of the competitors are having difficulty understanding how the firm managed to win a tender from which it was excluded at the outset.”⁴⁵⁷ Jean-Louis Billon, now minister of commerce, warned of a “risk of abusing a dominant position.”⁴⁵⁸ In similar language, the Competition Commission of the West African Economic and Monetary Union (UEMOA) described the situation as “comparable to abuse of a dominant position,” and suggested that “wrongdoing by . . . Bolloré Logistics Africa” should lead to “financial sanctions.”⁴⁵⁹ None of the complaints made a difference. In March 2018, after delays attributed to financing issues, Bolloré announced that it was investing €400 million to build the second terminal and that it planned to begin work in the summer of 2019.⁴⁶⁰ The company explained the call for tender had been exemplary.⁴⁶¹

Some allege that Bolloré’s dominant position allows it to charge prices in Abidjan that are considerably higher than those in neighboring countries. *Le Monde* quotes a warehouseman, “I take forty-five euros for each container in the sub-region, but Bolloré charges €200 in Abidjan.” But the paper notes that “these figures are impossible to verify, because numbers for Bolloré’s operations have never been made public.”⁴⁶² The Ivorian minister of commerce—whose brother is a competitor of Bolloré—claims that the port of Abidjan is 40% more expensive than the nearest major port, Tema, in Ghana.⁴⁶³

Bolloré’s African empire is not confined to transport and logistics. Today Côte d’Ivoire has more subscribers to its Canal Horizons package of channels than any other country in Francophone Africa.⁴⁶⁴ The firm has also placed big bets on plantation agriculture, investing in rubber, by buying Rivaud, the newly-privatized Société des Caoutchoucs de Grand-Béréby (SOGB);⁴⁶⁵ in palm oil, by buying shares in Palmci; and in cotton, through the privatization of the Compagnie Ivoirienne pour le Développement du

457 Maureen Grisot, “Le monopole de Bolloré sur le port d’Abidjan est de plus en plus contesté,” *Le Monde*, September 6, 2014.

458 *Ibid.*

459 *Ibid.*

460 “Bolloré investit 400 millions d’euros dans un terminal portuaire à Abidjan,” Reuters/L’Usine nouvelle, March 27, 2018.

461 “Bolloré fait condamner le Nouvel Obs pour un article sur la Côte d’Ivoire,” *20 minutes*, July 10, 2019.

462 Maureen Grisot, “Port d’Abidjan: un terminal où transitent 90% des échanges ivoirien,” *Le Monde*, September 6, 2014.

463 Maureen Grisot, “Le monopole de Bolloré sur le port d’Abidjan est de plus en plus contesté,” *Le Monde*, September 6, 2014.

464 See Seidik Abba, “‘Bayiri,’ le film sur la crise ivoirienne que Bolloré ne veut pas voir, ni le Fespaco,” *Le Monde*, February 9, 2017.

465 SOGB is a major player in the Ivorian rubber business. Previously, the state owned 95% of SOGB, but in practice the firm was run by Michelin, the minority stakeholder. It is now owned by Béréby Finances, whose parent company, Socfinaf, is based in Luxembourg. Socfinaf’s organization chart is useful here: <https://www.socfin.com/en/investors/socfinaf>.

Textile (CIDT) in 1999. Bolloré made an incursion into cocoa and coffee in 1999, buying Dafci, the third largest exporter at the time.⁴⁶⁶ Bolloré sold the firm on in 2004.⁴⁶⁷

These investments often proved quite profitable.⁴⁶⁸ In 2012, Africa reportedly provided only 20% of the Bolloré group's turnover, but 80% of its profits.⁴⁶⁹ These move through a thicket of cross-shareholdings amongst the multiple branches of the Bolloré empire. An attractive destination is Luxembourg, the European statelet characterized by the financial website Investopedia as “the tax haven of choice of many corporations and mega-rich individuals around the world since the 1970s.”⁴⁷⁰ French journalist Martine Orange, who published an extensive investigation into the Bolloré empire in 2009, summed up her findings this way: “All the debt stays where it is, but the cash goes to Luxembourg.”⁴⁷¹

Orange saw this pattern as a continuation of the practices of the Rivaud group in the colonial era: “[Rivaud] was a colonial financial power, the owner of millions of hectares of plantations across Africa and Asia. Over the decades, it accumulated hundreds of millions (today, billions) in every tax haven imaginable—Vanuatu, Guernsey, Jersey, Luxembourg—using an impenetrable web of self-regulating companies.”⁴⁷² Today, she wrote, business still works on a closed circuit: “On the boards are the same handful of men who control the entire pyramid. And, for the last twenty years, the same man in Luxembourg has been overseeing all the organizations, carrying out all the administration, and signing all the minutes and all the checks.”⁴⁷³

466 Losch, “Le complexe café cacao,” volume 1, p. 476. *Supra* note 9.

467 And for a good price, presumably, as the company exported almost 1.3 million tons of coffee and cocoa in the 2002–3 season, generating almost €1.7 billion in turnover. See Falila Gbadamassi, “Bolloré quitte la filière café-cacao en Côte d’Ivoire,” Afrik.com, June 3, 2004.

468 See, for example, Antoine Glaser and Stephen Smith, *Ces messieurs Afrique* (Paris: Calmann-Lévy, 1994), p. 30, quoted in Granvaud and Mauger, *Un pompier pyromane*, p. 68 (*supra* note 378); Martine Orange, “Comment Vincent Bolloré s’est taillé un empire en Afrique,” *Mediapart*, February 3, 2009; and “Bolloré Africa Logistics CI profite à plein de la bonne santé de l’économie ivoirienne,” Agence Ecofin, November 3, 2015, available at <https://www.agenceecofin.com/entreprises/0311-33577-bollore-africa-logistics-ci-profite-a-plein-de-la-bonne-sante-de-leconomie-ivoirienne>.

469 These figures are quoted in *Les Echos*, June 1, 2013. Quoted in Granvaud and Mauger, *Un pompier pyromane*, p. 68. *Supra* note 378.

470 Jesse Neugarten, “Why is Luxembourg considered a tax haven?” *Investopedia*, February 5, 2018, available at <https://www.investopedia.com/ask/answers/100115/why-luxembourg-considered-tax-haven.asp>, accessed February 6, 2020.

471 Martine Orange, “Comment Vincent Bolloré s’est taillé un empire en Afrique,” *Mediapart*, February 3, 2009. See also Martine Orange, “Vincent et les ‘petites caisses’ du Luxembourg,” *Mediapart*, February 4, 2009.

472 Martine Orange, “Enquête sur la face cachée de l’empire Bolloré,” *Mediapart*, February 2, 2009.

473 *Ibid.*

Meanwhile, other French companies claim that because the formal sector of the Côte d'Ivoire's economy is relatively small, they are harassed by Ivorian tax authorities into contributing nearly half of the country's tax revenue.⁴⁷⁴ Apparently, not all French firms are treated equal.

Outstanding questions

Following the wave of privatizations, the Ivorian state largely had divested itself from direct ownership of enterprises. Unlike other French-speaking African countries, however, that have seen most of their proudest possessions sold off—or sometimes even given away—to foreign companies, Ivorian-owned private firms have retained a major role in many sectors. For example, by the late 1990s SIFCOM had grown into a quasi-multinational, funded with Ivorian capital, with an annual turnover close to 1,000 billion CFA francs (about \$1.6 billion).

Where did this capital originate? In 1993, Ivorian members of parliament requested “to know how much had been made from privatization, and how these proceeds had actually been used.” The MPs also asked “why the proceeds from these privatizations are being kept at the central bank and a number of commercial banks, rather than the treasury.”⁴⁷⁵ Their questions were ignored.

Without more transparency, we can only infer that several factors contributed to the success of Ivorian-owned firms.⁴⁷⁶ The banks were willing to lend to them, likely reassured by their physical presence in the country, and their practical knowledge of how to transport and trade large quantities of coffee and cocoa. Politically well-connected individuals, who earlier had built fortunes through cozy deals with CAISTAB and the state, saw the privatizations as a potential jackpot. For those who had moved funds abroad before the value of the CFA franc was halved, the investments were even more profitable since they had effectively doubled their money. The pace of privatization accelerated after the devaluation. If individuals close to the government knew in advance that the devaluation was coming, they could move their assets to France or Switzerland, and then await the right moment to reinvest at home.

Privatization was especially profitable – for the buyers, that is – when the public companies that were sold were heavily in debt, as was often the case, and the government deducted all or part of the firm's liabilities from the nominal purchase price, in effect socializing debt while privatizing profits. And by undervaluing assets or offering advantageous terms, the state could present special friends with

474 See Assemblée Nationale, “Rapport d'information n° 4481,” p. 144. *Supra* note 409.

475 Quoted in Leslie Varenne, *Abobo-la-guerre* (Paris: Mille et une nuits, 2012), p. 237.

476 See Losch, “Le complexe café cacao,” volume 1, pp. 518–20. *Supra* note 9.

substantial discounts—particularly as “the size of the Ivorian market means there’s very little competitive bidding.”⁴⁷⁷

It is hard to say how much privatization ended up costing the people of Côte d’Ivoire. Don Mello attempted to give a rough estimate of the order of magnitude involved. “Most of these companies’ average turnover since 1990 is around 20 billion CFA francs,” he wrote. “For the thirty or so in the agro-industrial sector, that means 10,000 billion CFA francs [€15 billion] in turnover over more than twenty years!”⁴⁷⁸

Long live clientelism

When Ouattara came to power in 2011, international institutions were hopeful that Côte d’Ivoire would turn the page on decades of clientelism in public affairs. Such hopes were soon dashed. In December 2015, the World Bank published a report on the economic situation in Côte d’Ivoire, titled “The Might of the Elephant,” which cited numerous shortcomings in state finances: deficiencies in external oversight, opaque budget implementation, and complex procurement procedures in which contracts were often awarded directly.⁴⁷⁹

Tenders with competitive bidding began to be used more systematically in public procurement after 2015. But the government’s initial preference for awarding contracts directly is not a matter of chance. Over the years, Ouattara had accumulated political debts to those who helped him win power. Those he appointed as ministers saw their businesses flourish, as did businesses belonging to their friends. A company owned by the energy minister and his daughter, for example, won oil sector contracts. The daughter of the transport minister won several public contracts for her newly created company. So did a transport company created by the brother of the minister of the interior. The few companies still left to be privatized offered another chance to reward friends. A close associate of the prime minister was ultimately chosen to take over the Compagnie Ivoirienne pour le Développement du Textile (CIDT) on the instructions of the president’s office.⁴⁸⁰

477 See Losch, “Le complexe café cacao,” volume 1, p. 520. Supra note 9.

478 See Don Mello, “Côte d’Ivoire, la face économique de la guerre.” Supra note 438.

479 World Bank, “La Force de l’Elephant: Pour que sa croissance génère plus d’emplois de qualité,” December 2015, <http://documents.worldbank.org/curated/en/437971468194941284/pdf/102021-v2-FRENCH-WP-PUBLIC-Box394824B.pdf> (accessed December 2, 2019).

480 “COIC miraculeusement repêché dans le dossier CIDT,” *La Lettre du Continent* 741, November 16, 2016 and “Vassiriki Konate relance l’industrie textile,” *La Lettre du Continent* 767, December 20, 2017.

If there is one man who epitomizes business success in Côte d'Ivoire, it is Adama Bictogo. We have already encountered his pivotal role in getting cocoa out of the rebel zone during the civil war, which helped to make the partition of the country viable and to finance armed opposition to the Gbagbo regime. He spent a decade in the private sector, entering politics at the turn of the millennium as a special adviser to a succession of politicians. Bictogo became national secretary of Ouattara's party, the RDR, in charge of relations with other political parties. Ouattara made him minister of African integration, and he was elected deputy for the Agboville constituency in December 2011.

Bictogo, who trained in business economics and administration in France, was able to transfer his political capital to the business world. His model was simple: start a company; win public contracts, often without competitive bidding; and then form links with firms that could actually implement the project. The list of his companies is long. The most visible is SNEDAI (Société Nationale d'Édition de Documents Administratifs et d'Identité), founded in 2007, which now has an annual turnover of €100 million.⁴⁸¹ The firm's initial specialty was biometrics, and it worked in this field across Francophone West Africa. The sector can be a particularly profitable one.⁴⁸²

Bictogo does not forget those who have assisted him on the path to wealth. In 2013 he offered vehicles to Senegal's interior ministry when he won the contract to manage visas.⁴⁸³ SNEDAI recently offered ten pick-up trucks to the Ivorian national police in the presence of the interior minister.⁴⁸⁴

Today SNEDAI operates in many other sectors, too, including transport, energy and construction. It would be difficult to say precisely how many public contracts Bictogo has won, but a partial list is impressive: contracts to handle universal mutual coverage,⁴⁸⁵ lagoon transport in Abidjan and the construction of maritime terminals,⁴⁸⁶ a multipurpose industrial terminal at San Pedro (perhaps soon to

481 Baudelaire Mieu and Julien Clémentot, "Réseaux: Adama Bictogo, un patron à plein régime," *Jeune Afrique*, August 26, 2015.

482 The exceptional profit opportunities afforded by the biometrics sector in Africa have been well documented in the Democratic Republic of Congo. See David Lewis, "Congo's pricey passport scheme sends millions of dollars offshore," Reuters, April 13, 2017. Online at <https://www.reuters.com/investigates/special-report/congo-passports/> (accessed January 29, 2019).

483 "Après avoir gagné le marché du visa sénégalais: Adama Bictogo offre 10 véhicules au ministère de l'Intérieur," Setal.net, July 5, 2013.

484 Béatrice Nguessan Paule, "Côte d'Ivoire: Le groupe SNEDAI fait un don de véhicules à la Police nationale," *Akody.com*, September 18, 2018.

485 "Gon Coulibaly ajoute de Nouvelles pièces à son costume de présidentiable," *La Lettre du Continent*, 745, January 18, 2017.

486 Bictogo won the deal for water transport in Abidjan through his company STL (Société de Transport Lagunaire) ('La STL en bisbille avec Martine Coffi-Studer', *La Lettre du Continent* 745, January 18, 2017). STL was given land to build a station by the transport ministry at the attractive price of 500 CFAF/m², in an area where prices are five hundred times higher. But there was a problem. The president of the Ivorian branch of Bolloré Transport also claimed ownership of the land. This was where the government had been planning to house to athletes for the Jeux de la Francophonie in

be the ore port),⁴⁸⁷ the construction of the village for the Jeux de la Francophonie (a 12.5 billion CFA franc deal financed on the Ivorian public budget),⁴⁸⁸ the renovation, outfitting, and maintenance of the country's hospitals (a contract worth 100 billion CFA francs, or €150 million),⁴⁸⁹ and to conduct a census of the country's cocoa planters.⁴⁹⁰ When the American firm Oracle successfully bid to provide the Ivorian tax authorities with servers for storing and processing data, the government required it to subcontract part of the work to SNEDAI.⁴⁹¹

Ouattara also promised to give S. Energies (a firm that Bictogo had created expressly for this purpose) a contract for a power plant, which was presented as a clean energy project even though it will run on coal. The project struggled to get off the ground for years, the government at one point having nixed it because of its COP21 environmental commitments.⁴⁹² Recently, though, Bictogo's firm received a green light to carry it out in association with the Chinese company Power Group.⁴⁹³

In sum, the clientelist system that underpins much personal wealth in Côte d'Ivoire extends across diverse sectors of the country's economy, from the all-important cocoa trade to other agricultural, industrial, and commercial sectors. It has endured throughout the decades since independence, despite changes in government, from the years of Houphouët-Boigny to those of Bédié, Gbagbo and Ouattara. Whatever its cost to the nation as a whole, its beneficiaries have included select members of the Ivorian elite as well as their foreign friends and partners, a transnational coterie whose power no doubt helps to explain the system's persistence.

July 2017 ('STL siphonne le village de la Francophonie', *La Lettre du Continent* 747, February 15, 2017). Bolloré ultimately won the legal battle ("Coffi-Studer obtient gain de cause face à Bictogo," *La Lettre du Continent* 782, August 22, 2018).

487 "Adama Bictogo roi du business à Abidjan," *La Lettre du Continent* 744, January 4, 2017, and 'Olam et Snedai en lune de miel à San Pedro'. 775, April 25, 2018.

488 See André Silver Konan, "Côte d'Ivoire: comment Abidjan s'est préparé à accueillir les Jeux de la francophonie," *Jeune Afrique*, July 24, 2017.

489 "Adama Bictogo réhabilite les centres hospitaliers," *La Lettre du Continent*, December 20, 2017.

490 "Adama Bictogo prêt à recenser les planteurs de cacao," *La Lettre du Continent* 750, April 19, 2017; and "Retour de contrat – en or – pour Snedai," *La Lettre du Continent* 774, April 4, 2018.

491 "Oracle équipe la direction des impôts," *La Lettre du Continent* 744, January 4, 2017.

492 "Snedai bloquée avec sa centrale à charbon," *La Lettre du Continent* 757, July 12, 2017.

493 Contract signed on August 30, 2018.

13. Conclusions

In the classification scheme of the World Bank, Côte d’Ivoire ranks as a lower-middle income economy, with a per capita income of about \$1,700 in current dollars – less than \$5 per person per day – as of 2018. The average conceals wide disparities: the richest 1% of households receive a larger share of the national income (17%) than the poorest half of Ivorians combined (13.5%).⁴⁹⁴

The cocoa sector: makers and takers

As the single most important in the country’s economy, cocoa is deeply implicated in the patterns of wealth and poverty in Côte d’Ivoire. The country is the world’s top cocoa supplier, accounting for 40% of global production. Yet the World Bank reports that the country receives only 5-7% of the profit generated globally by this sector, noting that “profit is essentially concentrated in the processing and distribution phases” and that, as a result, the sector “has not contributed much to the country’s wealth.”⁴⁹⁵

While the latter statement is certainly accurate for the majority of the country’s people, it does not apply to all Ivorians, as this study has shown. For well-positioned members of the elite, cocoa has been a source of great wealth, and control of the sector has been both a major source of political power and a major prize for the winners of political contests. Although their share of the profits reaped from the sector is modest in comparison to those of foreign processors and distributors – and, we must add today, financial speculators in cocoa markets – it is enormous relative to the incomes received by the average Ivorian cocoa producer, many of whom live below the poverty line.⁴⁹⁶

Indeed, in many respects the differences between Ivorians at the top and bottom tiers of the cocoa wealth pyramid are more stark than the differences between the Ivorian elite and their foreign counterparts in the cocoa trade. The majority, those who form the base of the pyramid, work with their hands, planting and tending the cocoa trees, harvesting the beans, and carrying them to collection points for sale. Schematically, they are the “makers” on whose productive labor the entire sector ultimately rests. In

494 Data from the World Inequality Database: <https://wid.world/country/cote-divoire/>. These shares refer to 2014, the most recent year for which this information was available as of this writing. See also Cogneau, Czajka and Hounghbedji, “The return of the triumphant elephant.” *Supra* note 20.

495 World Bank, “Côte d’Ivoire Economic Outlook: Why the Time Has Come to Produce Cocoa in a Fully Inclusive and Responsible Manner,” July 11, 2019. Online at <https://www.worldbank.org/en/country/cotedivoire/publication/cote-divoire-economic-outlook-why-the-time-has-come-to-produce-cocoa-in-a-responsible-manner.print> (accessed February 20, 2020).

496 *Ibid.* For discussion of poverty trends in Côte d’Ivoire, see also Cogneau, Czajka and Hounghbedji, “The return of the triumphant elephant.” *Supra* note 20.

contrast, those at the top of the pyramid – be they Ivorians or foreigners – for the most part are “takers,” extracting wealth they did little or nothing to create. Patron-client relationships, in which those on top compete for the political allegiance of those in lower rungs by granting favors and concessions, lubricate this system and help to bind it together.⁴⁹⁷

The modes by which wealth is siphoned from natural resource sectors like cocoa are various and ingenious, as we have seen. They include monopolization in the purchasing of cocoa from growers (strictly speaking, this is called monopsonization); the misinvoicing of trade documents in order to evade formal controls and move money covertly abroad; outright smuggling, which was especially rampant during the country’s civil war; and speculation in the world market. Often, though this is not invariably the case, a certain amount of value is added in the course of these activities – in packing, transport, freight and insurance, as well processing. But a substantial element of the profit harvested along the way can be attributed to taking, not making. This ability to take is a function of market power and, interwoven with it, political power.

In other words, the magic of international trade not only allows cacao beans harvested in West Africa to be transformed into chocolate for consumers in distant Europe, North America, and Asia. It also allows personal fortunes to be accumulated from a crop that’s grown by people who make less than \$2 per day.

Just as the cocoa sector is transnational, so must be efforts to shift the balance of rewards from the takers to the makers. Within Côte d’Ivoire itself, pro-poor reforms could provide the makers with higher cash incomes and with better public services funded by cocoa levies. This would mean a fairer distribution of the 5-7% of profits in the cocoa sector that the World Bank reckons goes to Côte d’Ivoire. For the 2020/2021 crop season, the governments of Côte d’Ivoire and Ghana have put in place a “Living Income Differential,” a \$400 premium per ton above the world market

price, which they expect will lead to farm gate prices of \$1,820 from October 2020 onwards. This is a welcome step forward. However, a genuine living income for each and every cocoa farmer, which can be regarded as a human right, would imply a minimum farm gate price of at least \$3,166 per ton (75% more than what the government announced).⁴⁹⁸

⁴⁹⁷ Political scientists have used the term “competitive clientelism” to describe such a system. See, for example, Abdul-Gafaru Abdulai and Sam Hickey, “The politics of development under competitive clientelism,” *African Affairs*, Vol. 115, Issue 458, 2016, pp. 44-72.

⁴⁹⁸ Antonie C. Fountain and Friedel Hütz-Adams, “Necessary Farm Gate Prices for a Living Income,” Consultation Paper for the 2020 Cocoa Barometer, January 2020, available at <https://www.voicenetwork.eu/200113-necessary-farm-gate-prices-for-a-living-income-definitive/> (accessed April 10, 2020).

Internationally, a good starting point for improving distribution of the other 93-95% would be steps to ensure transparency in trade transactions, including transactions with warehouse management companies – with reliable data on quantities, prices, and destinations – via a unified, publicly accessible international trade registry. This would both reduce the scope for leakage of revenues and make possible more precise estimation of their magnitude. In addition, certification systems that trace the cocoa from the harvest to the chocolate bar could allow consumers who care to know that their money is supporting socially and environmentally responsible practices. And efforts to relocate links in the value chain by developing a local cocoa processing industry could help to achieve a more balanced distribution of profits between the domestic economy and the rest of the world.

The state-market nexus

A major preoccupation of economists and politicians alike has long been the proper balance between the market and the state in organizing economic activity. The processes of wealth extraction in Côte d’Ivoire point to the shallowness of this distinction. Again and again, we encounter what can be better described as a “market-state nexus,” in which the two are fused together rather than constituting separate spheres. The fusion is especially evident where, as in Côte d’Ivoire, clientelism is a central feature of the organization of political and economic life, with access to opportunities for wealth extraction allocated as a reward for loyalty to political leaders.

This system has endured through the decades since independence – though its origins can be traced back to the colonial period – even as presidents and their governments have come and gone. In the cocoa sector, the balance between state and market has changed over the years, from more active involvement of state institutions under Houphouët-Boigny to a larger role for the private sector following liberalization. A similar shift took place in other sectors of the Ivorian economy. Yet the clientelist fusion of political and economic power persisted throughout. Those at the top of the power pyramid turned from siphoning wealth directly from state-owned firms to siphoning it by means of politically favored private firms. The methods changed, the distributional outcome did not.

The outsized profits of the takers relative to those of the makers cannot be attributed to malfeasance on the part of a few self-interested individuals. What we see instead are systematic patterns that endure even as individual members in the cast of characters come and go. At the end of the day, the functioning and malfunctioning of the market-state nexus is shaped more by the balance of power between ruling elites

and the Ivorian public than by technocratic policy choices as to the respective roles of the market and the state.

Transnational networks and capital flight

In the immediate aftermath of the colonial era, in Africa and elsewhere in the developing world, another major preoccupation of economists and politicians was the balance of power between foreigners (especially the former colonial power) and national authorities. Again, the experience of Côte d'Ivoire since independence points to the limitations of this difference as an entry point for understanding how the country's economy works and its fruits are distributed.

At the top of the economic pyramid, whether in the cocoa sector or in others, we find inter-firm collaborations, personal friendships, and alliances of convenience between the Ivorian political and economic elite and international enterprises and financial institutions. To be sure, there may be tensions among them over market power and the division of the spoils, but for the most part, the different parties need each other, and they know it. The transnational takers' network includes not only the Ivorian political leaders who oversee the allocation of privileged positions in the market-state nexus and their confederates, but also the foreign firms that participate in everything from the cocoa trade to the construction industry, as well as those whom we may call 'the enablers', namely the banks, accountancy firms, and lawyers, both foreign and national, who handle and lubricate the movement of money.

It is in the nature of taking, and takers, that much their activity takes place behind closed doors, hidden from the public gaze. This does not imply that all are illegal, though some – like bribery and tax evasion – undoubtedly are. The power of the takers often extends to making the rules that define or blur the line between what is considered to be legal and what is not. The preference for the shadows rather is rooted, more fundamentally, in the moral connotations of the difference between taking and making, and the opprobrium that often sticks to the former even in societies where the wealth it brings to its practitioners is envied and even celebrated. With this odor of disrepute comes a lingering sense of vulnerability. The takers know there is always a risk that changes in the political sphere, whether as a result of public outcry or intra-elite rivalries, could imperil their ability not only to continue extracting wealth but also to retain control of their accumulated winnings.

In such a context, it is little surprise to find that the wealth accumulated by the transnational network of takers also is held transnationally, distributed across a seemingly borderless world, with a particular attraction to high-end real estate markets, such as Paris and the Côte d'Azur, in the case of physical assets

and for bank secrecy jurisdictions, such as Luxembourg and Geneva, for financial wealth. Capital flight can be understood as one aspect of this larger business model.