

# THIRD PARTY ASSESSMENT

## PHILIP MORRIS BRAZIL AGRICULTURAL LABOR PRACTICES PROGRAM



Control Union Certifications

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## TERMS and ACRONYMS

AFUBRA	Brazilian Tobacco Growers' Association
ALP	Agricultural Labor Practices Program
ALP Code	PMI's labor practices code with seven ALP Code Principles
ALP Code Principle	Short statements that set expectations of how the farmer manages his farm in seven focus areas
ALP Country Team (or CT)	Inter-department group charged with ALP implementation
CDI	Centro de Desenvolvimento Informatico = Centre for Development Informatics
CLT	Consolidação das Leis do Trabalho = Consolidation of Labor Laws
CA	Corporate Affairs
CU	Control Union
CPA	Crop Protection Agents
EHSS	Environment, Health, Safety and Security Department of a PMI entity
Farm Profiles	A data collecting tool developed by PMI with Verité to track the socio-economic status of the farms, systematically gather detailed information about, among other things, the type of labor employed, farming activities that minors may be involved in, and hiring
FCV	Flue-cured Virginia tobacco
FT	Field technician
FGTS	Fundo de Garantia do Tempo de Serviço = Guarantee Fund for Length of Service
GAP	Good Agricultural Practices
GTS	Green Tobacco Sickness
MS	Measurable Standards (ALP Code Principle)
NGO	Non Governmental Organization
OC	PMI Operations Center (Lausanne, Switzerland)
Phase 1	Start up of ALP Program (training, communications, outreach)
Phase 2	ALP Program full implementation (monitoring, addressing problems)
PMB	Philip Morris Brasil Indústria e Comércio Ltda
PMI	Philip Morris International Inc. or any of its direct or indirect subsidiaries
PPE	Personal Protection Equipment
Prompt Action	A situation in which workers' physical or mental well-being might be at risk, children or a vulnerable group – pregnant women, the elderly - are in danger, or workers might not be free to leave their job
SindiTabaco	Tobacco Industry Interstate Association
STP	Sustainable Tobacco Production

## 1. ALP Program background and assessment overview



### THIRD PARTY ASSESSMENT

PHILIP MORRIS BRAZIL  
AGRICULTURAL LABOR PRACTICES PROGRAM

In 2011 Philip Morris International launched an Agricultural Labor Practices worldwide Program aiming to progressively eliminate child labor and achieve safe and fair working conditions on tobacco farms. The ALP Program is compulsory for all suppliers to PMI and consists of 1) an Agricultural Labor Practices Code, setting clear standards for all tobacco farms growing tobacco that PMI ultimately buys, 2) an extensive training program for all PMI and supplier's staff that are directly involved with tobacco growing, in particular the field technicians that provide regular visits to the farms, 3) a multi-layered internal and external monitoring system, and 4) involvement of governmental and non-governmental stakeholders in improving labor practices and enhancing the livelihoods of tobacco growing communities. The ALP Program was developed and is being implemented in partnership with Verité, a global social compliance and labor rights NGO. Control Union Certifications was commissioned by PMI, to develop the external monitoring component of the ALP Program working in tandem with PMI's strategic partner Verité; and to carry out these assessments at PMI affiliates, suppliers and farms worldwide. All PMI affiliates and suppliers report annually on an internal basis and are assessed regularly. For the ALP Program implementation internal reviews are also being done in all countries where tobacco is sourced to assess initial progress and challenges. Third Party Assessments are periodic reviews undertaken by CU at PMI affiliates, suppliers and farms worldwide.

In this initial stage of the roll out of the ALP Program, third party assessments are solely focused on the ALP Program implementation and are specifically aimed to report on each affiliate and supplier's progress in starting work on ALP against the objectives set for Phase 1. by PMI<sup>1</sup>. In the future, third party assessments will be integrated into the wider routine assessment of PMI's Good Agricultural Practices Program, which also encompasses environmental and crop guidelines under one Sustainable Tobacco Production strategy.

The ALP Code contains seven ALP Code Principles:

1. **Child Labor**  
There shall be no child labor.
2. **Income and Work Hours**  
Income earned during a pay period or growing season shall always be enough to meet workers' basic needs and shall be of a sufficient level to enable the generation of discretionary income. Workers shall not work excessive or illegal work hours.
3. **Fair Treatment**  
Farmers shall ensure fair treatment of workers. There shall be no harassment, discrimination, physical or mental punishment, or any other forms of abuse.
4. **Forced Labor**  
Farm labor must be voluntary. There shall be no forced labor.
5. **Safe Work Environment**  
Farmers shall provide a safe work environment to prevent accidents and injury and to minimize health risks. Accommodation, where provided, shall be clean, safe and meet the basic needs of the workers.
6. **Freedom of Association**  
Farmers shall recognize and respect workers' rights to freedom of association and to bargain collectively.
7. **Compliance with the Law**  
Farmers shall comply with all laws of their country relating to employment.

The full ALP Code is contained in Appendix 2.

<sup>1</sup> The division of ALP implementation into two Phases (1 and 2) is not a permanent one. In practice many countries start to consider how to address and respond to situations that do not meet the Code and to monitor changes before formally finishing Phase 1.

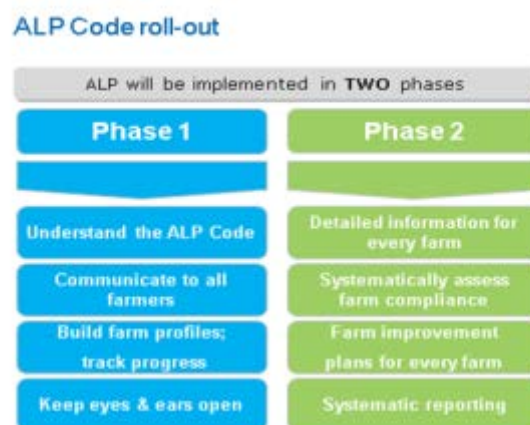
The implementation of PMI's ALP Program in the affiliates or suppliers that purchase tobacco for PMI has been divided in two phases, which can be summarized as follows:

Phase 1

- Ensure that management personnel and field technicians at affiliate or supplier level understand the ALP Code and the implementation approach, and have the people and the processes in place to roll-out and manage the ALP Program
- Communicate the ALP Code requirements and expectations to all farmers
- Build Farm Profiles for every contracted farm, identifying risk areas and tracking the ALP Code communication to farmers
- Keeping eyes and ears open to identify situations and incidents at the farms that should be reported and addressed immediately

Phase 2

- Collect detailed information about labor practices on every contracted farm
- Assess systematically each farm for compliance with the ALP Code and its measurable standards
- Create and implement an improvement plan for each farm to remedy situations not meeting the standards
- Identify and implement corrective and/or preventive measures that can address the root causes of the issues and risks found on the farms
- Report systematically on the progress that is being made



(Source: Verité & PMI, 2011)

Phase 1 encompasses a first wave of training for affiliate's and supplier's management personnel and field technicians globally to include:

- 1) the company's objectives and the expectations placed on them
- 2) the meaning of the ALP Code Principles and Measurable Standards

- 3) ways to communicate ALP topics to farmers
- 4) how to keep track of progress and build a Farm Profile
- 5) spotting problems when they are visiting the farmers they support

After this initial ALP training, all affiliates and suppliers begin their outreach to farmers and start to put in place the processes to manage the various Phase 2 components of the ALP Program. The implementation of Phase 1 started worldwide in late 2011 when Verité and PMI began holding the first training sessions with the management personnel of third party suppliers and PMI affiliates<sup>2</sup>.

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<sup>2</sup> PMI described the details of this roll-out process in their “ALP progress report” released in the fall of 2012: [http://www.pmi.com/eng/media\\_center/company\\_statements/documents/PMI\\_ALP\\_Progress\\_Report\\_2012.pdf](http://www.pmi.com/eng/media_center/company_statements/documents/PMI_ALP_Progress_Report_2012.pdf)



## 2. Philip Morris Brasil assessment: Scope and methodology



### THIRD PARTY ASSESSMENT

PHILIP MORRIS BRAZIL  
AGRICULTURAL LABOR PRACTICES PROGRAM

This report covers the first external assessment of the ALP Program since the launch in 2011, and took place in January-February 2013 in Brazil. Philip Morris Brasil, PMI's local affiliate, was selected for this assessment due to the large number of contracted farmers and diversity of farm types. At the time of the assessment, PMB was still implementing Phase 1 of the ALP Program and was about to complete the first season under the ALP Program.

## **2.1 Opening meeting**

CU started the assessment with an opening meeting with PMB senior management, the ALP Country Team representatives (from the Leaf, Corporate Affairs and Law departments), PMI's regional coordinators of the ALP Program and a representative of PMI's Operations Center in Switzerland. In this meeting CU presented the assessment's objectives and plan and PMB provided an overview of the work done to date on ALP.

## **2.2 Staff interviews and ALP Program documentation**

The assessment of PMB's work during the Phase 1 of ALP was done through individual and group interviews with PMB's senior management, the staff involved in the ALP Program implementation, and, during farm visits, through individual interviews with farmers.

In total 37 field technicians were interviewed individually (on the days of the farm visits). In addition, one field manager and one field supervisor from each of PMB's buying stations, and the members of the ALP Country Team were interviewed. All interviews were conducted individually to avoid bias. These interviews covered the following topics:

- General awareness of the ALP Program and knowledge of the ALP Code
- Implementation of the ALP Program at affiliate level
- Responsibilities of management personnel
- Internal training and communication on the ALP Program
- Communication of the ALP Code to farmers
- Internal system to collect information through Farm Profiles
- System for Prompt Action situations and incidents
- Efforts undertaken to mitigate risks
- Internal procedure to report Prompt Action situations/incidents
- Records showing the number of field technicians trained
- Records showing the number of farmers included in ALP communication

As requested, PMB provided CU with all the relevant documentation related to the ALP Program implementation, namely: Farm Profiles, farmer communication materials, purchase contracts, training records and personnel records.

## 2.3 Farm visits

On each farm CU conducted individual interviews with farmers to assess the effectiveness of PMB's communication efforts during Phase 1, namely verifying: whether farmers had received information about the ALP Code, their level of understanding and attitude towards the ALP Code Principles and the key messages received.

CU used a variety of methods to collect the information presented in this report on each farm's practices in relation to all the ALP Code's measurable standards including: farmer interviews, but also through individual interviews with workers (when these were present), verification of documentation and visual observation of fields, storage rooms, working stations and housing. In every interview CU briefly explained the intention of the assessment and assured the interviewees that all information would be treated with complete confidentiality.

In order to plan the logistics of the farm visits, a list of selected farms was provided by CU to the ALP coordinator on the Thursday before each assessment week. Each day CU randomly chose one field technician and four farms of different sizes. Two of these farms were chosen from the pre-selected list by CU. The other two were kept as options for unannounced visits, which were made known only on the day of the visit. In total, CU visited 128 farms, of which which 94 were pre-selected and 34 were unannounced. The minimum number of farms that needed to be visited in order to constitute a representative sample, was 125 as this is the square root of the total number of contracted farms.

## 2.4 Farm sample selection

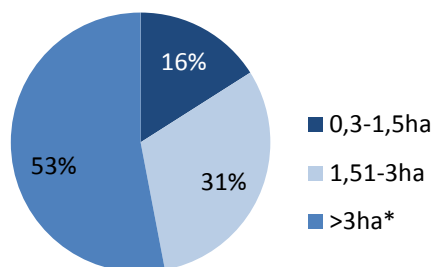
At the time of the assessment, PMB had contracted to buy tobacco from 15,662 farmers from three States: Rio Grande do Sul (RS), Santa Catarina (SC) and Paraná (PR). Tobacco was being collected at five buying stations (located in Rio Grande do Sul and Santa Catarina). One, the Maravilha buying station, sourced almost exclusively Burley tobacco, while the others only Virginia tobacco.

Amongst PMB's contracted farmers, 40% of the farmers grow between 0,3 and 1,5 hectares of tobacco, 43% between 1,51 and 3 hectares, and 17% grow more than 3 hectares. While the selected farm sample represents the total universe of farms in the different tobacco growing regions, the assessment selection was purposely skewed towards larger farms, being where a larger number of workers are expected to be present. Therefore, the numbers presented in this report cannot be taken as a measure of prevalence without considering and adjusting for this factor.

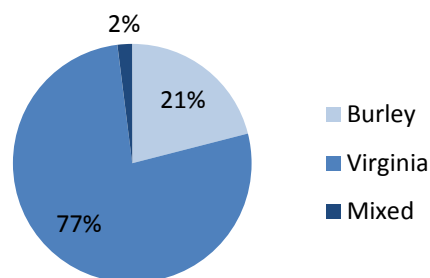
The graphs and tables below provide demographic information on the farms that were visited during the assessment.

Type of Farm	%
Farms with permanent or temporary workers	50%
Family farms without contracted workers (may exchange labor)	50%

### Farm size



### Type of tobacco



## 2.5 Worker interviews

In total, 38 workers were interviewed during the farm visits<sup>3</sup>. The table below demonstrates the demographics of this sample.

Demographic data of workers interviewed		
Type of worker	33 permanent *	5 temporary
Gender	8 women	30 men
Origin	38 local	0 migrant
Age	38 adults	8 children**

\* Permanent = working for more than 1 consecutive month at a particular farm

\*\*Persons under 18 years old that are hired on the farm as workers , or are family members helping at the farm.

Like interviews on affiliate level, to avoid bias, interviews with workers were conducted without the presence of the farmer and field technician. The majority of the interviews were conducted individually and some were group interviews. On each farm, CU aimed to interview different “types” of workers i.e. permanent and temporary workers, men and women, and children (if any) and adults. Observation was an important assessment technique used on the farms.

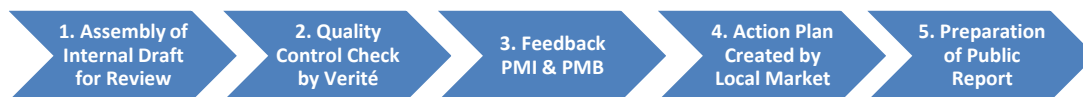
<sup>3</sup> Due to the timing of the assessment (curing phase), CU found a relatively low number of workers at the farms visited. If no workers were present at all CU interviewed the farmer about the practices regarding the workers he/she had contracted earlier in the season

## 2.6 Closing Meeting

On Friday 15 February 2013, at the closing meeting at PMB's offices, CU conducted a presentation to provide the initial findings of the assessment. Like the opening meeting, this closing meeting was attended by PMB senior management, the ALP Country Team representatives (from the Leaf, Corporate Affairs and Law departments), PMI's regional coordinators of the ALP Program and a representative of PMI's Operating Center (Switzerland), CU and Verité.

## 2.7 Preparation of the final report

The final public report of the assessment is an important, external measurement of the progress of ALP implementation in all countries globally where PMI sources tobacco, and its release to the public contributes to the full transparency of the ALP Program. Assessment reporting broadly follows the five steps below:



Quality control by Verité, review and feedback by PMI and PMB, and market action planning are the key components of the reporting process. Control Union, as the company conducting the assessments, is mainly responsible for authoring the report, with Verité overseeing the process. PMI and the local affiliate or supplier may request clarifications on findings during the drafting process. After both PMI and the local market affiliate or supplier feel findings are sufficiently clear, they begin preparing an ALP Program Action Plan or revising existing GAP/ALP Program Plans to reflect and respond to the findings.

### 3. Assessment implementation Phase 1 of the ALP Program



THIRD PARTY ASSESSMENT

PHILIP MORRIS BRAZIL  
AGRICULTURAL LABOR PRACTICES PROGRAM

This chapter describes the findings of the assessment of PMB's work during the ALP Program Phase 1 implementation.

### **3.1 Conduct of the assessment**

CU was satisfied with the cooperation and level of access to information provided by PMB's management personnel and field technicians. All persons interviewed demonstrated willingness to explain internal processes and provide information. CU was also satisfied with the openness of the farmers during farm visits and their acceptance of CU's request to interview their workers. However, some of the farmers visited during the first three days of field work in the Santa Cruz do Sul region seemed to have been "coached" by their field technician; the farmers repeatedly said that their children were not involved in any tobacco related activities and one of them declared that the field technician had come the day before to attach the ALP poster to a wall. However, after reporting this to the ALP Coordinator the situation seemed to have been addressed as no further problems were detected through the remainder of the assessment.

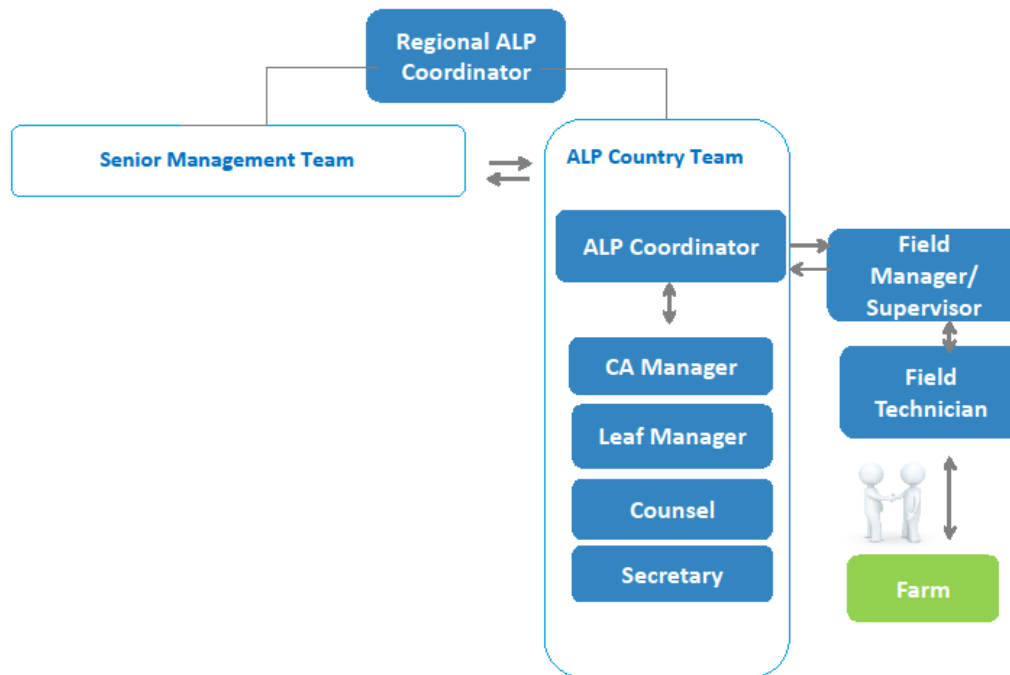
### **3.2 People and processes to manage the ALP Program**

#### 3.2.1 Internal structure for ALP implementation

At the time of the assessment, PMB had a strong new internal structure for the implementation of the ALP Program; clear lines of communication were set between the employees involved; collaboration between the ALP Country Team and the tobacco production team was effective; the required departments such as Operations, Legal, and Corporate Affairs were all represented; and the Senior Management Team was actively involved. Another reason for considering this new internal structure to be strong is that the responsibilities related to the ALP Program were made clear to all employees and included in their objectives for the year.

CU can confirm that the members of the ALP Country were engaged with the ALP Program and believed it would bring benefits to all parties involved; the company, the farmers and the workers. CU believes that with this strong internal structure, visualized in the organizational chart below, PMB is well positioned to complete the first phase of the ALP Program and initiate the roll-out of Phase 2 from 2013 into 2014.

**Organizational chart: PMB’s ALP Program team**



3.2.2 Field technicians ALP responsibilities

The ALP Program brings additional workload to the field technicians which PMB needs to look into. Currently, depending on the experience level of a given field technician, the size of the farms to be supported, and the distance between these farms, each field technician is assigned a range of between 120 to 160 farms. They visit the farms they support five to seven times a year.

At the time of the assessment, field technicians had conducted only one visit dedicated to the entire ALP Code and this took place during the harvest period which is when farmers are very busy. At the time of the assessment, 100% of the farmers had been included in PMB’s outreach efforts and had received information about the ALP Code but 60% of the field technicians interviewed declared that they do/did not have sufficient time to properly communicate the ALP Code to the farmers.

PMB response (for full text see Appendix 1.): *“The Country Team also perceives that time constraints could be a challenge going forward as field technicians begin the second phase of the ALP Program, systematically monitoring and addressing issues on each farm. PMB conducted an internal study to assess whether and to what extent adjustments were needed for field technicians, to allocate the necessary time to execute all the expected ALP Program activities, together with all the other tasks within their job’s scope. This study containing a recommendation of ideal arrangements of work load per growing region was already submitted to PMB’s senior management team and it was implemented in Q3 2013.”*



### **3.3 Communicating the ALP Code requirements to all farmers**

#### 3.3.1 Preparation and training

PMB's managers were involved early on with the ALP Program while it was still in its design stage at PMI and were included in PMI's first global training for the ALP Program's regional coordinators. Subsequently, starting in September 2011, PMB organized two rounds of training in which 100% of the field technicians participated. The first round was an introduction to the ALP Program, and the training given followed the global structure and content of the global training program. The second round consisted of a workshop during which the ALP Country Team asked the field technicians to list the main questions and comments provided by farmers when communicating the ALP Code. Once all answers were recorded, the field technicians were asked to think about ways in which they could respond to these questions and comments. This seemed to be an effective approach as all field technicians interviewed evaluated the second training positively. A third training for field technicians was planned to start in 2013 to focus on filling in the form for reporting Prompt Action situations and incidents, and any preparations for Phase 2 of the ALP Code roll-out.

#### 3.3.2 Understanding of Forced Labor and Compliance with the Law

While all the relevant personnel had received the appropriate training for Phase 1 and had a good general understanding of the ALP Code, both PMB's management and field technicians had a limited understanding of the ALP Code Principles dealing with forced labor and compliance with the Law.

- In general, PMB personnel had a narrow understanding of forced labor as those situations when workers are physically unable to leave their employment. They were not yet able to correlate the Forced labor ALP Code Principle with a range of every-day practices that constitute risk factors for, or contributors to, situations of forced labor, such as: third party contracting and end-of-the-harvest payment.
- While the measurable standards dealing with Compliance with the Law (ALP Code Principle 7) are clearly focused on the agreements established between farmers and workers, PMB personnel did not seem to be focused on this aspect of the labor law, but rather on the more general concept of all the relevant applicable laws.

The Country Team had thus a limited ability to provide guidance to farmers on these matters as well as a limited ability to identify these risk factors when they do occur. Regarding the law, the field technicians instruct farmers to consult labor unions because, PMB does not want field technicians to provide complex legal information. However, CU identified several pieces of incorrect advice given by labor unions as will be discussed below.

PMB response: *“In the context of the rollout of the second phase of the ALP Program, the Country Team delivered specific training on topics related to the ALP Code Principles of Forced Labor and Compliance with the Law to all field technicians and their supervisors.... Also, during the crop season, from August to December, at staff meetings... the field technicians will be asked to present and discuss specific practical examples ...which can illustrate the points of concern and how they can be addressed (starting Q3 2013).”*

### 3.3.3 The ALP communication strategy

In the Maravilha region around 20% of the farmers had been included in group meetings about the ALP Code organized by the field technicians. Additionally, field technicians stated that they always try to include the family members in the communication as they generally participate in the activities on the farm. During interviews with farmers, CU noticed that many family members were indeed aware of the ALP Code. In their outreach efforts PMB prioritized specific communication with the farmers on the ALP Code Principles related with child labor and safe work environment. This was driven both by the commitments made in the agreement signed with the Labor Prosecutor<sup>4</sup> in November 2012 and the fact that, according to PMB, these topics are the ones that are more difficult to tackle.

CU considers the communication strategy of PMB on child labor, PPE usage and GTS was effective but there still is a challenge in raising awareness and understanding among farmers of how the specific requirements and ALP Code Principles are relevant for their farm. Giving priority to child labor and safe work environment also means there is now a need to increase attention to other five ALP Code Principles and to improve the awareness and understanding of all seven ALP Code Principles and standards. There is a need to improve field technicians own understanding of certain ALP Code Principles especially in regards to forced labor and compliance with the law.

PMB response: *“Training sessions were conducted during the rollout of the second phase of the ALP Program (July and August 2013), more practical exercises were shared connecting farm practices and the ALP Code measurable standards as well as regular staff meetings (every two months) with real cases related to each ALP Code Principle provided. The Country Team is also implementing a regular quiz testing during training sessions to keep track of knowledge improvements and identify areas of focus.”*

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<sup>4</sup> Agreement between the Tobacco Industry Interstate Association (SindiTabaco), the Brazilian Tobacco Growers’ Association (AFUBRA), and the Labor Prosecutor of the Ministry of Labor for the Municipality of Santa Cruz do Sul. This agreement is in place since 2009 (initial signatories were Souza Cruz (British American Tobacco), Universal Leaf, and Alliance One) and after having established its leaf buying operation PMB also signed the Agreement in December 2012. Among others, the Agreement foresees:

- That tobacco companies include a clause in their purchase and sale agreements prohibiting the use of labor below 18 years and to provide guidance for farmers on matters pertaining to child labor.
- Sets rules for safety requirements, namely on the use of pesticides, requiring companies to provide guidance and the necessary personal protective equipment to farmers
- Requires that tobacco companies register and monitor school attendance of all children below 18 who live on the farms (PMB were able to provide the requisite school enrollment documents requested by CU for all farms visited).

### 3.3.4 ALP communication methods and materials

PMB produced clear communication materials – a poster and a folder – that included the seven ALP Code Principles and had been distributed to all farmers. Field technicians believed that these materials would be more effective if bearing the acronym “ALP” instead of “GAP” in order to increase awareness of the ALP Program among the farmers. Therefore, the ALP Country Team produced a calendar with the acronym “ALP” which was to be distributed to all farmers in 2013 (see inset). The majority of the farmers received information on the ALP Code individually from the field technicians during their regular visits.



PMB response: *“The Country Team also identified as a point of improvement after the roll out of the ALP Code communication, namely the need for setting up a “brand” that farmers could easily recognize and that could framework farm improvement plans required under the ALP Program. Starting in this 2013 season, the “ALP” logo has been used in all the new communications materials to be provided to farmers.”*

CU confirmed that ALP Code requirements have been incorporated in the growing contracts for both Burley and Virginia tobacco farmers. However, whereas child labor and safe working environment are explained in detail in two separate paragraphs, the other five ALP Code Principles are mentioned only once all together in one sentence. While it is important to have the ALP Code requirements reflected in the contractual relation established with farmers, the contract itself is of limited value as a communication tool as CU verified that farmers generally do not read the growing contract.

Finally, PMB’s Corporate Affairs department plans to promote the ALP Program in the media and among labor unions so that farmers will receive information about the ALP Code Principles from additional sources<sup>5</sup>. Other multinational companies with factories or processing facilities in the region are implementing programs with similar principles as the ALP Program. Where there is overlap between farmers and workers between buyers, as reported to CU, this is a positive development, as the various communication efforts will reinforce each other.

### 3.4 Building Farm Profiles for all contracted farms

In Phase 1 of the ALP Program PMB is expected to build Farm Profiles for every contracted farm. PMI has developed a global template for affiliates and suppliers to use for the collection of information on socio-economic indicators such as farm size, number of workers, age and number of children in the farmer’s family, working status (for example part time, full time, migrants), the pay period for workers and living

<sup>5</sup> The media component of this outreach efforts is also a requirement of the Prosecutor’s Agreement PMB signed in December 2012, which was further elaborated in Footnote 7.

conditions. PMB's Farm Profile which has been translated into Portuguese and is adapted to the local situation and combined with other information PMB already collects during farmer registration. PMB is expected to analyze this information to better understand the main risk areas, and track progress in communicating the ALP Code to farmers.

#### 3.4.1 Accuracy of Farm Profiles

At the time of the assessment, 100% of the Farm Profiles were complete. Given the large quantity of contracted farms, the manual compilation of data in Excel proved to be a great challenge for the ALP Country Team, which acknowledged inevitable errors in the process. CU verified accuracy of the Farm Profiles by comparing the data in specific Farm Profiles to the information provided by the farmers during the visits. The following kinds of errors were identified: duplication, estimates (pre-harvest versus actuals), incorrect facts. For example:

- Duplication of the number of people at the farm: on 10% of the revised Farm Profiles family members were reported twice – once as family members and once as temporary workers.
- Estimated or incorrect numbers of contracted workers: on 35% of the revised Farm Profiles the number of contracted workers was incorrect, which is likely due to the fact that an estimate was done before or during the harvest.
- Factual errors: on 50% of the revised Farm Profiles children were said only to perform domestic duties instead of also helping with tobacco related activities.

PMB response: *"PMB has developed an electronic Farm Profile form which allows the collection of data directly into a database (work completed in June 2013) and field technicians were trained on the process of collecting the Farm Profile (July and August 2013)."*

#### 3.4.2 Date gathering system for Farm Profiles

The Farm Profile data errors detected were likely not driven only by problems in the manual input of data, but rather, by the way that the information was collected. That could be related to a poor understanding of the Farm Profile itself, and also with a misunderstanding of what information to note down. For example: One of the field technicians stated that he knew he was filling in incorrect information, but as he was instructed to report the information provided by the farmer, he wrote it down anyway.

### **3.5 Prompt Actions**

PMI defines a Prompt Action situation as:

*"a situation in which workers' physical or mental well-being might be at risk, children or a vulnerable group – pregnant women, the elderly - are in danger, or workers might not be free to leave their job."* (source: PMI, 2011).

Phase 1 of the ALP Program implementation is mainly focused on training and communication. However even at this stage of the ALP Program it is PMI's expectation

that its affiliates and suppliers will address Prompt Action situations found on farms contracted to supply tobacco to PMI.

### 3.5.1 Prompt Actions reporting mechanism

A section of the Phase 1 training was devoted to responding to Prompt Action situations. Field technicians are expected to report immediately any Prompt Action situation to the ALP Coordinator, who, in turn, should provide them with guidance on how to address the issue or escalate it further up within the organization if need be.

To facilitate field technicians' understanding of the situations that might fall under the criteria laid out above, and to help them identify these situations in the field, the ALP Country Team created a list of Prompt Action situations and incidents. Furthermore, PMB issued two special forms, one to report Prompt Action situations and one to report other irregularities (i.e. situations not meeting the standards of the ALP Code). Clearer guidance to field technicians on "Prompt Actions" is needed because:

Prompt Action case: a child that was applying CPA without using PPE. The responsible field technician took immediate action by saying to the farmer that the child should stop applying CPA and reported the case to his supervisor, who reported it to his manager. The field technician and supervisor also reported the case to the Ministry of Labor, which sent a government official to the farm to monitor the situation.

(i) Low level of reporting: At the time of the assessment, only one case had been reported as a Prompt Action situation according to the internally established procedure, which is not in line with CU's observations in the field where several Prompt Action situations were observed, such as children harvesting tobacco, children applying CPA, children working at heights, workers working excessive hours, CPA application without PPE, and end-of-the-harvest payments (see below for more details).

(ii) Warnings: Field technicians, who have strong relationships with many of the farmers they support, declared that they generally first warn the farmer so that he/she can improve the situation and then verify progress during the next visit.

(iii) Prompt follow up: As field technicians visit the farmers five to seven times a year, the next visit after a incident and a warning could be two months later, which is not in line with the procedure for Prompt Action situations and incidents. If, however, the next field technician's visit to a farm is normally to be only in two months' time, the activity noted as serious and potentially dangerous to somebody living and working on the farm, could already be over and finalized and so, also, the situation or incident that required Prompt Action which is not what is intended for Prompt Actions under the ALP Program.

(iv) Possible Confusion: CU analyzed both reporting forms and while they are a valid initiative, the form for reporting other (non Prompt Action) irregularities also contained the words "Prompt Action" which could be confusing to the field technicians

(v) Understanding of ALP Code: a field technician may not recognise a Prompt Action situation in areas of the Code and measurable standards where there is further training or awareness raising to do.

For example a limited awareness among field technicians of ALP Code Principle 4. (Forced Labor) and specifically “workers unable to leave their employment” meant that none of the field technicians mentioned this category when asked for a definition of Prompt Action situation. In the case of forced labor situations, nevertheless, field technicians might indeed need more time and capability to investigate the situation as generally several risk factors must be analyzed. However, practices that increase the risk or can lead to forced labor situations, such as third party contracting and end-of-harvest payments, must usually, because of the potential implications for workers if the arrangements are not in good faith, be reported by field technicians as Prompt Action situations, which had not been done.

PMB response: *“In addition to the guidance provided initially, since April 2013...the ALP Country Team will:*

1. *follow-up each case with formal letters to the field technicians (copying by email their supervisors) highlighting the steps to address the issue reported and commending the field technician for the report.*
2. *[bearing in mind that field technicians too are members of the community...] continue to reinforce the notion that field technicians have nothing to fear regarding the amount of issues they flag, on the contrary, PMB expects them to be transparent about the situations found in farms, setting clear management and appraisal objectives*
3. *provide positive examples of PMB’s commitment to help the farmer’s improvement*
4. *promote better understanding of Prompt Action situations and how to address them by regular discussions with their field technicians to analyze the “Prompt Actions” being reported, support for field teams to clarify doubts and help them address the issues, and,*
5. *the regular sharing of information about “Prompt Actions” reported between the teams in the different tobacco growing areas and*
6. *highlighting identifying Prompt Action situations in the next season’s preparation training.”*

## 4. Farm level assessment of ALP Code standards



THIRD PARTY ASSESSMENT

PHILIP MORRIS BRAZIL  
AGRICULTURAL LABOR PRACTICES PROGRAM

Chapter 5 describes the findings of the field assessment and the current situation at farm level in relation to the ALP Code. At the time of this assessment PMB was still implementing Phase 1 of the ALP Program and, with the important exception of the Prompt Action situations, was not expected to be engaging with farmers and addressing all situations on farms that do not meet the ALP Code standards in a systematic way. That will be the expectation from 2013-2014 as PMB moves into Phase 2 of the ALP Program.

To recap, first, however, what exactly do CU field assessments reference? The ALP Code (appendix 2) has seven ALP Code Principles and each one has several Measurable Standards. The ALP Code Principles are short statements that set expectations of how the farmer manages his farm in seven focus areas. The ALP Code Principles are designed to guide the farmer on specific practices that will result in safe and fair working conditions for everyone on a tobacco farm. A Measurable Standard defines a good practice on a tobacco farm and can be objectively monitored over time, determining whether and to what extent the labor conditions and practices on a tobacco farm are in line with each of the ALP Code Principles. Each section of this chapter covers one of the seven ALP Code Principles and in it CU presents its findings (the extent which the practices on farms contracted to supply tobacco currently meet the requirements of the Measurable Standards) and discusses the risks (situations that may lead to problems in the future or about which a conclusion cannot be reached due to lack of evidence).

In order to provide a picture of the Brazilian tobacco market, it is important to note that the farmers contracted by PMB greatly depend on family labor. However, both Burley and Virginia farmers typically contract several workers during labor-intensive periods. These workers work for several days, weeks or months, depending on the size of the farm. A small number of farmers had one or two permanent workers living at the farm. Those farmers who did not contract workers often relied on exchange of labor with other farmers during labor intensive periods. In total, 16% of the farmers visited exchanged their labor with neighboring farmers, a practice apparently accepted as normal not just by the community but also by the Ministry of Labor.

#### **4.1 ALP Code Principle 1: Child labor**

*‘There shall be no child labor.’*

##### ***Child labor: Background***

Legal Minimum Age: Article 7 of the Brazilian Constitution determines that the legal minimum working age is 16 years, with an exemption for apprenticeships at age 14. However, Decree 6.481/2008 lists 93 hazardous activities within specific occupational categories from which children are barred from working under age 18. Tobacco growing (together with pineapple and sisal) is among these occupational categories and, therefore, persons below 18 are forbidden to work in tobacco related activities. Having said that, this same Decree states that the Ministry of Labor has the authority to grant work authorizations for adolescents of 16 and 17 to perform work in tobacco



growing, as long as it is not harmful to their development and it is vital for their family's survival.

Multistakeholder tobacco agreement: PMB is party to the industry-wide agreement between SindiTabaco, AFUBRA, and the Labor Prosecutor of the Ministry of Labor for the Municipality of Santa Cruz do Sul (see Footnote 7 for more information on the terms of the agreement). The agreement is likely to have a positive impact on PMB's implementation of the ALP Program because it seeks to reinforce similar principles and applies to all tobacco companies operating in a very competitive market. Specifically this will mean that farmers cannot choose between companies who do and do not seek to contract from farms where standards of the ALP Code Principles are being met, and that all actors will be communicating similar messages to farmers and workers.

Small-scale agriculture and child labor: In most agricultural settings worldwide, children help on the family farm and young people may work alongside, or instead of, attending school or higher education. A child often has an obligation to work to help the family meet its basic needs and where this might involve hazardous activities, in some agricultural sectors, a definition of 'light' or acceptable work versus hazardous work is developed. Under the agreement signed with the Labor Prosecutor there are a number of initiatives<sup>6</sup> to raise farmers and community awareness and to train the companies' field technicians on matters related with child labor and health and safety.

Labor scarcity: As people are leaving the country side to live in the city, farmers are unable to find workers, particularly during labor intensive periods. This labor scarcity increases the costs of contracting workers (salaries are higher than the minimum wage, involve provision of food, and in some cases transport). In turn the higher costs may lead farmers to produce only the amount of tobacco that they can manage with their family's help, thereby increasing the dependence on their children for the production of tobacco.

Child labor initiatives: CU noted a number of initiatives, projects and ongoing activities of PMB that are or will contribute to achieving practices that meet the standards of the ALP Code including, for example:

- 1) Prioritization of child labor in communication to farmers

For the Phase 1 ALP communication roll out, PMB prioritized ALP Code Principle 1 Child Labor in its communication with the farmers. Field technicians are aware of the importance of verifying whether children are working at the farms, or are attending school (if school age) per the agreement with the Labor Prosecutor and informing the farmers of the fact that the minimum age for working in tobacco is 18.

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<sup>6</sup>Projects "Cartilha do Sinditabaco/AFUBRA" and "Crescer Legal": both were lead and developed by the SindiTabaco, of which PMB is a member, and AFUBRA. Activities related to these projects involve:

- Distribution of informative flyers to farmers
- Farmers participation in awareness raising seminars
- Field technicians participating in training provided by Sinditabaco/AFUBRA

## 2) Projects “Cartilha do Sinditabaco/AFUBRA” and “Crescer Legal”<sup>7</sup>”

As a member of SindiTabaco, PMB participates in these two projects focused on Child Labor and Safe Work. Both projects aim at preventing child and adolescent labor in the cultivation of tobacco, through raising the awareness of integrated farmers and society. Activities related to these projects involve:

- Distribution of informative flyers to farmers
- Field technicians participating in training provided by SindiTabaco/AFUBRA
- Inviting farmers to participate in awareness raising seminars

## 3) “Programa de Inclusão Digital”<sup>8</sup>”

Together with the local NGO CDI<sup>9</sup>, PMB is in the process of setting up a program to provide training in information technology, sports, and arts classes to children of tobacco farmers during after school hours. At the time of the assessment, three schools in the Santa Cruz do Sul region had been participating in the program and plans were made to expand the program to the State of Santa Catarina in 2013.



### ***Child labor: Overall findings and challenges***

#### 4.1.1 Farmer awareness of minimum age for working on tobacco

The focused communication on Child Labor resulted in 100% of the farmers visited being aware of the minimum age for working in tobacco therefore the expectations for the first phase of the ALP Program were met.

#### 4.1.2 Family farms

Farmers do not seem to fully subscribe to the limits imposed by the current legal framework and PMB considers farmers’ perception and cultural beliefs as one of the main challenges to overcome (see box on this page). One of the main reasons for this is that farmers want their children to take over their farm in the future and, therefore, they believe it is important to involve them in farm activities during their adolescence. As a result, more than half (54%) of the farmers visited declared that they do not agree with the total prohibition of work in tobacco for those under 18.

Farmers interviewed think their children:

- should be allowed to help them on the farm
- have nothing to do after school in remote areas
- would become lazy if they did no work
- will lack of interest in agriculture in the future threatening the future of their farms
- are subject of unjustifiable restrictions

<sup>7</sup> Crescer Legal = Growing Up Right

<sup>8</sup> Programa de Inclusão Digital = digital inclusion program

<sup>9</sup> [www.cdi.org.br](http://www.cdi.org.br)

On 21% of the farms visited children below 18 years were found working or helping in tobacco. All the children identified working (28 on 26 farms) were said by farmers to help after school hours and during holidays. Only one child of eight years old, below the acceptable age for helping on the farm, was found working on the farm.

Half of these children were involved in activities that are considered hazardous in all agricultural sectors because they present health risks and are especially harmful to children; 12 children between 13 and 17 were involved in harvesting or loading curing barns and two children, aged 16 and 17, were doing the full range of activities involved in tobacco production, including CPA application.

#### 4.1.3 Hiring workers under 18 years old

This farmers' negative perception of the current legal framework seemed to relate solely to children working on the family farm and not with the recruitment of children to work. There was one case of a 16 year old hired worker found but three cases of children being part of 'labor exchanges'.

#### ***Child labor: Risks***

#### 4.1.4 Awareness of hazardous work

The fact that farmers and workers do not understand hazardous work creates an additional risk for children to be involved in hazardous activities. 59% of the farmers and 72% of the workers were unaware of the meaning of "hazardous work". The majority did mention CPA handling and application as a hazardous activity, but tobacco related activities in general were never mentioned as being hazardous to children, nor were working at heights or harvesting wet tobacco. Contact with wet tobacco is considered hazardous as it can cause Green Tobacco Sickness.

#### 4.1.5 Age verification

Although 34% of the farmers visited declared to check the identification documents of their workers, the majority (66%) does not. Farmers tend to contract workers they are familiar with and state that they know their ages. There is a risk that farmers might unintentionally hire minors.

#### 4.1.6 Third party labor brokers

17% of the farmers visited contracted workers through a third party without verifying worker identification and were thus unaware of the age of the workers brought to the farm. Farmers need and rely on third party brokers to secure sufficient workers during labor intensive periods. However, farmers generally were found to have no insight into the payment and recruitment practices of the third-party labor brokers and did not feel that they had to worry about payments and employment practices for these workers. In this way, while not intrinsically a problem, the practice of hiring workers through a third-party here presents risks vis-a-vis not only Child Labor - i.e. the unintended

hiring of somebody under 18 years of age - but several other ALP Code Principles and Measurable Standards. The other challenges and risks of using third party brokers to hire workers are further discussed below in the other relevant ALP Code sections.

#### 4.1.7 Exchange of labor between farmers

16% of the farmers visited exchanged labor with other farmers. This is a common practice in the Brazilian agricultural sector and works well for the farmers involved as they do not need to contract any workers. However, this practice does create a risk of hazardous work on a farm not run to meet the ALP Code and children working on another farm (i.e. not the family farm) which is specified in the Measurable Standards. CU identified three cases in which children worked on neighbouring farms as part of labor exchange.

#### ***Child labor: Conclusion***

Despite the widespread declarations by farmers that their children provide help on the farm the findings suggest that employment and recruitment of child labor practically does not exist among the farmers visited as only one case was identified among 128 farmers. However, the practice of contracting workers through a third party without verifying their age, which was being done by 17% of the farmers visited, presents a risk of indirectly employing children as farmers could unknowingly contract children through the third party. Indirectly too, where family teams exchange labor with other neighboring farmers (16% of farmers visited report doing this), this represents child labor risk and three cases were identified where children were part of these teams.

Given that none of the children found working or helping on the farms visited were authorized to work in tobacco by the Ministry of Labor, it could be concluded that they were all performing hazardous activities according to Decree 6.481/2008. However, a distinction can be made between the different activities observed being done by children under 18 years of age. Around half of the children found working on the family farm were involved in activities which would be considered hazardous in all agricultural sectors, because they present health risks and can be especially harmful to children such as carrying heavy loads, working long hours, harvesting, loading barns or CPA application. Perhaps there is a link between this finding and the finding that the majority of farmers and an even a larger number of the workers did not fully understand which activities on the farm could present health and safety hazards. The majority did mention CPA handling and application, but tobacco related activities like working at heights in the barns or harvesting wet tobacco were never mentioned, which increases the risk of children being involved in activities that present specific hazards and should be a focus of PMB's action going forward in the area of child labor.

PMB response: *"The ongoing challenge PMB faces...is changing the mindset in these rural communities...as many tobacco farmers perceive the legal limitation for their children to provide help on the farm as being at odds with the family's interest. The following actions are planned to change the current situation:*

- 1. In order to avoid children doing hazardous tasks...PMB's field technicians will start by helping farmers to make a basic assessment of the safety hazards on the farm including identifying the*

- type of activities that pose particular risks for them and their children (Q4 2013- Q3/2014).*
2. *PMB's field technicians will continue to convey that children shall not work on tobacco and will focus their efforts on correcting any situation identified as in no conformity with the law. Every situation identified will be reported to PMB by the field technicians and will have a specific follow-up.*
  3. *PMB will also monitor [the practice of exchange labor] and in the field technicians' communications to farmers and educational materials will include a specific mention to raise farmers' awareness and ensure that only adults are involved in this [practice].*
  4. *[In the cases of contracting workers through a third party] PMB will require farmers to engage directly with the workers that are brought onto the farm and check their identification documents.*
  5. *PMB will extend its existing credit lines to ensure that farmers have the necessary cash-flow to hire adult workers, not having to rely on their own children (2013/2014).*
  6. *Providing after school activities to farmers' children such as learning digital and computer skills (2013 and 2014) and granting scholarships for an agricultural education (during 2013 PMB will award 42 scholarships to children of PMB contracted farmers).*
  7. *Together with local schools, field technicians will make an overview of school attendance of the children of the farmers in their region in order to better monitor those children with high school absence and investigate the reasons for which these children do not go to school (June 2013 onwards)."*

## 4.2 ALP Code Principle 2: Income and work hours

*'Income earned during a pay period or growing season shall always be enough to meet workers' basic needs and shall be of a sufficient level to enable the generation of discretionary income. Workers shall not work excessive or illegal work hours.'*

### ***Income and work hours: Background***

Regulations: The majority of the national regulations related to income and work hours are determined by the Federal Constitution and the Consolidação das Leis do Trabalho or CLT<sup>10</sup>. These regulations clearly apply to large companies with fulltime workers, but have not been adapted to the reality of small scale farmers who employ daily workers. Therefore, common practice in the Brazilian agricultural sector – and in many other sectors in which daily labor is common – is that daily workers and farmers agree upon a salary without providing legal benefits as this is generally results in a higher daily wage and less costs for the farmer.

The Constitution determines that:

- a full working week consists of 44 hours,
- overtime hours should be paid at least 50% on top of the regular salary,
- annual holidays payment is 33% of the monthly salary,
- all workers are entitled to a 13<sup>th</sup> monthly salary, and
- 8% of the salary should be paid to a fund (FGTS<sup>11</sup>) that is activated in case a worker can no longer work or is fired without due cause.

<sup>10</sup> Consolidação das Leis do Trabalho = Consolidation of Labor Laws

<sup>11</sup> Fundo de Garantia do Tempo de Serviço = Guarantee Fund for Time of Service

The CLT states that workers:

- should get a break after six hours of work
- should rest at least 11 hours between each work day,
- should have at least 1 resting day per week,
- salaries should be paid at least monthly,
- should work a maximum two hours overtime per day, and
- have the right to take 30 days of holidays per year.

Furthermore, Law 605/49 determines that Sundays and holidays should be paid with 100% on top of the regular salary and Law 8.213/91 states that 8% of the salary should be paid to the INSS<sup>12</sup>, which is activated when workers get ill or are involved in a work related accident.

Minimum salary and deductions: In addition to national regulations, States also determine the minimum salaries for rural workers. The States of Rio Grande do Sul and Santa Catarina have set the minimum salary for rural workers on R\$ 700,00<sup>13</sup> per month, whereas the State of Paraná has set the minimum salary on R\$ 783,20 per month. This is substantially higher than the national minimum salary, which is set on R\$ 622,00 per month.

The labor union of each municipality can establish a collective agreement with farmers to raise the minimum salary or improve labor conditions. However, CU's field research demonstrated that 60% of the labor unions of the municipalities of the visited farmers were promoting the national minimum salary instead of the State minimum salary for rural workers at the time of the assessment. 20% of the labor unions were promoting a salary that was higher than the minimum salary determined by the State, and the remaining 20% the minimum salary determined by the State.

Finally, Article 458 of the CLT determines that deductions for accommodation cannot be more than 25% of the salary and deductions for food cannot be more than 20%.

Who qualifies for labor benefits: The assessment observed that both farmers and workers believe that workers who do not work fulltime during the entire year at the same farm have no right to benefits. Some also think that these benefits only apply to workers of large companies and not to workers on small scale farmers.

Impact of labor scarcity: CU noted that farmers generally pay more than the minimum wage even though the official minimum wage may not be known and some information may be confusing or contradictory.

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<sup>12</sup> Instituto Nacional de Seguro Social = National Institute of Social Security

<sup>13</sup> The salaries mentioned in this paragraph were valid in January 2013.

### ***Income and work hours: Overall findings and challenges***

#### 4.2.1 Minimum salary

97% of the farmers visited who contracted labor paid more than the legal minimum wage yet 95% of the farmers visited who contracted workers and 97% of the workers interviewed were unaware of the legal minimum salary for rural workers determined by the particular state.

This leaves 3% of the farmers visited who contracted workers and did not pay them the state or national minimum salary for rural workers<sup>14</sup>. In one case the farmer was paying the national minimum salary (lower than the local benchmark) and in another case CU was unable to verify whether the minimum salary was paid as the farmer paid R\$60 per day to the entire family that worked on his farm plus a percentage of the harvest at the end of the harvest. However, the farmer did not want to inform the percentage shared with the family.

#### 4.2.2 Regular payment

81% of the farmers visited who contracted workers provided regular payments; either daily or monthly. However, the remaining 19% of the farmers visited who contracted workers provided end-of-the-harvest payments of which advanced payments for basic needs were made during the harvest. The payment at the end of the harvest was generally 10% to 12% of the profit, which is usually higher than the minimum wage. However, workers were not receiving at least the minimum wage on a monthly basis.

#### 4.2.3 Work hours

Although all farmers and workers interviewed declared that overtime hours were voluntary, 50% of the farmers visited who contracted workers did not respect the limit of eight regular work hours per day. Especially during the harvest period many farmers and workers exceed this amount and work approximately 10 to 12 hours a day. At the remaining 50% workers did not work any overtime hours. On many farms, especially family farms without hired workers, no fixed work hours are established as they continue working "until the job is done".

#### 4.2.4 Wage and overtime calculations

None of the farmers visited who contracted workers paid overtime hours at a premium of 50% on top of the regular salary. Daily workers who only work once at the same farm and, therefore, do not receive labor benefits because they are considered not to have an employment relation with the farmer (12,5% of the workers interviewed) are excluded from this sample. Farmers calculated a daily salary or end-of-the-harvest payment, regardless of the number of hours worked. 72% of the farmers visited who

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<sup>14</sup> Namely: of R\$ 700,00 in the States of Rio Grande do Sul and Santa Catarina and of R\$ 783,20 in the State of Paraná. One farmer paid the national minimum salary of R\$ 622,00 per month.

contracted workers and 81% of the workers interviewed were unaware of the legal requirements regarding overtime hours; they did not know when overtime hours start, what the maximum number of overtime hours is, and that they should be paid at an overtime rate of 50% on top of the regular salary.

#### 4.2.5 Legal benefits

As explained in the beginning of this chapter, the current national regulations on legal benefits are not adapted to the reality of small scale farmers contracting daily workers. This complex regulatory situation contributes to many farmers being unable to provide labor benefits to workers, and, conversely, workers being unable to claim them due to lack of awareness. As a result, none of the farmers visited who contracted workers provided their workers with benefits, holidays, and leave. Daily workers who only work once at the same farm and, therefore, do not receive labor benefits because they are considered not to have an employment relation with the farmer (12,5% of the workers interviewed) are excluded from this sample.

Regarding the holidays, it is important to note that the majority of the workers do not work the entire year; they either work eight consecutive months or several weeks or months a year at one farm. However, during these periods workers are legally due to receive all the benefits mentioned in the introduction of this chapter. Furthermore, several cases were identified in which permanent workers worked on the farm the entire year and did not receive paid holiday and other benefits because they were paid per day worked. 86% of the farmers visited who contracted workers and 91% of the workers interviewed were unaware of the legal requirements regarding the benefits, holidays, and the leave to which workers are entitled by the country's laws.

PMB response: *"PMB concluded that they need to encourage farmers' entrepreneurial behavior, remind them of their obligations as employers under Brazilian law, and support them to uphold their obligations as business partners to PMB. This will be in the following ways:*

- *PMB's Law Department and field technicians will provide information to farmers on key legal aspects such as employment conditions, minimum salary, work hours, overtime, and benefits, and*
- *PMB will support reference materials made by Sinditabaco/AFUBRA, labor unions, and the relevant authorities. (Q4 2013).*
- *This is a complex issue and it is being addressed by the Ministry of Labor with the associations representing the tobacco sector (Sinditabaco and Farmers' Unions) who are mapping out all the implications of changing current practices, namely the registration of sharecroppers as employees [just as the issues of daily workers]. PMB will closely monitor any potential developments and will incorporate recommendations as appropriate."*



## ***Income and work hours: Risks***

### 4.2.6 Record keeping

Keeping records of hours worked, what rates are paid and how often, reduces the risk of conflict between farmers and workers and enables the farmer to demonstrate his/her practices meet the standard. So, the widespread lack of awareness and recording is a high risk. For example: 93% of the farmers visited who contracted workers did not provide pay slips to their workers. 86% did not record salary payments and could not demonstrate what they pay workers. 95% of the farmers visited who contracted workers did not record the hours worked which could result in workers working more hours than the legally determined eight regular hours plus two overtime hours per day, or farmers failing to track which hours are overtime and require additional overtime premium.



Payment receipt

Records are needed for both permanent and temporary workers. The 7% of farmers who provided pay slips or recorded wages did so only for their permanent workers being paid at the end of the harvest to avoid conflicts. Temporary workers are generally paid per day but without records.

PMB response: *“The Country Team will develop and distribute template models for pay slips and timesheets to the farmers so they can use them with the workers on their farm (Q4/2013).”*

### 4.2.7 Third party labor brokers

The farmers visited who contracted workers through a third party had no insight in the payment and recruitment practices of the third party, and so they did not guarantee or have no way of showing that their workers receive at least the minimum wage and are paid regularly, that overtime hours are voluntary and paid at a premium, and that the workers are provided with benefits, leave and holidays.

PMB response: *“PMB will encourage farmers to reach out and have regular contact with the workers that are brought onto their farms by a third party. In particular, field technicians will:*

1. *raise farmers’ awareness about the potential issues that unscrupulous brokers could create,*
2. *raise farmers’ awareness about the potential risks and liabilities they would face if workers were being victims of abuse, and*
3. *encourage farmers to start paying the workers directly themselves (as required in the ALP Code), or at a minimum to ask brokers for more accountability and for a more transparent process, e.g. providing credible proof of what they are paying to the workers through pay slips (Q4 2013).*

*Finally, PMB also reach out to the relevant stakeholders in the sector (brokers, farmers organizations, unions, other companies and local authorities) to discuss the best approach to formalize the brokers’ role and practices or at least to create minimal standards which can provide some level of confidence (Q3 2013).*

### ***Income and work hours: Conclusion***

Labor scarcity means that nearly all workers received at least the minimum wage. The majority of the workers were being paid regularly although 19% of the farmers visited paid their workers at the end of the harvest, which is the main area of concern for this ALP Code Principle and therefore requires additional attention from PMB. These workers did receive advanced payments for basic needs.

Communication efforts implemented by PMB to raise awareness on legal topics such as the legal minimum wage, overtime hours, and benefits have not yet achieved the desired results. This is understandable given that these efforts aim to generate behavioral change among farmers by moving from established common practices to full compliance with laws on income and work hours, while these same regulations are not adapted to the reality of small scale farmers, as explained before. In addition, PMB is still in the first season of the implementation of the ALP and therefore expecting such great behavioral change at this point would be unrealistic. However, these results demonstrate that communication efforts must be intensified and farmers need more assistance on topics related to income and work hours. Finally, workers need to be made aware of their rights as the current lack of awareness makes them vulnerable.

### **4.3 ALP Code Principle 3: Fair treatment**

*‘Farmers shall ensure fair treatment of workers. There shall be no harassment, discrimination, physical or mental punishment, or any other forms of abuse.’*

#### ***Fair treatment: Background***

Regulations: Article 7 of the Federal Constitution prohibits abuse or threat of physical or verbal abuses. Furthermore, Article 3 of the Federal Constitution prohibits discrimination on the basis of origin, race, gender, color, age, sexual orientation, civil state, political affiliation, or any other form of discrimination. Finally, Article 7 of the Federal Constitution and Article 373-A of the CLT prohibit the use of gender, age, color, family situation, or pregnancy in job advertisements, as grounds for refusing employment, promotion or dismissal, and for purposes of determining salary and professional development.

Labor scarcity: Due to scarcity of rural workers, workers contracted by tobacco farmers were generally in a strong position and farmers and workers visited confirm that workers do not accept any form of harassment, discrimination, physical or mental punishment, or any other forms of abuse.

***Fair treatment: Overall findings and challenges***

4.3.1 Fair treatment

All farmers and workers interviewed confirmed that physical, sexual and verbal abuse was not a problem at their farms. Interviews with eight female workers confirmed this. Just one farmer expressed a preference for hiring men rather than women because of the nature of the work. While PMB does not provide any information to farmers on how to deal with incidents such as harassment, discrimination, physical or mental punishment, or any other forms of abuse, both farmers and workers told CU that in such cases, incidents could or most likely would be discussed in an informal manner without being documented.

4.3.2 Grievance mechanism

PMB had investigated options for supporting the set up of a support line for farmers and workers but work is still ongoing on this.

4.3.3 Large farmers

For 31% of the farmers with large farms and several contracted workers, no formal process for workers to bring problems to the farmer's attention was identified.

***Fair treatment: Risks***

4.3.4 Third party labor brokers

16% of farmers who contract workers do so through a third party and do not communicate directly with the workers. In these cases workers have neither a formal mechanism nor the opportunity, as in small farms, to speak directly with the farmer. Contracting workers through a third party creates risks for the first four Measurable Standards of this ALP Code Principle as the farmers who use a third party do not know whether the third party uses physical, sexual or verbal abuse or harassment or discriminates between workers.

***Fair treatment: Conclusion***

No signs of physical, sexual or verbal abuse or harassment were found during the assessment. One case of gender discrimination was identified; this farmer did not want to contract female workers because he believed that men and women working together would not be successful. Furthermore, he did not want to provide sanitary facilities to female workers. A more structured support line or grievance mechanism envisioned under this ALP Code Principle and currently being investigated, could facilitate,

however, that even if incidents are considered rare, all workers on large or small farms, or contracted by a broker, would be assured of the opportunity to address cases of abuse or harassment. PMB would need to consider how to communicate effectively with farmers on this.

PMB response: *“In order to provide an independent support line to workers, the ALP Country Team will conduct a pilot program in three municipalities which will be managed by FETAG<sup>15</sup> (Q4/2013). After this pilot, the plan is to extend this support line to other tobacco growing regions.”*

#### 4.4 ALP Code Principle 4: Forced labor

*‘All farm labor must be voluntary. There shall be no forced labor.’*

##### ***Forced labor: Background***

Regulations: Brazilian Criminal Law (Normative Instruction 91 of the Ministry of Labor) prohibits forced labor, exhausting work in degrading conditions, and limiting the worker’s right to leave employment because of bond. According to Brazilian Law 5.889/73 third party contracting is not permitted. However, an exception is made for the agricultural sector as Regulatory Norm 31/2005 states that third party recruitment can be done by farmers provided that the third party is a legal entity registered at the Ministry of Labor.

Labor scarcity: the scarcity of rural workers makes forced labor less likely as, according to PMB, workers would likely move to another farm if they became discontented with their employer or labor conditions.

##### ***Forced labor: Overall findings and challenges***

#### 4.4.1 Indirect payments to workers

16% of the farmers visited who contracted workers did not pay their workers directly; 14% contracted workers through a third party and paid only the third party and 2% used workers sent by the landowner of the piece of land on which he was working without knowing whether they were paid. Several farmers who contracted workers through a third party were unable to mention the official name and contact details of the third party. None of the farmers had entered into a written contract with the third party<sup>16</sup>.

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<sup>15</sup> Federação dos Trabalhadores na Agricultura no Rio Grande do Sul = Federation of Agricultural Workers in Rio Grande do Sul

<sup>16</sup> In addition to being a risk factor of forced labor, this practice also causes risks for other ALP Code Principles as the farmer does not know whether the third party (1) contracts children, (2) pays the minimum wage to workers, (3) treats the workers fairly, and (6) respects the right to freedom of association.

#### 4.4.2 Ability to leave: reasonable notice

All farmers and workers interviewed stated that the workers were free to leave their employment at any time. As none of the workers had a formal employment contract, they all felt free to leave their employment at any time. Daily workers were paid each day. One worker from another region was found working at a farm without documentation. The worker was unable to talk and possibly had a mental or physical disability.

#### 4.4.3 Financial deposits

Farmers and workers interviewed all confirmed that workers do not make financial deposits.

#### 4.4.4 End of the harvest payments

Although most workers paid at the end of the harvest are eventually paid more than the minimum wage, being paid a percentage of the profit could result in a salary lower than the minimum wage if the harvest is not successful. In total, 19% of the farmers had agreed with their workers to pay them at the end of the harvest. All these workers received advanced payments for basic needs.

### ***Forced labor: Risks***

#### 4.4.5 Partnerships

Different forms of “partnerships” between landowners and farmers, also called “sócio parceiro<sup>17</sup>”, occur in the Brazilian tobacco sector. This practice exists when a farmer works on a piece of land that is owned by someone else with whom the farmer has established a partnership that states a division of the profit and/or production costs but the details are often not formally laid out. According to PMB, in some cases the “sócio parceiro” agreements indeed provide a way to disguise an employment relation, but in many cases real partnerships exist that are beneficial to both farmers and landowners. The latter occurs when the farmer is unable to purchase land and, by entering in a partnership agreement, he/she can make a living.

In addition to workers, “partners” (“sócio parceiro” or farmers working with/for PMB contracted landlords) often receive end-of-the-harvest payments as well and are exposed to similar risks of forced labor where there is not a real partnership. These farmers depend completely on the landowner as they usually live with their entire family in a house provided by the landowner, the farmer could in fact be a worker who gets paid at the end of the harvest and pays 50% of the production costs. If the harvest does not go well and the profit is low, the farmer and their family run the risk of not receiving any payment. In some cases, landowners have several farmers working on small pieces of land. 6% of the farmers visited had such an agreement with

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<sup>17</sup> Sócio parceiro = partner

a landowner, but even a written contract may not be legally binding if the farmer is not a legal entity.

PMB response: *“The ALP Country Team will:*

1. *Map out the existing sharecropping agreements in order to better understand them and find a suitable solution for each case (Q1 2013),*
2. *Aim to establish contract agreements directly with the sharecropper to reduce the risks of indirect or inequitable arrangements more generally,*
3. *Extend its credit line for farmers to these situations; where farmers don’t have enough cash flow to provide for the regular payment of their worker’s wages (starting in Q4 2013), and*

*Closely monitor any potential developments and will incorporate any practices or recommendations that come out of the pilot exercise of the Ministry of Labor and the industry associations in Santa Catarina that aim to map out the implications of registering of sharecroppers as employees.”*

### ***Forced labor: Conclusion***

All farmers and workers interviewed stated that the workers were free to leave their employment at any time, require and pay no deposits, do not hire prison or compulsory laborers. However, 17% of the farmers visited did not pay their workers directly. Furthermore, 19% of the farmers visited did not pay part of their workers’ salaries until the end of the harvest. The various agreements, often informal, between landowners and farmers, farmers and workers represent risks of forced labor also as they often involve payments based on a profit share at the end of the harvest and so the farmer/workers may not ultimately receive a minimum if the harvest is not successful. End of the harvest payments can force farmers/workers to stay working until the end of the harvest even if they want to leave earlier, in order to receive their (full) salaries if the landowner/farmer is unable or unwilling to pay their salaries before the end of the harvest. However, in the cases at the farms visited, all farmers/workers receiving end of the harvest payment declared that they had agreed to this payment schedule and received advanced payments from the landowner/farmer whenever they needed.

In line with PMB’s limited understanding of forced labor mentioned in Chapter 4, communication efforts have yet to be targeted towards mitigating the risks to “socio parceiros” and workers, and field technicians have not been asked to monitor these situations as these practices were not being recognized as indicators of potential forced labor by PMB.

### **4.5 ALP Code Principle 5: Safe work environment**

*‘Farmers shall provide a safe work environment to prevent accidents and injury and to minimize health risks. Accommodation, where provided, shall be clean, safe and meet the basic needs of the workers.’*

#### ***Safe work environment: Background***

Regulations: Brazilian Law sets strict safety requirements for work environments.

- Law 7.802/89 states that CPA containers should be triple washed, punctured to render them unusable, stored safely, and recycled.
- Article 22 of Law 8.213/91 states that work related accidents and illnesses must be communicated to the INSS<sup>18</sup> by means of a special form (CAT<sup>19</sup>).
- Normative Resolution 31 determines that people above the age of 60 years are not allowed to handle or apply CPA.
- The same Normative Solution provides extensive requirements for workers' housing.
- Brazilian Norm 9843 states that the floor and shelves of CPA storage must be waterproof and the buffer zone between houses and CPA must be at least 30 meters.
- Article 458 of the CLT determines that migrant workers may not be charged for accommodation.
- Ministerial Directive 2914/2011 states that farmers who contract workers must provide water from the collective sanitation system or, in case such system is unavailable, from a well of which the water has been tested for purity.

In addition to these regulations and laws, the agreement with the Labor Prosecutor also sets several safety requirements for the practices of the farmers. Requirements in the agreement that complement the law and the ALP Code are:

- Tobacco companies must provide required PPE at cost to contracted farmers.
- CPA storage must be equipped with warning display signs.
- Farmers must not use any pesticides or similar products that have not been registered with and authorized by the relevant government authorities.
- Farmers must not handle any pesticides or similar products in a manner that does not comply with the formulas and instructions on labels and manuals.

Awareness and training on PPE use: Farmers are resistant to wearing PPE for either handling CPAs or harvesting wet tobacco because most they find them too warm while working in the heat. Farmers stated that the PPE material is not suitable for working in extreme temperatures. Training on the risks can be effective at changing practices. Some farmers in the Araranguá region had participated in training on CPA handling and application from a specialized institution, which was provided by another tobacco company. This training proved effective as these farmers and their family members properly handled and applied CPA, and provided training to their workers.

### ***Safe work environment: Overall findings and challenges***

#### 4.5.1 General safety hazards

This standard is considered to apply to all people who live and work on the farm. None of the farmers visited during the assessment provided a completely safe and sanitary working environment, which is mainly due to lack of awareness on general safety

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<sup>18</sup> Instituto Nacional de Seguro Social = National Institute of Social Security

<sup>19</sup> Comunicação de Acidente de Trabalho = Communication of Work Related Accident

hazards on the farm. All farms visited had at least one, but in general several of the below mentioned issues:

- Insufficient measures to prevent accidents: farmers do not take all necessary precautions or measures to prevent accidents on their farm. For example: None of the farmers visited had safety harnesses for working at heights. Curing barns can be high (up to approximately seven meters - see photo in box right).
- Failure to register and report accidents: several farmers declared they had experienced GTS several times. One farmer informed CU that his son, (aged 17), had been bitten by a snake while working in the field. No workers were registered with the INSS, and so farmers were unable to report formally any work related accidents or illnesses to this government institution. However, recording accidents and illnesses that happen on the farm internally in order to learn from them and prevent them from happening in the future is a good practice and helps to reduce risks over time by prevention.
- Lack of resources to act in case of emergency: none of the farmers visited took a first aid kit to the field and the majority did not have one at the farm either. Many farmers declared they preferred not to provide any first aid to contracted workers because if they would do something wrong the worker could file a complaint afterwards. Instead, the farmers prefer to go to the nearest hospital or health post. This lack of knowledge on first aid is disturbing because in many emergencies first aid is crucial.
- Safety risks for children: none of the farms visited had any restrictions on access to farm sites in place for children, which is particularly undesirable for the bigger farms where such separation would be feasible. Given that many farmers do not lock their CPA storage facilities, child access to working areas on the farm causes severe safety risk for children. In 47% of the cases the children were not being supervised while both their parents were working in the field.
- Equipment and tools laying around at the farm: in many cases tools were not stored safely and were laying around at the farm with a risk of, amongst others, children getting injured (see picture below).



**Burley curing barn of 7 meters**

#### 4.5.2 Harvesting wet tobacco

67% of the farmers visited did not provide training on avoidance of GTS to their workers and/or family members. This is largely due to lack of awareness on how to prevent GTS. Many farmers declared they did not harvest wet tobacco because it loses quality when harvested wet or because working in the morning is more comfortable than in the afternoon due to the lower temperature; and not because of the possibility



of contracting GTS. This poses severe health risks for the families and especially for their children<sup>20</sup>.

#### 4.5.3 Water to drink/for washing

All farmers and workers interviewed declared that they had clean drinking water at the farm and in the fields and washing water and soap was available at the farms. Farmers generally used a thermos to keep drinking water cool in the fields. According to Brazilian law (Ministerial Directive 2914/2011), only collective system or tested water can be called "potable" but where the farmer provides the same water he/she drinks to the workers on the farm, it can be considered adequate insofar as the ALP Code is concerned. At 6% of the visited farms, the farmers could demonstrate the purity of the water source after testing by a government institution.

#### 4.5.4 Protection from CPA and GTS

- Green Tobacco Sickness: The majority of the farmers declared they did not use the PPE provided by PMB for harvesting wet tobacco because they find them too warm while working in the heat. Farmers further stated that the material of which the PPE are made is not suitable for working in extreme temperatures. Those farmers who did use PPE generally did not wash them after usage, used the same PPE during the entire harvest, and stored PPE inadequately (for example, together with CPA causing contamination). Several workers were identified harvesting wet tobacco without PPE.
- Inadequate CPA storage: 87% of the CPA storage facilities were inadequate because of one or more of the following points: lack of waterproof floor and/or shelves, unlocked, disorganized, lack of ventilation. CU noticed that practically all farmers had a similar CPA storage with a wooden door and wooden shelves (see photographs below). This storage facility does not comply with the legal requirements. One farmer had CPA stored in pigsties and another one stored CPA in a hen coup, causing health risks to the farm animals. One farmer declared he had been robbed and therefore stored CPA in the garage of his house.
- CPA: 70% of the farmers visited did not provide adequate training to their workers and/or family members and/or did not use the required PPE for CPA application. One worker was applying CPA without PPE during CU´s visit at the farm. In the remaining cases, CU relied on the declaration of farmers and workers and analysis of the PPE at the farm. Also, two children of 16 and 17 declared they assisted in CPA application, which presents severe health risks.
- Fertilizers: 61% of the farmers and 70% of the workers interviewed were unaware of the health risks involved with handling fertilizers. They declared they did not wear any gloves and not to store them in a locked place.

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<sup>20</sup> Generally the recommended action is to stop exposure - by resting, showering or washing, changing clothing, ceasing to work and drinking water. A doctor should be consulted if the symptoms persist. For further information see: <http://tobaccocontrol.bmj.com/content/7/3/294.full>

- Containers: None of the visited farmers punctured empty CPA containers to render them unusable. The majority did triple wash the containers and handed them in at the central point indicated by Sinditabaco and AFUBRA, the two organizations responsible for proper disposal of the products. Several farmers reused empty CPA containers to fill them up with water for mixing CPA or as drinking water for farm animals.
- Re-entry period: At 61% of the farms visited CU was unable to confirm that the correct re-entry period after CPA application was respected as farmers did not use any warning signs on recently sprayed fields and/or were unaware of the correct re-entry period. The majority of the farmers stated they verbally warn their workers, but this does not prevent external persons entering the field.
- Buffer zone: No farmers' houses comply with the norm requiring a buffer zone of at least 30 meters between living areas and CPA storage.
- CPA applications and re-entry periods: None of the farmers visited recorded CPA applications, so they might forget on which day CPA were applied, which product they used and what the re-entry times would be.



CPA equipment stored inadequately



Letter informing the date and place for disposal of empty CPA containers



Average CPA storage

#### 4.5.5 Worker accommodation

33% of the accommodations provided to workers were found inadequate because they had no windows, no bathroom, or were generally in poor condition.

#### ***Safe work environment: Risks***

#### 4.5.6 Safety while exchanging labor or third party contracting

Farmers contracted by PMB receive communication on safety measures as a part of the ALP Program, but the farmers with whom they exchange labor are not necessarily contracted by PMB and thus might not receive such instructions. Also, the brokers through whom some farmers contract workers might not pass on instructions given by

the farmer to the workers. In these cases, workers, farmers and their family members might be exposed to safety risks and field technicians should be aware of this practice.

***Safe work environment: Conclusion***

In Phase 1 PMB prioritized the ALP Code safe work ALP Code Principle in the ALP communications with the farmers, and all field technicians were trained on this<sup>21</sup>. This had led to 100% farmer awareness of the requirement of PPE usage, the existence of GTS and awareness of the CPA container-recycling program in their region. Further, all farmers and workers interviewed declared that they had clean drinking water at the farm and in the fields, and washing water and soap available at the farms.

However, this awareness did not necessarily result in farmers meeting the ALP standards. Farmers still lack awareness on general and specific safety hazards on the farms such as:

- working in high curing barns without harnesses,
- the Brazilian legal requirement of having a first aid kit at the farms and/or in the field,

the way accidents and danger can be reduced by limiting farm and particularly curing barn access for children and/or by adults supervising children at the farm,

- knowing methods to prevent GTS,
- knowing the health risks involved with fertilizers,
- training for all who handle or apply CPA,
- recording CPA application,
- observing the recommended re-entry times after CPA application, and
- having a buffer zone of 30 meters between all houses and CPA storage areas.

These observations resulted in CU’s conclusion that none of the farmers visited provided a fully safe and sanitary work environment for those who live or work on the farm and a third of workers’ accommodation was found to be inadequate.

PMB response: *“The ALP Country Team has listed several action plans to improve the situations at the farms in relation to safety:*

1. *Foster farmer participation on a specialized training program providing financial support for the official regulation training that defines the standards for health and safety in agricultural operations (NR 31) (starting in Q4/ 2013),*
2. *Provide credit lines for urgent repairs or implementation of safety measures (e.g. harnesses or protection, equipment, machinery and barns),*
3. *Establish improvement plans for workers’ housing if necessary (2014 crop),*
4. *Supply CPA storage boxes that are in compliance with the legal requirements (Ongoing)*
5. *Field technicians will provide PPEs (for GTS and CPA) for all family members and workers working on the tobacco fields (Q4 2013) and continue to provide advice to farmers on how to use PPE*

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<sup>21</sup> All field technicians who work at PMB have received training in the requirements set by Normative Resolution 31. When PMB contracted its field technicians in 2010, the majority already received this training; the 13 field technicians who had not received the training, did so in 2012 as part of an initiative of Sinditabaco.

*adequately and to disseminate Sinditabaco's information materials.*

6. *Field technicians will explain to farmers why it is important to use PPE, the problems it can prevent, and to use more effective communication materials, specifically for PPE and CPA. PMB will seek for expert assistance in developing more effective communications materials (Q4 2014).*

#### **4.6 ALP Code Principle 6: Freedom of association**

*'Farmers shall recognize and respect workers' rights to freedom of association and to bargain collectively.'*

##### ***Freedom of association: Background***

Regulations: The Federal Constitution in Brazil states that:

- o all are free to establish a professional or labor association (Article 5),
- o all have the right to negotiate collective agreements to improve their social conditions (Article 7),
- o no governmental organ has the right to interfere with labor union activities (Article 8), and
- o worker representatives should not be prevented from exercising their functions (Article 11).

Labor scarcity: Workers are generally in a strong position due to the scarcity of rural labor. Therefore, it is less likely that farmers would interfere with workers' right to freedom of association.

##### ***Freedom of association: Overall findings and challenges***

###### 4.6.1 Union affiliation

Although labor unions were present in the majority of the municipalities visited, none of the workers were member of any union. When asking the workers about their reasons for not being affiliated with a labor union, they declared they had no interest in such affiliation because they did not want to pay the required fees and the labor unions did not provide adequate support. Also none of the farmers were member of any farmers union. The only organization that they regarded positively was AFUBRA because it provides an insurance against hail and other environmental risks for tobacco crop.

##### ***Freedom of association: Risks***

###### 4.6.2 Third party labor brokers

Farmers lack insight into the recruitment practices of crew leaders and, therefore, do not take the responsibility that the right to freedom of association is respected.

### ***Freedom of association: Conclusion***

CU found that farmers and workers are well aware of the right to freedom of association and the existence and purpose of labor unions. However, workers generally reported dissatisfaction with the support provided by the labor unions, which may be why there was no labor union affiliation on the farms visited. This worker perception is perhaps supported by CU's finding that 60% of the labor unions in the municipalities of the farmers visited were promoting incorrect minimum salaries for rural workers of that State (Chapter 5.2.1).

### **4.7 ALP Code Principle 7: Compliance with the law**

*'Farmers shall comply with all laws of their country relating to employment.'*

#### ***Compliance with the law: Background***

Regulations: Articles 442 and 443 of the CLT determine that written employment contracts are not mandatory. However, as stated in Article 13 of the CLT, all workers, including temporary rural workers, should have their employment registered in their "carteira de trabalho"<sup>22</sup> and receive social security. The terms included in this document are:

- Type of employment (indefinite, definite, temporary, piece work)
- Start date of the employment
- Salary
- Work hours
- Function

Who should be registered: According to PMB, the main challenge is to determine whether temporary rural workers have an employment relation with a particular farmer as they typically work for short periods of time on several farms. To determine whether an employment relation exists, CU and PMB agreed to reference Articles 2 and 3 of the CLT. This law states that an employment relation exists in the following situations:

- workers work with a certain frequency or regularity at a farm (e.g. once or twice a week, or one or two weeks a year)
- a subordinate relationship exists between the farmer and the workers, and
- payment is involved.

As a consequence, in these situations, workers should have their employment registered and receive social security.

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<sup>22</sup> Carteira de Trabalho = Work Portfolio

## ***Compliance with the law: Overall findings and challenges***

### 4.7.1 Awareness of the law

None of the farmers visited who contracted workers had properly informed their workers of their legal rights and employment conditions. The majority of the farmers only informed workers about the daily wage they would earn, and some farmers informed the amount of work hours. 87% of the farmers visited who contracted workers and 80% of the workers interviewed, were unaware of the law regarding minimum salary, payment conditions, work hours, benefits, and employment contracts.

### 4.7.2 Worker registration and written contracts

None of the farmers visited who contracted workers registered the employment of workers with an employment relation in their “carteira de trabalho”. 76% of the farmers who contract workers and 85% of the workers interviewed were unaware of the legal requirement to do this, or believed that only permanent workers have this right. Several “partnership” contracts giving workers the responsibility to manage a small piece of land as an independent service provider were written contracts. However, none of these contracts established an employment relation between the farmer and the workers.

One farmer declared the risk associated with not registering the employment of workers in their “carteira de trabalho” is that workers can go to court and claim their salary and benefits retrospectively. This farmer’s previous seasonal worker had threatened him and his family that he would go to court after working and living on the farm the entire harvest and being paid monthly. From the perspective of the workers, the problem of working without registration is the lack of benefits, holidays, and leave to which they are entitled by law.

## ***Compliance with the law: Risks***

### 4.7.3 Third party labor brokers

17% of the farmers visited who contracted workers through a third party did not verify whether workers are informed of their rights and how to claim them.

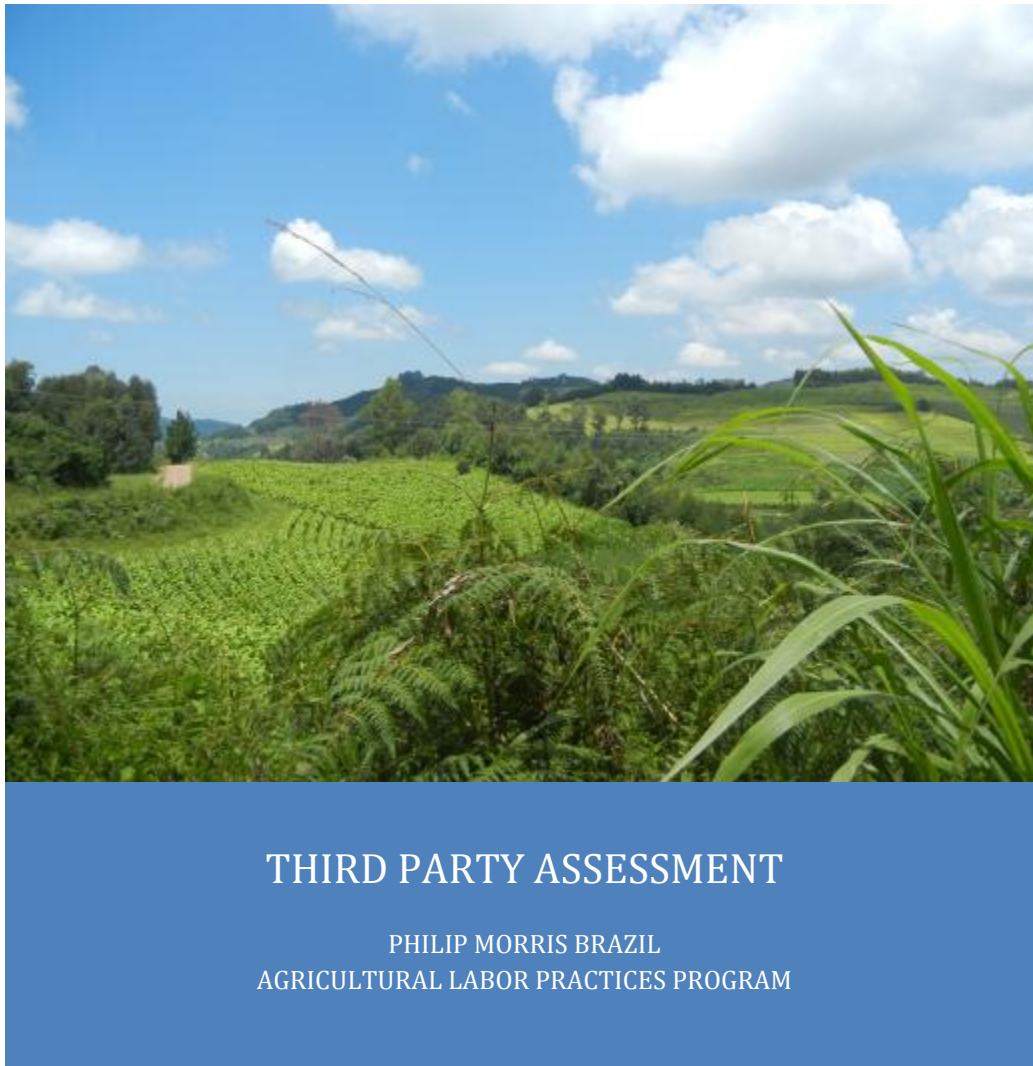
## ***Compliance with the law: Conclusion***

In Phase 1, communicating this ALP Code Principle was not a priority and PMB was assessed to have a poor understanding of this area. None of the farmers visited who contracted workers properly informed their workers of their legal rights and none of the farmers visited who had an employment relation with their workers registered the employment of their workers in the “carteira de trabalho”. The lack of awareness on legal rights, labor conditions, the legal requirement to register the employment of temporary workers in the “carteira de trabalho”, and the resistance among farmers to

register workers implies more than just communication efforts may be needed going forward.

PMB response: *“The following action plan applies to ALP Code Principle 2 as well as ALP Code Principle 7: PMB concluded that they need to encourage farmers’ entrepreneurial behavior, remind them of their obligations as employers under Brazilian law, and support them to uphold their obligations as business partners to PMB.”*

## 5. Control Union concluding remarks





CU notes that although PMB has been contracting farmers for only three years, many of the issues identified in the Control Union's report were already known by PMB field technicians and agronomy teams. CU notes that since beginning to source tobacco directly from farmers, PMB has made significant efforts to develop a relationship, support and improve conditions on each farm they buy from and to join industry wide initiatives.

During the closing meeting PMB's management personnel stated that they understood the feedback and were satisfied with the work done by CU. They declared that the results provided a clear and realistic picture of the current situation and a good starting point for implementing Phase 2 of the ALP Code roll-out. The Senior Management Team concluded that the next step would be to set priorities for improvements and evaluate which other organizations, such as labor unions and the Ministry of Labor, could be involved to help PMB to address the problems identified.

As part of the standard assessment process PMB provided CU with its response to the field assessment and findings on the current situation at farm level, together with its ALP Program action plan. These have been reviewed by CU for the preparation of this final report and excerpts have been incorporated throughout the report.

Since PMB was being assessed at this stage only for Phase 1 of the ALP Program, the response and Action Plan, which show in detail how PMB is preparing for Phase 2, which areas are targeted and considered a priority, as well as the planned approach are included in Appendix 2 below. As shown in the annex of the document, all planned actions are based on a three-step process: design, implementation and review.

Having reviewed PMB's response and ALP Program action plan, CU can confirm the company's positive approach to the assessment. Some activities had already been undertaken as a follow up to the assessment before the response was delivered to CU e.g. a study to establish what time allocations the field technicians would need to include ALP responsibilities alongside their other activities, further work on areas of the Code where knowledge was still limited, and reinforcement for field technicians to recognise 'Prompt Action' situations and standardize their responses.

The PMB plans themselves are comprehensive, built directly on the insights provided by CU's assessment, and show a constructive analysis of both the systemic and the less deep rooted types of challenges ahead to achieve the desired impact in critical areas such as child labor and safe work going forward.

PMB has set in process a wide-reaching and integrated set of actions, taking in the challenges articulated in the Control Union assessment. Significant progress is expected by PMB in most of these action areas. CU considers that this is feasible as PMB has a strong multi-disciplinary team in place, it is well organised and its ALP Program plans are supported by management.

## Appendices



### THIRD PARTY ASSESSMENT

PHILIP MORRIS BRAZIL  
AGRICULTURAL LABOR PRACTICES PROGRAM

## **Appendix 1. PMB response and ALP Program action plan 2013-2014**

### **Introduction**

PMB began to purchase tobacco directly from farmers in Brazil just three years ago. Since then PMB allocated significant resources to support farmers and improve the overall conditions of each farm PMB contracts with. The elimination of child labor and the improvement of labor practices have been an integral part of these efforts and the implementation of the PMI Agricultural Labor Practices (ALP) Program has added to the ongoing efforts clear standards, processes and an approach for making concrete improvements on farm conditions over time.

This third party assessment comes immediately after PMB's first steps in setting up the ALP Program (Phase 1), providing great insights into the areas of improvement and setting a baseline in terms of the labor practices' on farms, which will guide PMB's work into the full implementation of the ALP Program (Phase 2) on all farms.

PMB is comfortable with Control Union's positive appreciation of the internal work that has been done so far regarding the implementation of the first phase of the ALP Program and is conscious of the many challenges that lie ahead.

First we will discuss the assessment of PMB's work during the first phase of ALP and how this work can be improved. Secondly we will address the findings and the risks described in Control Union's report, reflecting what we perceive as being the main priorities and how to address them going forward.

Many of the issues found during the assessment are a reflection of the systemic problems small scale farming present and of the informal nature labor arrangements are made in rural Brazil. Farmers are independent entrepreneurs with deep-rooted cultural practices and it is beyond PMB's capabilities to change them overnight (PMB holds contracts with around 10% of Brazilian tobacco growers). Notwithstanding, we believe that the actions being proposed reflect PMB's strong commitment to take decisive action and to work with all relevant stakeholders in improving the current situation and achieving tangible, measurable impact over time.

For ease of reference we include an annex with a summary table of the planned action points, accountabilities, timeline for execution and assessment of the results. The actions proposed always encompass a three-step process: Design, Implementation and Review. They will be periodically assessed and expanded or redefined according to their effectiveness.

### **Philip Morris Brasil (PMB) progress with the ALP Program implementation**

Overall we believe that Control Union's assessment of PMB's work during the first phase of ALP was extremely positive. As Control Union highlights: "PMB had a strong internal structure for the implementation of the ALP Program; clear lines of communication were set between the employees involved; collaboration between the ALP Country Team and the Tobacco Production Team was effective; the required departments such as Operations, Legal, and Corporate Affairs were represented; and the Senior Management Team was actively involved". We believe putting this

structure in place was key for meeting the ALP phase one objectives in terms of training, communication and collecting information at farm level, as it is also acknowledged in the report. However, there are areas for improvement as follow:

- **Personnel awareness and understanding of the practical situations that might configure forced labor and the standards of the ALP Code Principles dealing with compliance with the law.**

Control Union acknowledged PMB's ALP Country Team commitment and the many training sessions conducted in 2011 and 2012 for all the relevant personnel. Notwithstanding, Control Union also points out the need to improve personnel's knowledge and understanding of some of the ALP Code Principles, namely the ones dealing with forced labor and compliance with the law.

During the Phase 2 workshop in March 2013, Philip Morris Brazil's ALP Country Team focused these ALP Code Principles with representatives from PMI Operations Center and Verité, clarifying areas of knowledge that needs to be improved (e.g. connection between different types of sharecropping arrangements, hiring through crew leaders and risk of potential forced labor situations) and defining the best way to deploy this knowledge to the field technicians. As an outcome of these discussions, the Country Team will develop a list of practical examples that can highlight potential risks relevant to the daily work of field technicians. Also, PMB's Law Department has prepared guidelines and trained field technicians on legal obligations under the scope of the ALP code standards dealing with Compliance with the Law. Information material to support field technicians understanding will be prepared and distributed by Q4 2013.

In the context of the rollout of the second phase of the ALP Program, the Country Team delivered specific training on topics related to the ALP Code Principles of Forced Labor and Compliance with the Law to all field technicians and their supervisors, covering the different tobacco growing regions during mid-2013. Also, during the crop season, from August to December, at staff meeting's participation, the field technicians will be asked to present and discuss specific practical examples every two months, which can illustrate the points of concern and how they can be addressed (starting Q3 2013).

- **Field technicians' time allocation to the ALP Program**

Through interviews with the field team, Control Union concluded that field technicians do not have sufficient time to communicate the ALP Code properly during their regular visits to the farmers. Additionally, the Country Team also perceives that time constraints could be a challenge going forward as field technicians begin the second phase of the ALP Program, systematically monitoring and addressing issues on each farm.

PMB conducted an internal study to assess whether and to what extent adjustments were needed for field technicians, to allocate the necessary time to execute all the expected ALP Program activities, together with all the other tasks within their job's scope. This study containing a recommendation of ideal arrangements of work load per growing region was already submitted to PMB's senior management team and it was implemented in Q3 2013.

- **Communications materials used during Phase 1**

Control Union reported that communication materials distributed to farmers during 2012 did not have the “ALP” acronym on it and therefore farmers did not properly recognize PMB’s initiatives as being related to ALP Program. The Country Team also identified as a point of improvement after the roll out of the ALP Code communication, namely the need for setting up a “brand” that farmers could easily recognize and that could framework farm improvement plans required under the ALP program.

Starting in this 2013 season, the “ALP” logo has been used in all the new communications materials to be provided to farmers.

- **Farmers understanding of the ALP Code**

Control Union concluded that PMB’s communication efforts on child labor and safe working conditions were effective in building a high awareness on these two topics. However, these high awareness levels did not fully translate into practical terms and PMB will carefully consider on the implementation of the second phase of the ALP Program. The country team will revisit communication strategies to promote behavior change, in the context of the specific initiatives under the ALP Code Principles Child Labor and Safe Working Environment. Also, there’s the need to improve the farmer’s knowledge and understanding of the ALP Code’s standards of all the other ALP Code Principles.

PMB will develop new tools and communication materials to reinforce equally the importance of all ALP Code Principles as was done for Child Labor and Safe Working Conditions during 2012. In order to support farmers to improve their understanding of the ALP Code, the country team will also reinforce the training of field technicians. Training sessions were conducted during the rollout of the second phase of the ALP Program (July and August 2013), more practical exercises were shared connecting farm practices and the ALP Code measurable standards as well as regular staff meetings (every two months) with real cases related to each ALP Code Principle provided. The country team is also implementing a regular quiz testing during training sessions to keep track of knowledge improvements and identify areas of focus. Through Sinditabaco (tobacco companies association) PMB continues to support an annual awareness campaign in local media to promote farmers awareness on two of the ALP Code Principles in the ALP Code, Child Labor and Safe Working Conditions, started in July 2013. Also, PMB’s Corporate Affairs will reach out to local labor unions for support and active involvement in the process of improving farmer’s awareness about the ALP Program and farmers obligations regarding workers on their farms.

- **Farm profile data collection**

Considering the number of contracted farmers and the fact that all the data had to be input manually in an ALP database, completion of 100% of the Farm Profiles during 2012 was a great logistic effort, as verified by Control Union. PMB acknowledges that the process was prone to errors and not very time efficient. Moreover, field technicians need to better understand the purpose of this information so they can make a critical judgment of the information being provided by the farmer and not record information known as not accurate.

PMB developed an electronic Farm Profile form which allows the collection of data directly into a database (work completed in June 2013) and field technicians were trained on the process of collecting the Farm Profile (July and August 2013).

Farm Profiles will be incorporated in PMI's new information system called Green Leaf System – (GLS), which among other benefits will aggregate all information collected at farm level. Implementation of this new system is expected to begin within the 2014 /2015 crop.

- **Prompt Action Situations**

Situations that demand immediate action due their highly potential risk for the people involved are deemed Prompt Action. If one of the three following situation are identified - \* workers' physical or mental well-being might be at risk; \*\* children or a vulnerable group like pregnant women or old people are in danger; \*\*\* workers might not be free to leave their job; - a Prompt Action protocol must be initiated. When PMB's field technicians observed a situation in the farm that fits into a category of Prompt Action, they are required to immediately use a Prompt Action Form to describe the situation observed, the action taken to address the issue and the accomplishment resulted from the instruction given to the farmer.

- **Creating positive incentives for field technicians**

In addition to the immediate guidance provided initially, as of April 2013 all “Prompt Action” situations reported, the country team to follow-up each case with formal letters to the field technicians (copying by email their supervisors) highlighting the steps to address the issue reported and commending the field technician for the report.

PMB believes it is important to continue to reinforce the notion that field technicians have nothing to fear regarding the amount of issues they flag, on the contrary, the company expects them to be transparent about the situations found in farms, setting clear management and appraisal objectives (Q4 2013). Bearing in mind that the field technicians too are members of the community and for many times they establish personal relations with farmers, it is important to clarify any potential fear about what might happen to the farmer supervised by them and to provide positive examples of the company's commitment to help the farmer's improvement.

- **Promoting a better understanding of Prompt Action situations and how to address them**

Starting in Q3 2013, the area managers will promote regular discussions with their field technicians to analyze the “Prompt Actions” being reported. Representatives of the Country Team will support field teams to clarify doubts and help them address the issues that will inevitably come up from the situations found. PMB will also promote the regular sharing of information about “Prompt Actions” reported between the teams in the different tobacco growing areas.

Also, the list of Prompt Action situations created by the Country Team and the “Prompt Action” reporting process will be further highlighted in the next season's preparation training (July-August 2013). This coming season's training will be particularly focused on the field technician's monitoring process as PMB will move into the second phase of the ALP Program. We expect to reinforce field technician's ability to identify “Prompt Actions” and we believe the introduction of the new Farm Monitoring Form for the ALP phase two will corroborate the reporting process. We are preparing for a high degree of effort around “Prompt Actions” and the systematic follow up as we believe it is a strong priority to act on all

urgent problems found on farms (within the definition of Prompt Action); and we aim to work with farmers directly to help them make their farms safe for all who live and work on them.

## Assessment of the current situation at farm level

PMB understands that the findings and risks highlighted in Control Union's report are not comments on PMB's work in the full implementation of the ALP Program, but rather an assessment of the current situation at farm level, meaning the report serves as a reference point for the ALP work going forward. We believe the report provides valuable insights into the main issues faced at farm level and proposals to address them are as follows:

- **Child Labor**

As acknowledged in Control Union's report, "PMB is aware of the existence of child labor in the Brazilian tobacco sector and has taken several steps to address this issue, such as prioritizing child labor in the communication with farmers, participating in the projects "Cartilha do Sinditabaco /AFUBRA" and "Projeto Crescer Legal", and by working together with an NGO (CDI) to develop projects of digital inclusion to farmer's children. Indeed, PMB's programs to tackle child labor in tobacco growing communities pre-date the agreement with the Labor Public Prosecutor signed in December 2012, the introduction of the ALP Program in the 2011/2012 crop season, and even the start of support for production and contracting directly with farmers three years ago. During 2012 PMB communicated the ALP Code Principle of "no child labor" to all contracted farmers, distributed educational materials to all farmers, monitored school attendance of farmer's children, provided educational seminars for farmers, and promoted media campaigns to raise farmers' awareness about the issues of child labor. In addition to the ALP training, PMB's field technicians attended a specific three-day training session, promoted by Sinditabaco and Positivo University, to build their skills and ability to be convincing in their approaches to farmers on use of child labor on their farms.

All this notwithstanding, PMB is fully aware that child labor remains a challenge in rural areas in Brazil, as stated by the Brazilian coordinator of the Child Labor Eradication Committee<sup>23</sup>, and tobacco is no exception. The findings in Control Union's report reinforce this notion and the importance of continuing to tackle this issue as a matter of priority, but they also provide insights into the nature of the problems on tobacco farms and specific areas of focus as described below.

- **Focus on children doing hazardous tasks**

From the report's findings it is clear that the main issue regarding PMB's contracted farms lies on children working with their parents on family farm. The majority of the farmers interviewed stated that they "do not agree with the minimum working age of 18 years old" (reasons are highlighted in the Control Union's report) and the cultural perception of farmers regarding minimum working age is an ongoing challenge for PMB to overcome.

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<http://www.trt4.jus.br/portal/portal/trt4/comunicacao/noticia/info/NoticiaWindow?action=2&destaque=false&cod=746059>

Indeed in 28 of the 29 cases identified in the report, children were helping their parents after school.

However in some cases children were doing activities that present specific risks for them, the report points out that the majority of the farmers and workers seem to lack a good understanding of safety hazards on the farm. These findings suggest an increased risk of hazardous child labor which will be tackled as a matter of priority in PMB's plans going forward.

- **The role of field technicians**

As PMB moves into the second phase of the ALP Program, PMB's field technicians will play a key role in monitoring and tackling the potential involvement of children executing dangerous work. PMB will arrange that field technicians have enough time in their regular farm visits to monitor and discuss labor practices on the farm. Over the next season, PMB's field technicians will start by helping farmers to make a basic assessment of the safety hazards on the farm including identifying the type of activities that pose particular risks for them and their children and why (e.g. harvesting, loading barns handling and applying CPA, etc.). For that, specific training will be required and PMB will involve the internal Environment, Health, Safety & Security experts in developing specific materials to build field technician's capacity to conduct this exercise with farmers (Q4 2013- Q3/2014).

PMB's field technicians will continue to convey that children shall not work on tobacco and will focus their efforts on correcting any situation identified as in no conformity with the law. Every situation identified will be reported to PMB by the field technicians and will have a specific follow-up. PMB's response will vary according to the nature and severity of the situation; it will range from formally notifying the farmer (reminding him of his legal obligations) to requiring the farmer to undergo trainings and even to non-renewal of the contract in the most serious circumstances. In every instance, farms where issues were identified will be monitored more closely to ensure situation is being remediated.

PMB will continue to support industries' initiatives under the scope of the agreement with the Labor Public Prosecutor, namely supporting Sinditabaco's seminars for the community, media campaigns and the dissemination of the educational materials<sup>24</sup> among our farmer base. All this notwithstanding, given the farmers perception on Brazilian's law, we believe the key for the success of the field technicians' work is through building the farmers' detailed understanding about why tobacco related work can be dangerous for their children. In this sense, PMB's field technicians will monitor and take specific actions to remedy every situation identified, with the broader objective of

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<sup>24</sup> PMB, through Sinditabaco, is committed: (i) To organize or subsidize talks and courses on the rights of children and adolescents and occupational health and safety standards three times annually from 2013 to 2015 and twice annually from 2016, with at least 200 growers at each event; (ii) During the period between transplanting tobacco shoots into the field and the tobacco harvest, between July and December of each year, run tobacco grower awareness campaigns on the importance of using individual protection equipment and correctly applying pesticides, as well as the ban on child labor, using two radio and two TV broadcasters with the biggest audience in the regions comprising the 10 biggest tobacco farming regions in the State of Rio Grande do Sul, with a total duration of 5 minutes on TV and 10 minutes on the radio, every week, as well as newspaper ads in the publications with the biggest circulation among tobacco growers in the same region, with identical content and covering at least 1/4 page.



enhancing the farmer's understanding on practices to empower them to make the right decisions for their children.

- **Additional risks**

The Control Union's report also highlights the risk presented by the exchange of labor between farmers, namely when farmers go to work on their neighbor's and bring their children along. PMB will also monitor this practice and in the field technicians' communications to farmers and educational materials will include a specific mention to raise farmers' awareness and ensure that only adults are involved in this type of labor exchange. Another risk flagged in the Control Union's report is the farmer's lack of age verification when hiring workers, which PMB sees as a concern mainly when the farmer is contracting workers through a third party (found on 17% of the farms visited) and there is little or no contact between the farmer and the workers. Particularly in these cases, PMB will require farmers to engage directly with the workers that are brought onto the farm and check their identification documents. This practice of hiring workers through a third party brings other risks that will be further discussed below together with PMB's initiatives to address those risks.

- **School attendance**

Even if in almost all instances identified in the Control Union's report children were attending school, PMB considers that school absenteeism, particularly during the peak harvest season, is also a risk that needs to be closely monitored. PMB will continue to collect the school attendance records of the contracted farmers' children and will increase the monitoring on the farms where children have an historical record showing problems with school attendance in the previous year. Each field technician will be responsible for mapping the contact point in the educational institutions located in the geographic areas he supervises, in order to narrowly monitor and understand the reasons for school absence and how to address them. At the end of each crop season, the Country Team will reevaluate this plan in order to make any necessary adjustments (starting in Q4 2013).

- **Credit lines**

The Control Union's report also mentions labor scarcity and farmers ability to contract workers as a potential problem. Over the next season PMB will extend its existing credit lines to ensure that farmers have the necessary cash-flow to hire adult workers, not having to rely on their own children. To guarantee that expansion of these existing lines of credit has the desired effect on hiring and child labor prevention, field technicians will monitor these farmers through the Monitoring Form to measure the impact.

- **Preventing child labor with community initiatives**

It is clear from the Control Union's report that there are two particular moments of risk: when children return home from school and during summer time school vacation breaks. PMB will continue to support programs that can mitigate this risk by promoting extra-curricular school activities and further learning opportunities for children of tobacco farmers contracting with PMB:

- (i) developing digital and computer skills classes in twelve schools in the surrounding area of its buying stations in Rio Grande do Sul and Santa Catarina States, through a

NGO called CDI (Committee for Democratization of Computing). This program is ongoing and will be expanded in 2013 and 2014 to benefit children from approximately 1300 tobacco farming families located in regions where PMB has contracted growers.

- (ii) assessing SENAR's (Rural National Apprenticeship Services) availability to promote short term computer courses through in the municipality of each tobacco growing region (During 2013 and 2014);

Many tobacco farmers perceive the legal limitation for their children to provide help on the farm as being at odds with the family's interest in the long term because it does not allow their children to prepare for the future which many still see as being connected with their land and the potential economic opportunities it provides. This is part of the ongoing challenge PMB faces in terms of changing the mindset in these rural communities. This challenge can only be fully addressed in the long-term with better educated farmers and a more sophisticated farm base. To this end PMB will continue to support tobacco growing families by providing grants for their children to attend an agriculture technical school called "Escola da Família Agrícola (Rural Family School)" located in Santa Cruz do Sul, state of Rio Grande do Sul. During 2013 PMB will award 42 scholarships to PMB farmers' children.

- **Income and work hours / Fair treatment / Forced labor / Compliance with the law**

According to Control Union's assessment, workers were being paid above the local minimum wage, and in any case always above the national minimum wage. There was no situation that suggested any form of discrimination, physical, sexual or verbal abuse, nor any potential situation of forced labor.

Notwithstanding, several issues were raised in connection with the standards under these ALP Code Principles and we analyze them here jointly to show our proposed actions, given the significant overlaps in terms of dealing with the potential risks.

- **Payment and farmers obligations under the law**

Whilst the overall scarcity of rural workers is a reality and a matter of concern for farmers, also pointed out by Control Union, it creates a dynamics where workers have a greater bargaining power. This might help to explain why, despite farmers and workers general lack of awareness about the minimum salary for rural workers defined by the States, there was only one verified case where the farmer was paying the national minimum salary rather than the State's rural minimum wage (which would be higher). Somewhat surprising was also the fact that among the labor unions in the municipalities there seemed to be also different levels of understanding about the applicable minimum salary.

This shows to PMB a concrete focus area, namely the need to raise awareness among farmers and workers regarding the minimum labor rates defined by law. In fact, this is also true for a number of other aspects that have to do with obligations under the law, where farmers' lack of awareness is also raised in the report as a risk area. Even with this reality today, with small scale family farms in Brazil, PMB believes it is important to stimulate farmers' entrepreneurial behavior, reminding them of their obligations as

employers under Brazilian law and supporting them to uphold their obligations as business partners to PMB. This should be done both directly and by working with relevant stakeholders. Specifically, PMB's Law Department trained Field Technicians to provide information to farmers on key, straightforward aspects of their obligations towards workers, e.g. basic employment conditions that need to be agreed upfront, applicable minimum salary, working hours, legal requirements for overtime, benefits for permanent workers and will support development of reference materials by sector associations (Sinditabaco /AFUBRA), labor unions and the relevant authorities, to support this effort and improve farmers' and workers' overall understanding of their legal rights and obligations (Q4/2013).

- **Working hours, payment and demonstration of actual practices**

Another common theme raised by Control Union's report was farmers' ability to demonstrate their practices regarding payment and hours worked. Further, the report also points out that the majority of the farmers did not respect the limit of eight regular hours per day, this happens during the peak harvest season reflecting the great seasonality of work on a small family farm, and that in every circumstance there was an agreement beforehand with the workers, and no evidence of involuntary overtime.

A good starting point both for PMB to develop a better understanding of the actual situation and also to help farmers become better organized and able to demonstrate their practices, is to provide farmers with simple, basic tools for them to record payments and the number of hours worked. As such the Country Team will develop and distribute template models for pay slips and timesheets to the farmers so they can use them with the workers on their farm (Q4/2013).

- **Farmers and workers - informal arrangements: minimum conditions and obligations under the law**

With regards to the regularity of payment, an issue was identified only for situations where a profit sharing or a sharecropping between farmers and workers was agreed. Although such risks situations can raise further considerations, we have to consider that the farm sample was purposefully skewed towards farms with workers to give PMB's a better understanding of potential issues.

The Control Union's report suggests there are some different practices, also confirmed by interviews with PMB's field technicians, which may be real sharecropping agreements or a "labor relation in disguise". These will need to be mapped out and better understood so they can be appropriately tackled case by case (Q1 2014). PMB does not rule out the possibility that some of the profit sharing agreements between farmers and workers can be driven by farmer's cash flow limitations and therefore will also extend its credit line for farmers to these situations; where farmers don't have enough cash flow to provide for the regular payment of their worker's wages (starting in Q4 2013). In any case, PMB will aim to establish contract agreements directly with the sharecropper to reduce the risks of indirect or inequitable arrangements more generally.

Another specific issue which is sometimes connected with these profit sharing or sharecropping agreements is the non-payment of benefits, holidays and leave to workers. Control Union acknowledges in the report that observing these standards is not common on small scale farms. Most of the time there is no labor relation and therefore

such obligations do not exist, while in other cases the labor relation is not evident (as might be the case in profit sharing agreements) or at least not perceived as such by both farmers and workers, who have their own traditional arrangements, adapted to the practical reality (e.g. occasional nature of the work on a small farm, sharing of land for own produce, etc.). This is a complex issue and it is being addressed by the Ministry of Labor with the associations representing the tobacco sector (Sinditabaco and Farmers' Unions) who are mapping out all the implications of changing current practices, namely the registration of sharecroppers as employees. PMB will closely monitor any potential developments and will incorporate recommendations as appropriate.

- **Use of third party brokers**

Another practice that raises concern is farmers' use of third party brokers to bring workers onto the farm, which happens during the busy periods of the season. While this practice is limited to few tobacco growing areas and only to a small number of farms, the farmers' lack of visibility into the brokers' relation with his workers (e.g. in terms of actual payment) is of concern to PMB. As acknowledged in Control Union's report there is scarcity of labor in some tobacco growing areas. In those areas close to urban centers where labor is available, workers from urban areas can go and work on the farms during peak season. This practice of using brokers tends to happen in the vicinity of the bigger urban areas (not mentioned in the Control Union's report, this is PMB's overall understanding). Although brokers are simply responding to a market need, this practice raises concern because there is lack of transparency in the process - farmers normally do not pay the workers directly and have little or no contact with these workers, meaning they do not know whether there are issues with the way workers are being treated.

A first but necessary step to address the concerns raised by this practice is to encourage farmers to reach out and have regular contact with the workers that are brought onto their farms by a third party. Currently this contact does not happen and PMB's field technicians could help by:

- 1) Sensitizing farmers about the potential issues that unscrupulous brokers could create;
- 2) Raising farmers' awareness about the potential risks and liabilities they would face if workers were being victims of abuse;
- 3) Orientate farmers to start paying the workers directly themselves (as required in the ALP Code), or at a minimum to ask brokers for more accountability and for a more transparent process, e.g. providing credible proof of what they are paying to the workers through pay slips (Q4 2013).

- **Bring transparency and accountability to the process**

Third party brokers operate in a totally informal system and even if the payment practices are changed, this does not fully addresses all the concerns. Acknowledging, the potentially important economic role that these brokers can play - both for farmers and for workers looking for a job - PMB will also reach out to the relevant stakeholders in the sector (brokers, farmers organizations, unions, other companies and local authorities) to discuss the best approach to formalize the brokers' role and practices or at least to create minimal standards which can provide some level of confidence (Q3 2013).

- **Support line mechanism**

An operational support line mechanism can be an effective way of address or at least minimize the concerns raised during the assessment, and its availability at farm level is a requirement of the ALP Code. As such, the Country Team will develop a pilot program with FETAG (Rural Workers Union of Rio Grande do Sul) in a relevant tobacco municipality (Q4 2013). PMB will monitor and assess the results of this pilot, in terms of efficacy and design, before expanding it to other areas.

- **Safe working environment**

PMB is generally aware of the poor safety conditions on tobacco farms and particularly during these last three years the vertical integrated PMB has made significant efforts to improve the situation, as acknowledged in Control Unions' report. However, many concerns remain and the report raises significant issues that require particular attention.

- **Improve farmer's adoption of general safety standards**

None of the farms visited met all the basic requirements, mainly due to lack of awareness about the general safety standards. In addition farmers were failing with simple things such as protection for working at heights, proper Crop Protection Agents (CPA) storage or Personal Protective Equipment (PPE) use, both provided by PMB. The general awareness about safety standards is a matter of particular concern with regards to children, and will be addressed specifically as describe under "child labor". Control Union's findings suggest that PMB's communication efforts (which are in line with those of the industry and with the Labor Public Prosecutors agreement) per se are not sufficient to drive the necessary behavior change, so new and additional approaches are necessary to change farmers mindset. The report suggests that specialized training by an external entity can be an effective complement to PMB's current efforts. Therefore, this year (starting in Q4/ 2013) PMB will foster farmer participation on a specialized training program providing financial support for the official regulation training that defines the standards for health and safety in agricultural operations (NR 31) which will be held by the National Rural Apprenticeship Service (SENAR). For 2013 crop, PMB's expectation is to have each of PMB's Field Technician organizing at least one training session with a group of farmers under their supervision. The farmers selected and encouraged to attend these training sessions by the technicians will all be:

- a) volunteers and,
- b) farmers which have experienced or have challenges with their practices and infrastructure.

- **Help farmers assess hazards and support for concrete improvements**

In parallel with having field technicians helping farmers assess dangers and risks on their farms (supported by PMB's internal health and safety experts – as describe under "child labor"), PMB will also provide credit lines for urgent repairs or implementation of safety measures (e.g. harnesses or protection, equipment, machinery and barns). Typically only a small number of workers live on the farms but Control Union's report mentions that when housing is provided, a significant number was found to be inadequate. The specific situation of each farm with regards to the status of worker's housing will also be

determined as part of the risk assessment process, so that an improvement plan can be agreed with the farmer on a case by case basis (2014 crop).

- **Specific Crop Protection Agents (CPA) and Green Tobacco Sickness issues (GTS)**

PMB will continue to supply CPA storage lockers that are in line with best practices, to ensure that over the next two years all contracted farmers are meeting the requirements of the ALP Code. PMB field technicians will provide PPEs (for GTS and CPA) for all family members and workers working on the tobacco fields (Q4 2013). PMB field technicians will also continue to provide advice to farmers on how to use PPE adequately and will continue to disseminate Sinditabaco's information materials, in line with the agreement signed with the Labor Public Prosecutor.

However, the issue reported by Control Union's is not about the awareness of the requirement to use PPE when harvesting, or applying CPA (100% of the farmers knew about these requirements), but that this knowledge is not translating into behavior change. In this regard, further to the SENAR training mentioned above, a key aspect to change the current attitudes will be to focus PMB's field technicians discussions with farmers on why it is important to use PPE, the problems it can prevent, and to use more effective communication materials, specifically for PPE and CPA. We will seek for expert assistance in developing more effective communications materials (Q4 2014).

## Concluding Remarks

It is important to highlight that PMB has been contracting farmers for only three years now and although recent, it has constantly promoted better practices regarding agricultural activities in its vertically integrated farms.

There are several challenges to be faced not only by PMB, but also by all other integrated tobacco companies, in the path of educating farmers to reach the ideal farm standard in both economic and cultural aspects. In these terms, the improvements to be achieved in farming practices are especially relevant if compared to the number of farmers PMB currently contracts, with a total of 15,662 farms (crop 2013) with their own individual realities and demands.

PMB has already set in process a wide-reaching and integrated set of actions to address and reduce or eliminate many of the issues identified in the Control Union's report or already known by our own field technicians and agronomy teams. Significant progress is expected in most of the action areas, and PMB hopes to make important steps and learn from own experiences and those of others about some of the challenges, which often involve promoting education, change in practices and attitudes rather than the provision of something physical such as making equipment available or accessible.

PMB's Country Team is formed by a multidepartment group from Legal, Leaf and Corporate affairs, allowing proper background to respond to challenges and according to Control Union's report, is well organized and supported by senior management to promote the necessary actions. The following action plan is originated from Control Union assessment analysis and from PMB's previous commitment to a safe and fair rural community through its programs.

## Appendix 2. The ALP Code

### ALP Code Principle 1: Child labor

*There shall be no child labor.*

Measurable Standards:

- 1) There is no employment or recruitment of child labor. The minimum age for admission to work is not less than the age for the completion of compulsory schooling and, in any case, is not less than 15 years or the minimum age provided by the country's laws, whichever affords greater protection.<sup>25</sup>
- 2) No person below 18 is involved in any type of hazardous work.
- 3) In the case of family farms, a child may only help on his or her family's farm provided that the work is light work and the child is between 13 and 15<sup>26</sup> years or above the minimum age for light work as defined by the country's laws, whichever affords greater protection.

### ALP Code Principle 2: Income and work hours

*Income earned during a pay period or growing season shall always be enough to meet workers' basic needs and shall be of a sufficient level to enable the generation of discretionary income. Workers shall not work excessive or illegal work hours.*

Measurable Standards:

- 1) Wages of all workers (including for temporary, piece rate, seasonal, and migrant workers) meet, at a minimum, national legal standards or agricultural benchmark standards.
- 2) Wages of all workers are paid regularly, at a minimum, in accordance with the country's laws.

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<sup>25</sup> As an exception, pursuant to ILO Convention 138, developing countries may under certain circumstances specify a minimum age of 14 years.

<sup>26</sup> The same ILO convention 138 allows developing countries to substitute "between the ages 12 and 14 in place of "between the ages 13 and 15".

- 3) Work hours are in compliance with the country's laws. Excluding overtime, work hours do not exceed, on a regular basis, 48 hours per week.
- 4) Overtime work hours are voluntary.
- 5) Overtime wages are paid at a premium as required by the country's laws or by any applicable collective agreement.
- 6) All workers are provided with the benefits, holidays, and leave to which they are entitled by the country's laws.

**ALP Code Principle 3: Fair treatment**

*Farmers shall ensure fair treatment of workers. There shall be no harassment, discrimination, physical or mental punishment, or any other forms of abuse.*

Measurable Standards:

- 1) There is no physical abuse, threat of physical abuse, or physical contact with the intent to injure or intimidate.
- 2) There is no sexual abuse or harassment.
- 3) There is no verbal abuse or harassment.
- 4) There is no discrimination on the basis of race, color, caste, gender, religion, political affiliation, union membership, status as a worker representative, ethnicity, pregnancy, social origin, disability, sexual orientation, citizenship, or nationality.
- 5) Workers have access to a fair, transparent and anonymous grievance mechanism.



**ALP Code Principle 4: Forced labor**

*All farm labor must be voluntary. There shall be no forced labor.*

Measurable Standards:

- 1) Workers do not work under bond, debt or threat and must receive wages directly from the employer.
- 2) Workers are free to leave their employment at any time with reasonable notice.
- 3) Workers are not required to make financial deposits with employers.
- 4) Wages or income from crops and work done are not withheld beyond the legal and agreed payment conditions.
- 5) Farmers do not retain the original identity documents of any worker.
- 6) The farmer does not employ prison or compulsory labor.

**ALP Code Principle 5: Safe work environment**

*Farmers shall provide a safe work environment to prevent accidents and injury and to minimize health risks. Accommodation, where provided, shall be clean, safe and meet the basic needs of the workers.*

Measurable Standards:

- 1) The farmer provides a safe and sanitary working environment, and takes all reasonable measures to prevent accidents, injury and exposure to health risks.
- 2) No worker is permitted to top or harvest tobacco, or to load barns unless they have been trained on avoidance of green tobacco sickness.
- 3) No worker is permitted to use, handle or apply crop protection agents (CPA) or other hazardous substances such as fertilizers, without having first received adequate training and without using the required personal protection

equipment. Persons under the age of 18, pregnant women, and nursing mothers must not handle or apply CPA.

- 4) Workers do not enter a field where CPA have been applied unless and until it is safe to do so.
- 5) Workers have access to clean drinking and washing water close to where they work and live.
- 6) Accommodation, where provided, is clean, safe, meets the basic needs of workers, and conforms to the country's laws.

#### **ALP Code Principle 6: Freedom of association**

*Farmers shall recognize and respect workers' rights to freedom of association and to bargain collectively.*

Measurable Standards:

- 1) The farmer does not interfere with workers' right to freedom of association.
- 2) Workers are free to join or form organizations and unions of their own choosing and to bargain collectively.
- 3) Worker representatives are not discriminated against and have access to carry out their representative functions in the workplace.

#### **ALP Code Principle 7: Compliance with the law**

*Farmers shall comply with all laws of their country relating to employment.*

Measurable Standards:

- 1) All workers are informed of their legal rights and the conditions of their employment when they start to work.

- 2) Farmers and workers have entered into written employment contracts when required by a country's laws and workers receive a copy of the contract.
- 3) Terms and conditions of employment contracts do not contravene the country's laws.