

A person is seen from behind, walking through a vast field of tobacco plants. They are carrying a large basket or tray. The field is filled with rows of young tobacco plants. In the background, there is a dense line of trees under a bright, hazy sky. The entire image has a green color overlay.

SMOKESCREENS IN THE SUPPLY CHAIN

The impacts of the tobacco industry on human rights
and the environment in Bangladesh

Report #81

**SWED
WATCH**

Swedwatch is a religiously and politically independent organization that examines Swedish companies' business operations abroad. The organization's purpose is to reduce adverse social and environmental impacts, encourage best practice, share knowledge and hold an open dialogue with Swedish companies so that the business community pays greater attention to these issues. Swedwatch has six member organizations: The Church of Sweden, Diakonia, the Swedish Society for Nature Conservation, Fair Action, Solidarity Sweden-Latin America and Africa Groups of Sweden. This report, which can be downloaded at www.swedwatch.org, is authored by Swedwatch. The Church of Sweden stands behind the report and has participated in developing its recommendations.



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Smokescreens in the supply chain **- this report in a nutshell**

Tobacco cultivation for the global tobacco industry is wrought by environmental problems and human rights concerns against millions of farmers, labourers, and their family members in developing countries.

This study found that BAT's contracts with tobacco farmers across Bangladesh are flawed and unfair. Child labour is widespread, the tobacco work impacts on children's and adults' health and wellbeing, and unique forests located in the vicinity of the tobacco fields are being degraded.

The report recommends BAT and other tobacco companies to remove the 'smoke screens' over their supply chains by publishing impact assessments and 3rd party audits, and to take immediate action to protect people and the environment.

Executive summary

This report offers an in-depth study into the global tobacco industry's impacts on human rights and the environment, and presents a case study from cultivation areas across Bangladesh. Findings include adverse impacts on farmers, their families, on valuable natural forest resources, and on communities living adjacent to tobacco leaf operations run by one of the United Kingdom's largest companies, British American Tobacco plc. (BAT).

BAT and other multinational tobacco companies are expanding their tobacco leaf operations in developing countries under the same conditions that underpin the sector's links to human rights challenges and environmental degradation. The purpose of this report is to support and stimulate constructive dialogue on how tobacco companies can improve their sustainability and human rights work across global supply chains in order to protect people and the environment. Recommendations are aimed at tobacco companies, their investors, for politicians and decision-makers in the areas of trade and sustainable development, development cooperation, and public health, and also for tobacco consumers.

For vulnerable BAT contract farmers, tobacco cultivation is uncertain: on the one hand it carries high investment costs and risks, and on the other hand there exists the potential of gaining high profits. Swedwatch's analysis shows that BAT – through the use of flawed contract formats and uncertain promises – contributes to over indebtedness that traps many farmers in a cycle of poverty. Because of their difficulty in settling loans and interest payments, many farmers in reality end up in a situation of dependency on BAT which Swedwatch considers raises the risk of the farmers being in a situation equivalent to that of bonded labour.¹

In Bandarban district, part of the closed and militarised Chittagong Hill Tracts region, BAT initiated its first test plantations in the midst of an on-going armed conflict in the 1980s. As part of the Government of Bangladesh's (GoB) counterinsurgency, indigenous people were forcibly removed from their land, which was redistributed to 400,000 Bengali settlers by the government.² In spite of Bandarban's salient human rights risks, high poverty levels, and large groups of disadvantaged indigenous peoples and internally displaced persons, BAT has never conducted a human rights risk assessment in consultation with farmers and community members. In communication with Swedwatch, with reference to its Bangladeshi operations, BAT's Head of Sustainability and Reputation Management stated that, globally, 'BAT does not consider any particular tobacco-growing location to be of higher risk than another.'³

Swedwatch findings indicate that the following areas require urgent attention:

- In contrast to BAT's assurance that there have been zero reported incidences of child labour across its Bangladeshi supply chain, Swedwatch's study shows that child labour is widespread in BAT's tobacco fields. Both farmers' and labourers' children are working long hours in cultivation and leaf processing. This keeps many of them out of school.
- Work hazards in tobacco farming include nicotine absorption through the skin during harvesting, and exposure to pesticides without protective equipment. Negative effects of tobacco work on children's and adults' health and wellbeing are critical and widespread.
- BAT's inability to control farmers' sourcing of wood from natural forests for curing tobacco leaves in purpose-built kilns, contributes to deforestation and degradation of unique biodiversity values in Bandarban.

In response to Swedwatch's presented study findings, BAT Headquarters emphasised the benefits from tobacco farming and stated that the vast majority of the findings are 'matters which the company does not recognise as happening on their contract farms and are factually incorrect'. In support of its statement, BAT shared a large amount of company data and a number of commissioned studies on socio-economic and environmental impacts in its tobacco supply chain. BAT added that if Swedwatch were able to identify specific farms where alleged incidences have taken place, the company would investigate further and, if appropriate, take remedial action.⁴

BAT's responses to the study findings can be found in Sections 4, 6 and 7 of this report, as well as in Annex 3: 'Analysis of BAT's Human Rights & Environmental Measures in the Supply Chain'. The company's reactions to the publication of the full report is published on Swedwatch's website www.swedwatch.org.

Recommendations

Recommendations to British American Tobacco and other multinational tobacco companies for global operations

- Make details on tobacco sourcing available to the public, investors and consumers, disclosing supply countries, suppliers, and size and location of cultivation areas;
- As a matter of urgency, conduct comprehensive good practice sustainability assessments and Human Rights Impact Assessments in existing and new tobacco cultivation operations, including meaningful consultations with affected stakeholders and vulnerable groups. Findings should be made publicly available and should be independent and verifiable by government and civil society;
- Further develop a comprehensive corporate human rights and sustainability policy and due diligence system, by detailing and specifying BAT's commitment to the full range of sustainability issues in its global tobacco supply chain. Operationalise the policies into control and oversight systems, public monitoring reports, and remediation mechanisms;
- Ensure that third-party audits of suppliers are carried out by independent, accredited auditors. Disclose auditing results publicly, as part of the company's due diligence system, with appropriate measurements taken to ensure confidentiality;
- Submit an anti-slavery statement under Section 54 of the UK Modern Slavery Act⁵, with specific reference to the management of risks for bonded labour⁶ resulting from over indebtedness in tobacco cultivation.

Recommendations to British American Tobacco specific to their operations in Bangladesh:

- Enforce the ban on child labour in practice. Support child workers, and children of BATB farmers and their labourers to attend school. Draw on voluntary good practice guidelines, and raise the bar for child rights by eliminating child labour – in cooperation with other stakeholders – in the whole supply chain as is in line with UNICEF's Children's Rights and Business Principles;
- Replace current contracts with agriculture production agreements that are in line with the FAO Legal Guide on Contract Farming. All contracts should be signed directly with the farmer carrying out the production with no subcontracting to farmers in a second layer of the supply chain;
- Require BATB farmers to use formal employment contracts for their labourers. This should include regular audits and the enforcement of basic workers' rights for all labourers on BAT farms including normal working hours, protection from health impacts, and equal pay for men and women;
- Facilitate and support the establishment of farmers' organisations that genuinely represent farmers' interests and who are mandated to bargain on their behalf. Allow for proper best practice grievance and independent conflict resolution mechanisms;

- Cover BATB farmers' and labourers' medical costs for work-related sickness resulting from Green Tobacco Sickness, pesticides exposure, smoke from kilns, and excessive workloads. Reduce health risks so as to avoid exposure to these detrimental work hazards;
- Maximise the company's leverage and advocate for the establishment of comprehensive social security systems for farmers and workers;
- Disclose reliable and verifiable data on the land coverage of the company's operations in order to enable adequate Government of Bangladesh planning for food security, good nutrition and local sustainable development in tobacco growing areas;
- Enforce the ban on sourcing fuel wood from natural forests, and stop the construction and operation of kilns inside forest areas, and through an industry-wide agreement including Bangladeshi authorities, inspire the whole sector to enforce a zero tolerance policy on unsustainable sourcing of fuel wood for tobacco curing;
- Support an independent investigation of land ownership in the Bandarban operation. Report cases of land conflict to the CHT Land Commission, and support rightful landowners to access mediation services and fair compensation.

Recommendations to the Government of Bangladesh

- Formalise the agriculture employment system, and strengthen social security systems especially targeting tobacco farmers and workers;
- Ensure updated and reliable statistics on areas under tobacco cultivation, with breakdowns for individual companies. Establish adequate monitoring and control systems for tobacco cultivation and its impacts on farmers, workers, and communities;
- Use the tobacco statistics in national level and local planning, in order to ensure availability and quality of nutritious food for poorer farmers, workers and communities;
- Encourage the CHT Land Commission to investigate land conflicts and provide compensation to the rightful indigenous landowners;
- Commission and support independent, quantitative, longitudinal studies on the impact of tobacco growing on socio-economic outcomes, human rights and environmental sustainability in tobacco growing areas.

Recommendations to investors in BAT and other tobacco companies

- Evaluate investments in the tobacco industry considering supply chain issues from a poverty, human rights and environment perspective;
- Use investor leverage and influence to encourage tobacco companies to publish supplying countries, suppliers, and areas of operation;
- Use investor leverage and influence to demand open, effective, and independently audited tobacco supply chains.



Tobacco harvest. PHOTO: REPÓRTER BRASIL

Recommendations to Bangladesh, UK and EU decision-makers in trade, tobacco control, public health and development cooperation

- Include considerations of tobacco farming impacts on poverty, human rights and the environment, with a focus on the levels of operations and households, in:
 - Tobacco control measures under the Framework Convention on Tobacco Control;
 - Multilateral and bilateral trade agreements and negotiations; and
 - Policies, programmes and projects for national development and development cooperation.
- Ensure the policy dialogue and development includes civil society actors, and is protected from undue industry influence in line with the provisions under the Framework Convention on Tobacco Control.

Recommendations to tobacco consumers

- Put pressure on companies to clearly publish the origin of the raw tobacco in the products, including country, supplier, and growing area;
- Demand companies to publish third-party audits carried out by independent, accredited auditors, which describe any human rights abuse or environmental degradation in specific tobacco cultivation areas across developing countries, as well as how the company has responded to these.

List of abbreviations

BAT	British American Tobacco
BATB	British American Tobacco Bangladesh
CBD	Convention on Biological Diversity
CFS-RAI Principles	The Principles for Responsible Investment in Agriculture and Food Systems of the Committee on World Food Security
CHT	Chittagong Hill Tracts
CNTC	China National Tobacco Corp
CSR	Corporate Social Responsibility
EU	European Union
ESIA	Environmental and Social Impact Assessment
FAO	Food and Agriculture Organization of the United Nations
FCTC	Framework Convention on Tobacco Control
GBP	Great Britain Pounds
GTS	Green Tobacco Sickness
GoB	Government of Bangladesh
HRDD	Human Rights Due Diligence
IFC	International Finance Corporation
IFAD	International Fund for Agricultural Development
ILO	International Labour Organization
ITGA	International Tobacco Growers' Association
NGO	Non Governmental Organisation
OECD	The Organisation for Economic Cooperation and Development
PMI	Philip Morris International Inc.
PRAI	Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources
SDGs	UN Sustainable Development Goals
S RTP	Social Responsibility in Tobacco Production
UK	United Kingdom
UNDP	United Nations Development Programme
UNIDROIT	International Institute for the Unification of Private Law
UNGP	The United Nations Guiding Principles on Business and Human Rights
WHO	World Health Organization

1. Introduction

During the first half of the 20th Century, most of the world's tobacco was grown in Australia, Canada, Europe and the United States. Starting in the 1960s, multinational tobacco companies moved their production to developing countries⁷ across Asia, Africa the Middle East and Eastern Europe, which by 2006 were farming 90% of the global area under tobacco cultivation.⁸ This shift coincided with a decline in government investments in agriculture – especially in regards to support for smallholder agriculture. According to international research, moving tobacco cultivation operations to developing countries was a logical result of tobacco companies' search for the lowest cost of labour.⁹ An estimated forty million children, women and men cultivate and process tobacco for the global tobacco industry.¹⁰

BAT is expanding its global operations in developing countries. In 2013, BAT established a joint venture with I.M.U. Enterprise Ltd (IMU) in Myanmar, and in early 2016 another joint venture in Vietnam – with the local industry leader Vinataba – was announced by BAT. Under both joint venture agreements, BAT's intention is to establish processing plants and to work with local farmers to source tobacco.¹¹

This report focuses on sustainability and human rights issues in BAT's tobacco cultivation operations in Bangladesh. The negative effects on people and the environment include for example farmers' economic losses and over indebtedness, child labour, health impacts, as well as degradation of natural forests¹² and biodiversity.

2. Methodology

This report presents findings from desk research on the global tobacco industry and a detailed case study from BAT's supply chain in Bangladesh. British American Tobacco Bangladesh Company Limited (BATB), which is BAT's 72.9% owned subsidiary company, runs four tobacco cultivation operations across the country, in cooperation with local farmers.

The BAT case study explores how the company mitigates negative human rights and sustainability impacts from its tobacco cultivation, and also how its contract relationship with Bangladeshi farmers compares to international good practice. Swedwatch has selected BAT as a business case study for four main reasons:

- Firstly, BAT is the third-largest tobacco company on the global stock market¹³, which makes the study's findings and recommendations relevant for any tobacco company, investor, or decision-maker.
- Secondly, BATB's tobacco cultivation in Bandarban district in Southern Bangladesh, highlights a wide spectrum of human rights and sustainability challenges in a high-risk operating environment. The district's lingering armed conflict, the many vulnerable groups, and the diverse Reserved forests all put BAT's sustainability performance to the test.

- Thirdly, BAT is in the process of expanding into new markets in developing countries such as Myanmar and Vietnam. Findings and recommendations from this study may assist stakeholders to proactively identify and manage risks related to poverty, human rights and the environment in other developing countries.
- Fourthly, the BAT case should be of interest not only to consumers in the United Kingdom (UK), but also to BAT's 150 million international consumers who purchase the company's 200 brands of cigarettes in 200 markets worldwide.¹⁴

The dual purpose of the case study is summarised in two research questions:

Question 1. *Does BAT consistently and effectively identify, communicate, manage and remediate risks and negative impacts on people and the environment in its tobacco farming operations, and is this in line with international norms and good agricultural practice standards?*

Question 2. *Does BAT's contract farming model align with international good practice standards for agricultural production contracts with smallholder farmers?*

Swedwatch desk research focused on smallholder benefits from tobacco cultivation, and common human rights and environmental challenges in tobacco farming in the Global South in general, and in Bangladesh in particular. Case study findings are the result of an interview field survey, and a review of the company's sustainability policies and due diligence system for the raw tobacco supply chain. Through email communication, BAT's Head of Sustainability in the UK has provided responses to Swedwatch's findings. These are included in this report.

Field visits, including to tobacco farms and fields, were conducted in Bandarban, Chakoria sub-district and Lalmonirhat district. Through interviews, the survey captured the views of farmers, labourers, and family members engaged in tobacco farming, as well as from community leaders, government officers, NGOs and experts. During the period July 2015 – May 2016, Swedwatch interviewed a total of 153 persons across Bangladesh.¹⁵

BATB leaf operation area / Dhaka Capital	Total no. of persons interviewed	No. of persons growing tobacco for BATB or working for BATB farmers	No. of community leaders and government officers	Persons farming tobacco for the local market or providing services to tobacco farmers	Experts from national level NGOs and government institutions.
Bandarban	57	42	4	11	-
Chakoria	42	16	9	17	-
Lalmonirhat	45	9	13	23	-
Dhaka Capital	9	-	-	-	9
TOTAL	153	67	26	51	9

Table 1: Overview of persons interviewed by Swedwatch in BATB's tobacco leaf operations in Bandarban, Chakoria and Lalmonirhat, and in the Bangladeshi capital Dhaka.



Farmer from the Marma indigenous group hangs tobacco leaves for drying. In the remote Thanchi sub-district in Bandarban, CHT, Swedwatch interviewed Marma families and their hired labourers who grow tobacco for British American Tobacco Bangladesh. Tobacco cultivation in Thanchi started in the late 1990s. Today, most of the land along the shallow Sangu River, which transverses the landscape, is being farmed for tobacco.

PHOTO: TIM GERARD BARKER VIA GETTY IMAGES.
THE PHOTO IS NOT RELATED TO THE FIELD STUDY
AND FINDINGS OF THIS REPORT.



The field study findings were compared and triangulated both between the three study areas, and with results from expert interviews and literature findings.

In recognition of the heightened risk associated with criticism of large corporations and their practices, and for the sake of protecting the anonymity of the local respondents in the three tobacco growing areas, Swedwatch does not refer to respondents' names or other easily recognisable characteristics.

In the analysis sections of the report, BAT's sustainability policies and due diligence procedures are compared to international normative frameworks. The first two are both endorsed by BAT¹⁶:

1. The United Nations Guiding Principles on Business and Human Rights (UNGPs).¹⁷
2. The Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises.¹⁸
3. The Organisation for Economic Cooperation and Development (OECD) and Food and Agriculture Organisation of the United Nations (FAO) Guidance for Responsible Agricultural Supply Chains.¹⁹

Scope and limitations

The focus of this report is to identify the human rights and sustainability challenges faced by the international tobacco industry with BAT in Bangladesh in focus. Swedwatch does not purport to present all challenges or benefits associated with the tobacco industry, BAT or the industry in Bangladesh in particular. For example, BAT's claim that it contributes to host countries' national tax exchequers²⁰ and thus indirectly to, for example, the Government of Bangladesh's (Government of Bangladesh) spending on 'infrastructure development and service provision' is beyond the scope of this study.

Also, a preliminary analysis of BATB's Corporate Social Responsibility (CSR) activities showed that in 2015 only three smaller CSR projects were implemented across Bangladesh.²¹ Instead of discussing potential benefits from these relatively small projects, Swedwatch has focused the analysis of positive contributions on the BATB registered farmers' income and contract conditions, which are part and parcel of BAT's business model.²²

Details on norms and good practice

This section outlines three international framework documents with minimum norms and good practice criteria used in the discussion and analysis chapters of this report.

This is UNGP

The UN Guiding Principles on Business and Human Rights (UNGPs) elaborate on all states' duty to protect the human rights of its citizens, and outline how all business

enterprises – regardless of national legislation – must respect human rights in all of their operations. As a minimum requirement, all rights under the International Bill of Human Rights²³ and the International Labour Organization’s (ILO) core conventions²⁴ should be included.

According to the UNGPs, businesses must take measures to address adverse human right impacts. These measures include prevention, mitigation and, when needed, remediation. In order to meet these requirements a company should:

- 1.** Have a policy commitment regarding human rights;
- 2.** Conduct on-going Human Rights Due Diligence (HRDD) to identify actual and potential adverse human rights impacts;
- 3.** Establish mechanisms to enable remediation of any adverse human rights impacts that they are causing and/or contributing to.

Under the UNGPs, the action expected from a company that is impacting negatively on human rights depends on how closely linked the company is to the problem. It also depends on what kind of leverage the company can realistically exert in order to help prevent, stop, or mitigate negative impacts. The UNGPs define three levels of responsibility:

- 1.** At the highest level of responsibility, a company is causing the human rights abuse when it is the principal actor in the breach of human rights – either by its actions, or its lack of action;
- 2.** If a company is enabling, encouraging, or facilitating human rights abuses, it is said to be contributing to the problem – sometimes through or together with a third party;
- 3.** Finally, there are cases where a company is neither causing nor contributing to human rights abuse, but where the problem is directly linked to its operations, products, and services by means of a business relationship.

Companies that are causing or contributing to human rights abuses are responsible for ceasing their detrimental practices, ensuring that they are not repeated in the future, mitigating the consequences of the problem, and remediating any actual impacts. Companies that are linked to human rights abuse should maximise their leverage and put pressure on other actors to work towards stopping and preventing further breaches of human rights.

Source: United Nations Human Rights Office of the High Commissioner. 2011.²⁵

OECD/FAO Guidance for Responsible Agricultural Supply Chains

The OECD/FAO Guidance for Responsible Agricultural Supply Chains²⁶ (hereinafter referred to as ‘The Agriculture Supply Chain Guidance’) summarises relevant sections of a number of existing standards which are especially relevant to ensure responsible business conduct for companies with agricultural supply chains. The most important

minimum standards are the well-known OECD Guidelines for Multinational Enterprises²⁷, and the International Finance Corporation's (IFC) Performance Standards²⁸, which for example outline the need for solid environmental and social impact assessments and consultations with affected stakeholders.

The Agriculture Supply Chain Guidance further includes a number of voluntary good practice standards developed in order to ensure food security, protection and sustainable management of natural resources, and respect for tenure rights, with specific attention to indigenous peoples. Examples of voluntary practices included in the Agriculture Supply Chain Guidance, which are relevant for tobacco companies are:

- 1.** The Principles for Responsible Investment in Agriculture and Food Systems of the Committee on World Food Security (CFS-RAI Principles);
- 2.** Principles for Responsible Agricultural Investment that Respects Rights, Livelihoods and Resources (PRAI);
- 3.** Convention on Biological Diversity (CBD).

Source: The Organisation for Economic Cooperation and Development (OECD) and Food and Agriculture Organisation of the United Nations (FAO). 2016.²⁹

Contract farming good practice guide

BAT's so-called agriculture production contracts with registered tobacco farmers are at the heart of the company's supply chain business model. BAT's formal contract formats, as well as its contract relations with registered farmers in practice, are analysed using The Legal Guide on Contract Farming developed jointly by the Food and Agriculture Organisation of the United Nations (FAO), the International Fund for Agricultural Development (IFAD) and the intergovernmental expert organisation UNIDROIT (hereinafter referred to as 'The Legal Guide').³⁰ The document outlines good practice criteria that should be followed in order to ensure that, for example, the farmer and the buying company share investment risks fairly, and that the contracts are clear, transparent and readable. Some key criteria are:

- Clear and readable documentation, and opportunities for farmers to review the contracts before signing;
- Transparency and fairness in production quota, price determination and quality grading;
- Fair risk-sharing with farmers. The buyer should make loans available to farmers at reasonable interest rates. Also, in unforeseen Force Majeure events – for example, weather events which damage the crop, or changes in global commodity prices – farmers should have the opportunity to renegotiate contracts. The buyer should also consider agriculture insurance programmes to protect farmers from economic loss;
- Open dialogue between buyers and farmers, and mechanisms for settling disputes.

Source: Food and Agriculture Organisation of the United Nations (FAO), the International Fund for Agricultural Development (IFAD) and the intergovernmental expert organisation UNIDROIT, 2015.³¹

3. The global tobacco supply chain

The global tobacco industry is worth an estimated GBP 450-500 billion.³² On the supply-side of the tobacco industry, multinational companies contract smallholder farmers – mostly in developing countries – to grow and process tobacco leaves. The global tobacco supply is complex, and companies do not provide transparent information neither on the actors involved, nor on the conditions under which the tobacco is cultivated and produced.

FACTS

Tobacco farming

The tobacco plant – *Nicotiana tabacum* – has been grown in the Americas for thousands of years³³. Its seeds were brought to Europe by traders in the 1500s, and a high demand for tobacco took off during the 1620s.³⁴

The most common varieties of tobacco are Virginia, Burley and Oriental which require fertile soils and high labour inputs in the production. The duration of the production season varies from between six and eight months, depending on whether the leaves are dried or cured. The tasks involved in cultivation include land preparation, planting, watering, weeding, harvesting and processing.

The harvesting and processing stage is the most labour-intensive. For cured tobacco labour includes drying (sun-drying or air-drying) the leaves and curing them over fire in a purpose-built kiln.

The final quality of the leaves, which together with the market demand determine the price and the income for the farmer, depends on a combination of the leaf quality and the accuracy of the temperature and duration of the kiln drying, which is a very sensitive process.

At operational level in each tobacco-growing area, infrastructures for drying and transportation are also required. These include kilns, storage and drying facilities, as well as roads or river transport from the farm to the point of manufacturing and then to the export hub. For cured tobacco varieties, the tobacco farmers need access to local sources of wood or other fuel for the kiln.

*Source: Adopted from Campaign for Tobacco Free Kids, 2001; UN Food and Agriculture Organisation of the United Nations (FAO), 2016; and Goger, A. et.al. 2014.*³⁵

Tobacco farmers are contracted either directly by so-called ‘purchasing and manufacturing’ tobacco companies, such as BAT or Philip Morris International, or via an intermediary ‘commercial leaf supplier’ company. The commercial leaf suppliers, which are often large multinational companies like Alliance One International³⁶ and Universal Corporation³⁷, buy the tobacco from the farmers and then sell the tobacco onward to purchasing and manufacturing companies.³⁸ Figure 1. ‘Global supply chain for raw tobacco’, below, illustrates the two ways in which tobacco farmers are contracted in the tobacco supply chain. The figure also shows how tobacco is exported from tobacco-producing countries to Europe, as either raw or processed tobacco or as manufactured cigarettes or other tobacco products.



Figure 1: Smallholder farmers are contracted either directly by tobacco purchasing and manufacturing companies, or by commercial leaf suppliers who in turn sell tobacco to the tobacco companies. The tobacco produce is used both for nicotine products for the local markets and for export to UK and other European markets, either in the form of raw or processed tobacco, or as ready-made products.

Contract farming

Globally, there is a multitude of versions and formats of agriculture production contracts which are used for many types of crops, livestock, forestry, and fish cultivation. The contracts between companies (the buyers) and farmers (the sellers) – are not employment or partnership agreements. Instead, they describe conditions for the production and marketing of a farm product.

Typically, the farmer agrees to provide defined quantities and qualities of a specific agricultural product – in this case tobacco. The product must meet the quality standards of the buyer and be supplied at the time determined by the buyer. In turn, the buyer commits to purchase the product and, in some cases, to support production. This may be through, for example, the provision of farm inputs such as seeds and fertilisers, land preparation and the provision of technical advice by the buying company's local agriculture field officers.

Source: Adapted from Food and Agriculture Organization of the United Nations (FAO), 2012.³⁹

Agriculture production contract or employment relationship?

According to the FAO, in cases where a farmer is controlled by, and legally dependent on, the contracting company – depending on how different countries interpret 'legal dependency' under national law – an agriculture production contract can be defined as an employment relationship. If a court judges, with reference to the four criteria in The Legal Guide, that a tobacco farmer is legally dependent on the contracting company, then this company must assume all legal responsibilities of an employer and becomes liable to follow all laws related to social security and labour rights.

Most countries use four legal criteria in determining whether a relationship between a farmer and a contracting company constitutes an employer-employee relationship. These can be formulated as four questions:

1. Is the farmer 'subordinate' to the company to a large degree?

Subordination could be the case if the company has authority and control over how and where the work is carried out, if they supervise and evaluate the work of the farmer, and if they impose sanctions on the farmer.

2. Is he or she economically dependent on the contracting company?

A farmer can be considered economically dependent on the company when the production is provided by a specific person, and if the income from the company is the farmer's only source of income.



Woman planting tobacco seedlings as part of contract farming for British American Tobacco Bangladesh.

3. *Is the farmer's production largely integrated into the contracting company's business activity?*

If the farmer's production is closely integrated into the company's business model and managed by the company as part of its own business activities, this would strengthen an interpretation where the farmer is defined as dependent on the company.

4. *Does the farmer carry significant economic risk?*

In instances where the farmer has the main responsibility for management and capital investment in the agricultural production, this would point to a situation where the farmer is an independent contractor, and *not* dependent on the company.

The decision on whether the farmer can be considered as an employee of the company may be determined by each court, and is based on how the actual relationship plays out in practice – not how it is formulated in a written contract.

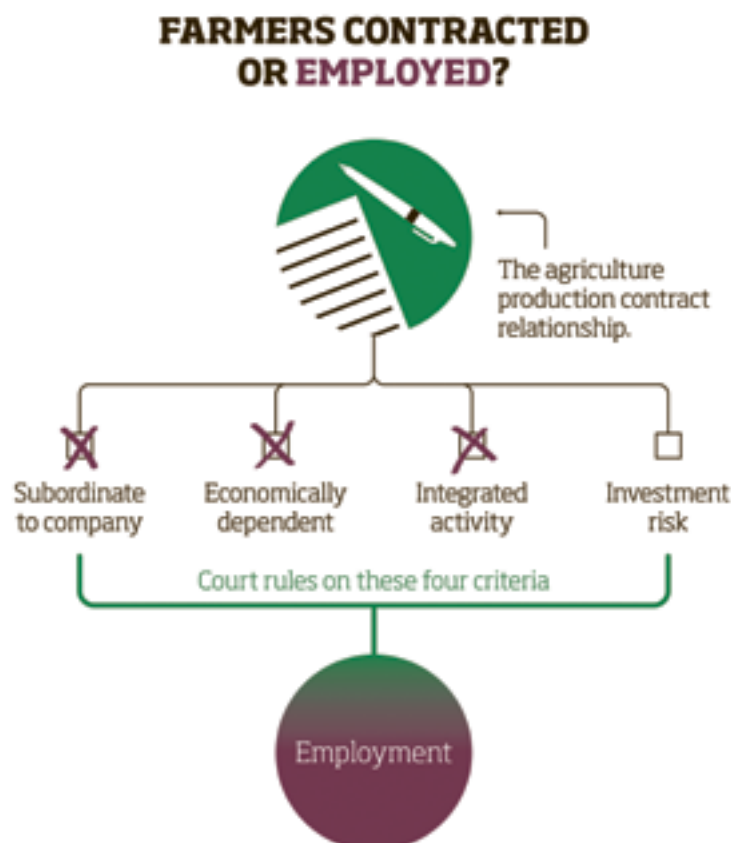


Figure 2: In cases where A) a tobacco farmer has signed a so-called 'agriculture production contract' with a buying company, and B) a court finds that the farmer is 'legally dependent' on the company, the contract relationship can be defined as an employee – employer relationship. As an employer, the company has a legal obligation to ensure social security and labour rights. The court forms its decision based on four criteria: subordination, economic dependency, integration of the farmers' activity into the company's business, and farmer's financial risk.

3.1 Impacts on human rights and sustainability

Potential income-generation and positive long-term benefits for smallholder farmers who are engaged in contract farming are by no means certain. The contract model can lead to exploitation when the power relationship with the contracting company is unbalanced and the negotiating power unequal. When the production of a crop – such as tobacco – accounts for a large share of a farmer’s income, contract farming involves high risk for the smallholder. In areas where farmers have difficulties in accessing investment capital, and where most of the investment risk is carried by the farmer, the negative consequences may be over indebtedness and farmers losing their savings and assets which in turn traps the farmer into a cycle of poverty.⁴⁰

The tobacco industry’s human rights and sustainability impacts on farmers, agricultural workers, and on communities and the environment in growing areas have been well-known for several decades. An overriding problem for tobacco farmers is that they earn only a fraction of the price that consumers pay for cigarettes at the end of the tobacco value chain. The value of one ton of raw tobacco increases roughly 47 times between harvest and the consumer.⁴¹



Figure 3: Negative consequences from tobacco cultivation impact on contracted farmers and their household members; on hired labourers at tobacco farms; and on surrounding communities and the environment.

A number of researchers claim that the low profit margins and the occurrence of unfair and unbalanced contracts with farmers are two key factors behind the persistent incidences of farmer indebtedness, child labour, abuse of labour rights, health impacts, deforestation and forest degradation⁴² and decreased food security in the tobacco supply chain.⁴³

HEALTH IMPACTS FROM TOBACCO CULTIVATION DIFFERENT STAGES OF THE SEASON

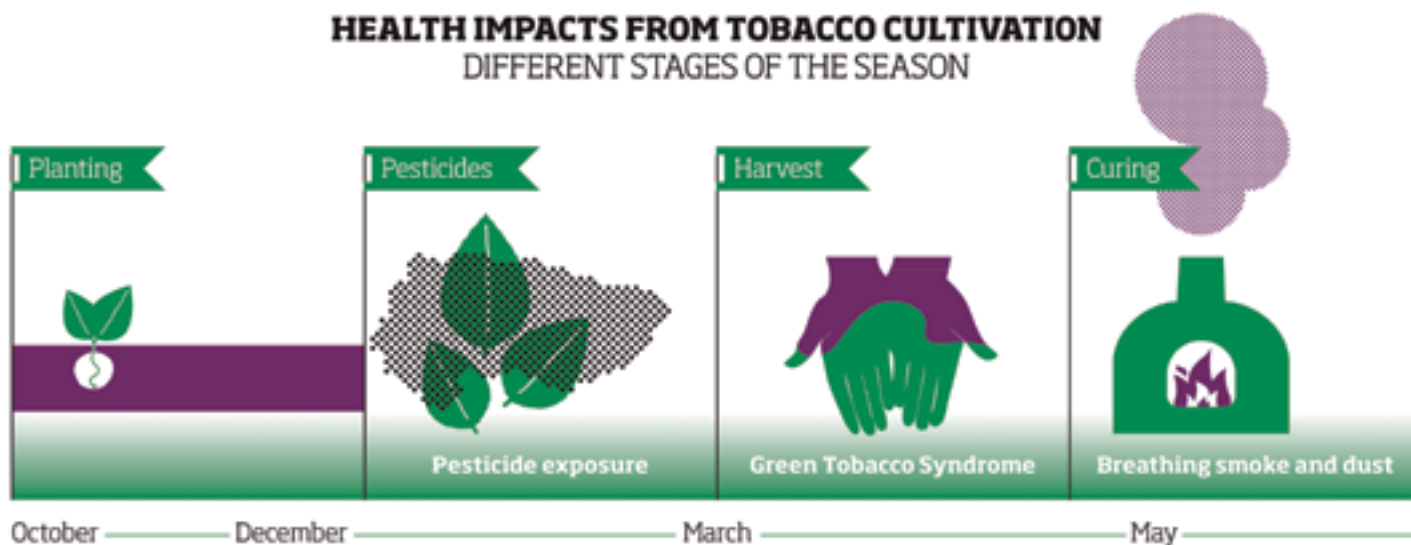


Figure 4: The length of the tobacco cultivation season and the processing times, varies between different producing countries and the varieties of tobacco produced. In the case study presented in this report, the season for producing the flue-cured Virginia tobacco variety in Bandarban District in Bangladesh spans approximately 6-8 months. Health risks for tobacco workers include pesticides exposure during the phase when the tobacco plant is growing from seedling to its full size, nicotine absorption through the skin – so-called ‘Green Tobacco Sickness’ when workers are in contact with tobacco leaves especially during the harvest, and respiratory problems from smoke and dust during the curing of the leaves in purpose-built kilns.

Health impacts from pesticides and nicotine absorption

Both pesticides and some of the tobacco plant’s own chemical compounds can impact negatively on farmers’ and workers’ health.

The tobacco plant contains nicotine, an alkaloid which is the desired and addictive component in cigarettes and other tobacco products. When farmers and tobacco workers handle tobacco plants, for example during the harvest, they absorb nicotine through the skin. The absorption is especially intense when tobacco plants are wet, often as a result of rainy weather. The short-term effect of this exposure can lead to acute nicotine poisoning, which is called Green Tobacco Sickness (GTS).

GTS symptoms include nausea, vomiting, headaches and dizziness. Some workers also experience sleeplessness and loss of appetite. Children are especially vulnerable to GTS, both because of their smaller body size and because of the fact that they are less likely than adults to have developed a nicotine tolerance. The long-term effects of this nicotine absorption through the skin have not been studied specifically on tobacco workers. However, public health research on young smokers show that regular exposure to nicotine in adolescents impact negatively on brain development.

Based on research from the United States, a number of pesticides commonly used in tobacco farming are classified as neurotoxins, which impact on the nervous system and affect nerve impulses to muscles which control movement, such as walking, breathing and heartbeat. The manual labour involved in tobacco farming may put workers at particularly high risk for pesticide exposure, either through ingestion, inhalation or absorption through the skin. The exposure leads to immediate health problems such as nausea, dizziness, vomiting, headaches, abdominal pain, and skin and eye problems. Tobacco workers who are exposed to large doses of pesticides can experience severe health effects such as spontaneous miscarriage and birth deformities, loss of consciousness, coma, and death. The long-term and chronic health effects of pesticide exposure are well researched and documented and include respiratory problems, cancer, depression, neurologic deficits, and reproductive health problems.

Protective equipment such as rain suits and watertight gloves may help mitigate some of the absorption of nicotine and pesticide through the skin. However, it would not completely eliminate exposure to the toxins. In addition, in warmer climates, the suits increase risks that workers will suffer from heat-related illnesses while working in the tobacco field.

In addition to effects from pesticides and nicotine absorption, tobacco workers are reported to experience respiratory problems from drying and storing tobacco leaves.⁴⁴

*Source: Adapted from Human Rights Watch USA. 2015.*⁴⁵

Child labour

Child labour in the tobacco industry is associated with hazardous tasks and is a recurring theme in literature concerning challenges within tobacco supply chains. A 2014 country-overview of goods produced by child labour or forced labour by the United States (US) Department of Labor's Bureau of International Labor Affairs, identified that child labour was used in the production of imported tobacco products from 14 countries.⁴⁶ The International Labour Organization (ILO) states that over half of the world's approximated 98 million child labourers aged between 5-17 work in agriculture, and many of them perform hazardous work.⁴⁷ The ILO has published a number of materials and reports on child labour and hazardous child labour in tobacco farming.⁴⁸

SWEDWATCH COMMENT: Based on the persistent and well-documented impacts on people and the environment summarised in this section, and the industry's insufficient efforts to successfully identify, mitigate and prevent these⁴⁹, this report argues that tobacco cultivation is a high-risk sector. As such, there is a critical need for tobacco companies to carry out adequate impact assessments such as Human Rights Impact Assessments (HRIA)⁵⁰, as well as Environment and Social Impact Assessments in both existing and planned tobacco cultivation operations. For more information on the global tobacco industry's initiative Eliminating Child Labour in Tobacco Growing Foundation, refer to Annex 5.

3.2 Tobacco control and sustainable development goals

Research findings support many developing countries' concerns that the combination of unsustainable tobacco cultivation and the health impacts from tobacco smoking may hinder the achievement of the UN Sustainable Development Goals (SDGs).⁵¹

The World Health Organisation (WHO) Framework Convention on Tobacco Control (FCTC)⁵² is an international treaty, under which 168 signatory countries are joining their efforts to reduce both the supply and consumption of tobacco. The Supply Chain Policy⁵³ under the treaty aims both to develop alternative livelihoods options for tobacco farmers and workers, and to ensure that tobacco growing does not impact negatively on people and the environment, and focuses on articles 17 and 18 of the FCTC:

- **Article 17:** Provision of support for economically viable alternative activities: *'Parties shall, in cooperation with each other and with competent international and regional intergovernmental organisations, promote, as appropriate, economically viable alternatives for tobacco workers, growers, and, as the case may be, individual sellers.'*
- **Article 18:** Protection of the environment and the health of persons: *'In carrying out their obligations under this Convention, the Parties agree to have due regard to the protection of the environment and the health of persons in relation to the environment in respect of tobacco cultivation and manufacture within their respective territories.'*

The third SDG, which aims at ensuring 'healthy lives and promote wellbeing for all at all ages', is explicitly linked to tobacco control efforts under FCTC.⁵⁴

Tobacco industry responses to supply chain measures

Studies have shown that tobacco companies have engaged in government lobbying in order to weaken tobacco control efforts in their areas of operation.⁵⁵ An important study, which informed the development of articles 17 and 18 of the FCTC on supply chain measures, is the 1999 World Bank study on the economics of tobacco control, titled 'Curbing the Epidemic: Governments and the Economics of Tobacco Control'.⁵⁶ The study concluded that tobacco control brings unprecedented health benefits without harming economies. It also showed that countries would experience very little impact on employment from reducing tobacco production. Another study showed that "several crops can be more profitable than tobacco and may offer a possibility of better financial returns, considering that the farm mix of high value crops must be recognised as viable diversification options".⁵⁷

In response to the 1999 World Bank study, BAT promoted two academic critiques of the report's findings and also commissioned an economic impact study by the consulting company Price Waterhouse Coopers. BAT has also supported an industry-

funded tobacco workers' union, 'International Tobacco Growers' Association' (ITGA), to illustrate exaggerated scenarios that articles 17 and 18 would lead to immediate joblessness and economic losses for tobacco producing countries.⁵⁸ The FCTC article 5.3 underlines the need to protect tobacco control policies and their implementation 'from commercial and other vested interests of the tobacco industry'.⁵⁹

4. British American Tobacco

BAT is a UK-registered company with headquarters in London, UK. It is the third largest of six multinational companies, which dominate the world's multibillion US dollar tobacco industry, sometimes referred to as 'The Big Six'. BAT is exceeded in size only by the state-owned China National Tobacco Corporation (CNTC) and Phillip Morris International Inc. (PMI).⁶⁰

According to BAT's 2015 annual report⁶¹, the company's revenue in 2014 was GBP 13,104 million, and the profit from its global operations was GBP 4,557 million. BAT's international operation includes 40 majority-owned subsidiary companies, and 44 factories and processing plants in around 40 countries. Through its sales of 200 cigarette brands, BAT is active in 200 markets across the world and is the local market leader in terms of tobacco sales in 60 of these 200 markets. BAT has approximately 150 million customers, which means that BAT supplies one in every eight smokers in the world.⁶²

Shares in tobacco companies form an important part of the world's financial markets.⁶³ BAT is one of the top ten companies listed on the London Stock Exchange, and has a secondary listing in the Johannesburg Stock Exchange in South Africa.⁶⁴ UK and South African financial institutions and pension funds invest in BAT. In 2011, a total of 1,694 funds and institutions were BAT shareholders.⁶⁵

According to the Financial Times, as of May 2016 asset managers Blackrock Investment Management, Capital Research and Management Co, Legal & General Investment Management Ltd., The Vanguard Group, and Credit Suisse AG were the five largest investors in BAT.⁶⁶ The list does not disclose which pension and other investor funds are invested in BAT via the asset managers.

BAT sources approximately 400,000 tons of tobacco per year for the production of cigarettes and other nicotine products in two ways. According to Jennie Galbraith, Head of Sustainability and Reputation Management at the Legal and External Affairs Department of BAT Headquarters in London⁶⁷, the vast majority of its tobacco is sourced from individual operating companies who directly contract the farmers who supply the tobacco. However, in some areas, BAT sources tobacco via commercial leaf suppliers who in turn enter into contracts with farmers, such as Alliance One and Universal Corporation.⁶⁸ BAT's tobacco comes mainly from developing countries and emerging economies in Africa, Asia and Latin America.⁶⁹

BAT states in its publicly available information that – through their business relationships with leaf suppliers and farmers – they help tobacco cultivators to provide

‘a reliable source of income that can support food and social security’. BAT adds that, through its relationship with farmers, the company is ‘mitigating the negative social and environmental impacts that tobacco growing can have’.⁷⁰

In Bangladesh, BAT’s 72.9%-owned subsidiary company BATB runs four tobacco cultivation operations in cooperation with local farmers. Some of the tobacco produced is processed and made into lower-segment brand cigarettes such as ‘Derby’, ‘Hollywood’, and ‘Pilot’ sold to Bangladeshi smokers. Other tobacco produced by BATB farmers is exported to Europe and the UK, and may constitute part of the raw material for cigarette brands such as ‘Dunhill’, ‘Kent’, and ‘Lucky Strike’, which are sold primarily on the British market.⁷¹

BAT is strongly committed to combating the trade in counterfeit cigarettes in the supply chain for manufactured cigarettes. The company supports organisations such as the World Customs Organization, the World Trade Organization, the World Health Organization and the European Union in their efforts to eliminate illicit tobacco trade through for example stronger border controls and effective laws to fight the black market.⁷²

For its supply chain for raw tobacco, according to BAT Headquarters⁷³, the company has an internal so-called ‘global planning, purchasing and deployment system’, which allows tobacco to be traced back to each tobacco supplier. The suppliers in turn have their own systems where that tobacco can be traced back further in the supply chain to a farmer, a group of farmers or an area.

However, BAT headquarters explain that because the information is commercially sensitive, BAT cannot disclose which cigarette brands sold in the UK contain tobacco from Bangladesh.⁷⁴ This is not unique for tobacco sourced from Bangladesh. BAT does not publicly disclose any information which would enable verification of where the raw tobacco in any of its products is sourced from.

At the BAT Annual General Meeting in April 2016 the BAT Main Board, which is responsible to the shareholders for the overall strategic direction and governance of the BAT Group⁷⁵, was asked to provide information regarding the company’s risk assessments, including which leaf operations carry the highest human rights risk and a timeline for publishing Human Rights Impact Assessments on high-risk leaf supply operations worldwide.⁷⁶ The answer provided by Richard Burrows, Chairman of the Main Board, was:

“It should not be assumed that poor practices are taking place in our company’s supply chain. BAT has very strict policies and implementation procedures.”

The Chief Executive Nicandro Durante added that the risk assessment section in the BAT 2015 Annual Report⁷⁷ would cover any such risks to the business.

The section of the referenced report with the heading ‘Principal Group Risk Factors’ outlines twelve main risks with links to four strategies: Growth, Productivity, Winning Organisation, and Sustainability. Out of the twelve principal risks, number nine,

‘Injury, illness or death in the workplace’, and number ten, ‘Tobacco regulation inhibits growth strategy’, are linked to the company’s sustainability strategy. The section does not have any clear reference to supply chain measures for tobacco farming.

In response to a Swedwatch request in May 2016 for shared risk assessments and baseline documentation describing human rights and environmental risks, BAT Headquarters responded that these are ‘not applicable’ to BAT leaf operations. BAT stated that it operates to the same global standards across all leaf operations, and do not consider any particular tobacco growing location to be of higher risk than another.

5. The tobacco industry in Bangladesh

Tobacco soared as a cash crop in Bangladesh and partly replaced the cultivation of food crops in the 1960s. In 1971, BAT’s 72.9 %-owned subsidiary⁷⁸ BATB established a tobacco cultivation operation in partnership with farmers in Rangpur district in the north of the country.⁷⁹

Today, BAT dominates the Bangladeshi tobacco industry, contracting approximately 33,000⁸⁰ farmers across the country. Another five locally-owned companies – the two largest being Dhaka Tobacco Industries⁸¹ (Dhaka Tobacco) and Abul Khair Group⁸² (Abul Khair) – together contract around 75,000 farmers, putting the total estimated number of tobacco farmers in the country at 100,000.⁸³

According to Government of Bangladesh agriculture statistics, the total land area under tobacco cultivation in Bangladesh has increased, rising from 73,792 acres during the 2012-2013 cultivation season, to 87,893 acres in the 2013-2014 season. There are no available official statistics that break down the acreage by the size of operations of the different tobacco companies active in the country.⁸⁴

5.1 Land area under tobacco cultivation

In order for the Government of Bangladesh to adequately manage human rights and environment risks linked to land-use, it is essential that oversight and associated mechanisms be supported by accurate and up-to-date information. This is critical where risks of human rights abuse and environmental degradation are high.

However, a Swedwatch review of statistics and estimates indicates vastly diverging figures and significant discrepancies between those registered by the Government of Bangladesh, NGOs and local journalists, BAT Headquarters in London, and BATB’s local field officers. Without accurate data and statistics, the actual magnitude of BATB’s leaf operations remains inconclusive. These information gaps could severely undermine transparency and accountability, as well as overall efforts to address current significant human rights and sustainability challenges.

For example, in Bandarban, the Government of Bangladesh cites the total area under tobacco cultivation to be 10,135 acres during the 2013-2014 growing season, while



Boga Lake in Bandarban, CHT. British American Tobacco Bangladesh started its tobacco leaf operation in this district in the 1980s. PHOTO TALASH.SHAHNEWAZ,WIKIPEDIA

local experts⁸⁵ estimate the area to be between 15,000 – 20,000 acres for the 2014-2015 period. In contrast, despite claiming to hold a 60% share of total production of tobacco in Bandarban, BAT cited only holding 1,954⁸⁶ acres for the 2015 – 2016 period. This contradicts figures provided by the Government of Bangladesh. Furthermore, local experts contradict BAT's assertion that it holds 60% of total tobacco production, and estimate this figure to be approximately 90%. As Swedwatch research shows, such contradictions are not unique to Bandarban; they apply also to Chakoria and Lalmonirhat.

For detailed findings see Annex 1: 'Area under BATB tobacco cultivation'.

5.2 Efforts to control tobacco

In line with its commitment to the FCTC tobacco supply reduction measures, the Government of Bangladesh has undertaken initiatives designed to limit the area of tobacco cultivation in the country and to provide farmers with alternative crops, markets, and income generation opportunities. Examples include:

- As part of its Seventh Five-Year Plan for 2016-2020, the Government of Bangladesh will ensure effective implementation of tobacco control laws and policies and compliance with the FCTC under its broader health program.⁸⁷
- The country's central bank – the Bangladesh Bank – published a circular in 2010, ordering all commercial banks not to issue any loans for growing tobacco since tobacco poses risks not only to public health but also to food security and to the natural environment. The circular suggests refraining from disbursing loans

directly to farmers or to any individual, institution, or company involved in the contract farming of tobacco.⁸⁸

- The Ministry of Agriculture has withdrawn its fertiliser subsidies for tobacco cultivation. Farmers who cultivate other crops are still eligible to buy fertilisers at reduced costs.

A journalist from the Chittagong region, with a long history of working both in Bandarban and Chakoria districts, highlighted a discrepancy between how local leaders' and central government officers' approach limiting tobacco cultivation:

“At the local level, many district decision-makers and local leaders are trying to limit tobacco cultivation in their areas, in order to protect poor farmers and the environment.”

However, this contrasts with the central government's approach. At a national level, in his view, politicians support the tobacco industry because it is a big tax-income earner for Bangladesh.

FACTS

Bandarban Court Case

In 2010, the Bandarban District Court decreed that the area for tobacco cultivation in the district be limited to approximately 1,000 acres, approximately 400 hectares, based on a petition by two journalists and several NGOs working in areas of tobacco control, humanitarian work and consumer issues.⁸⁹ The rationale for the local court's decision was based on the perceived detrimental tobacco-growing impacts on farmers and the environment. It also referred to the unwillingness of the three tobacco companies BATB, Dhaka Tobacco and Abul Khair to provide information on, for example, the extent of their operations, the nature of their contracts with farmers, and their future plans for expansion into other growing areas across Bangladesh.

The three tobacco companies appealed the decision and the Supreme Court ultimately issued a so-called 'stay order' on the District Court's decision, resulting in the re-approval of unlimited tobacco cultivation in Bandarban. However, the overturned Bandarban District Court decree may be seen as an expression of the local legal administration's concern regarding extensive tobacco cultivation beyond 1,000 acres.

Source: Adapted from Works for Better Bangladesh (WBB) Trust. 2011, Bangladesh Anti-tobacco Alliance (BATA). 2010, and Bangla News 24. 2010.⁹⁰

6. Case studies in Bangladesh

Between July 2015 – May 2016, Swedwatch conducted interviews and field studies in three BATB leaf supply areas in Bangladesh – in Bandarban district (Bandarban) and Chakoria sub-district (Chakoria) in the south of the country, and in Lalmonirhat district (Lalmonirhat) in the north. Figure 5. ‘Swedwatch’s field study areas’ presents basic socio-economic data on the respective areas, and also provides an overview of human rights risks specific to Bandarban.

In Swedwatch’s three field study areas, BATB is an important local actor. Through its operations, BATB provides opportunities to farmers to engage in commercial agriculture and generate cash income. BATB’s local field officers visit their contracted farmers, and provide agricultural extension advice for tobacco cultivation. BATB operations have the potential to impact both positively and negatively on poverty levels and sustainable development in the communities where they operate.

In Bandarban and Chakoria, most farmers and their spouses interviewed during Swedwatch’s field study stated that tobacco cultivation is their only option to provide for their families and sustain their livelihoods. Many interviewees also said that, although a high-risk investment, during some seasons tobacco provides good income for some farmers. Importantly, a large number of interviewees also agreed that tobacco cultivation for BATB is the only agriculture activity for which they can obtain a cash advance at the beginning of the season, even though the amount provided is far from enough to cover full investment costs.

In Chakoria and Bandarban, vegetable and rice production cannot compete with tobacco, since prices are low and the markets are not well-developed. Factors such as inadequate transport, infrastructure and cold storage facilities give farmers little choice but to turn to tobacco. Further, interviewees reported that the higher income generated from tobacco cultivation has increased the land-leasing prices over time. Consequently, vegetable farmers – who make less money than tobacco farmers – are not able to rent land.

In Swedwatch’s interview survey across Bangladesh, a handful of BATB farmers who own land stated that they make a good profit from tobacco cultivation, and that they are content with the company’s support in terms of inputs (for example seeds and fertilisers), cash advances and technical advice. Two community elders interviewed in Lalmonirhat explained that since tobacco cultivation started in their areas, poverty had decreased in their community, and no one was starving or living in makeshift shelters anymore.

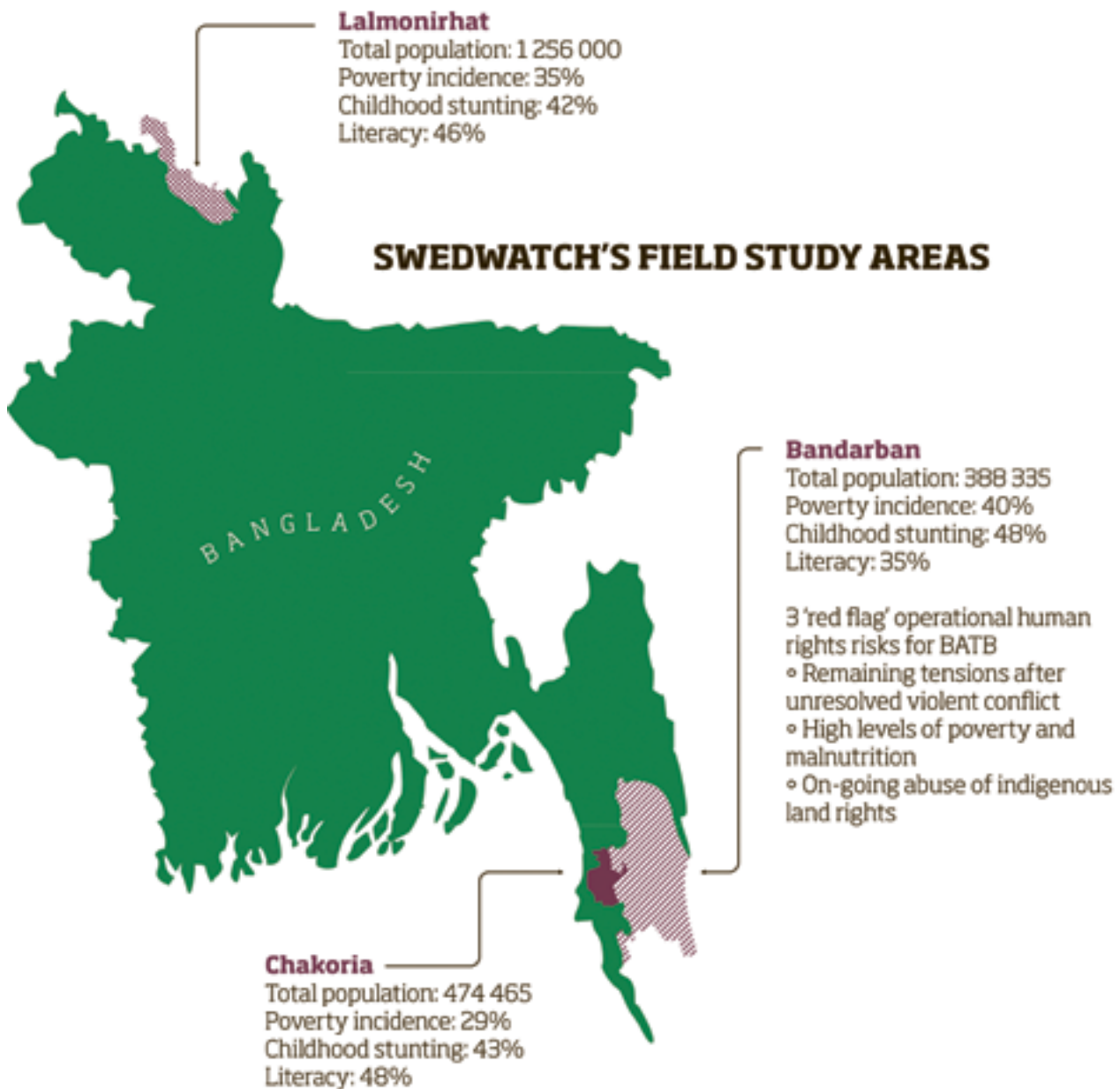


Figure 5: The map gives basic numbers on total population, poverty incidence, literacy levels, and so-called 'child-hood stunting'. Childhood stunting is a result of undernutrition and infections during the first 1,000 days of the child's life. The poverty figures are expressed as percentage of the total population living under the upper poverty line.⁹¹ For comparison, the national average upper poverty line is 32%, and nationally 37% of 5 – 29 year olds are attending school.⁹² For Bandarban, the figure lists three 'red flags' in the form of key human rights risks which are of high relevance for the BATB tobacco leaf operation.

Source: The information in the figure is sourced from the Bangladesh Bureau of Statistics Population and Housing Census, 2011 and World Food Programme, the World Health Organisation, the Bangladesh Bureau of Statistics and the International Fund for Agriculture Development, 2012.⁹³

< Bandarban

Bandarban is part of the Chittagong Hill Tracts (CHT) region, which is characterized by a legacy of armed conflict and unresolved land dispossession linked to human rights abuses against its indigenous populations.⁹⁴

The first group of Swedwatch's interviewees in Bandarban consists of farmers who are directly contracted by BATB – so-called 'registered farmers' – and also their spouses and children who often work in tobacco cultivation. Some registered farmers have their own land for tobacco cultivation, while a larger number of farmers lease land from others for each tobacco season. The landless farmers are called 'tenant farmers'.

The second survey group includes hired labourers – men, women and children – who are employed by the BATB-registered farmers on either a daily or a seasonal basis.

< Chakoria

Swedwatch's second interview area, Chakoria, is part of the Cox's Bazar district, and borders Bandarban to the east.

The poverty levels in Chakoria are similar to those in Bandarban, but the district is not suffering from land conflict. The number of indigenous peoples is much lower than in Bandarban. Swedwatch's group of interviewees consisted of BATB farming household members and hired labourers, service providers, community leaders, and government officers.

The Chakoria service providers are money lenders⁹⁵ who provide loans to BATB farmers, land owners who lease land to tenant farmers, and shop owners who sell pesticides and fertilisers. The group of government officers includes agriculture officers, medical doctors, teachers, and administrative leaders at the local level.⁹⁶ Amongst community leaders, Swedwatch interviewed village elders, religious leaders, NGO community development workers, and local journalists.

< Lalmonirhat

In the Rangpur region, where Lalmonirhat district is situated, BATB started its tobacco cultivation in the 1960s.⁹⁷ In this district, BATB does not dominate the local market as strongly as in Bandarban and Chakoria. However, BATB contracts farmers to produce sun-dried tobacco which omits the need for kiln drying and fuel wood input into production.

One important finding from Swedwatch's interview survey in Lalmonirhat, which is a distinction in comparison to the other two areas, is that there are indications that BATB-registered farmers subcontract other farmers to cultivate tobacco for them. According to the interviewees, this creates problems with constrained profit margins and lack of support.

In Lalmonirhat, Swedwatch interviewed community leaders, government officers, BATB-registered farmers and also farmers producing for the local market.

6.1 The human rights landscape in Bandarban, CHT

Bandarban, together with Khagrachari and Rangamati districts, constitute Chittagong Hill Tracts (CHT) and is part of the larger Chittagong Region. CHT is commonly used to refer to these three upland districts, which border Myanmar in the southeast, and India in the north. A large percentage of the district's population identify themselves as indigenous peoples, belonging to eleven groups with rich cultures, languages, and traditional agriculture systems.⁹⁸ There exists a high incidence of land conflict in Bandarban, while CHT as a whole is subject to a complicated process of ongoing land dispossession, both from traditional indigenous landowners and from Bangladeshi settlers.⁹⁹ CHT has a strong military presence, and there are regular clashes between Government of Bangladesh forces and local militias.¹⁰⁰

BAT began its leaf operation in Bandarban in the mid-1980s¹⁰¹ during a period of violent conflict that spanned two decades between 1977 and 1997. Today, tensions remain and human rights abuses are still prevalent.¹⁰²

Human rights abuses and land conflicts

CHT's history of land grabbing and related human rights abuses against indigenous people started during the colonial era in the mid-1800s. Through British-Indian colonisation, Pakistani rule, and Bangladeshi administration, Bandarban's history has seen three waves of land dispossession from traditional landowners. The area has been subject to deforestation, armed conflict and human rights abuses. During a 20-year armed conflict between Bangladesh's armed forces and the indigenous insurgent group Shanti Bahini, indigenous villagers fell victim to human rights abuses committed by Bangladeshi members of the army, security forces and militias. Human rights abuses were also committed by Shanti Bahini, and included extrajudicial killings.¹⁰⁵

FACTS

Unique forests and biodiversity

Chittagong Hill Tracts' landscape history is that of unique natural forests and upland shifting cultivation systems. The forest products – wood, roots, leaves, barks, berries, fruits, fungi, insects, and wildlife – are used in an advanced medicinal tradition and food culture. The sophisticated shifting agricultural systems for rice and other crops are at the centre of social organization, land-use systems, and cultural and religious ceremonies, festivals, and traditional clothing and handicraft.¹⁰³ The district hosts five Reserved forests¹⁰⁴:

- Kassalong Reserved forest (393,842 acres)
- Raingkheong Reserved forest (188,537 acres)
- Sitapahar Reserved forest (14,516 acres)
- Barkal Reserved forest (583 acres)
- Sangu and Matamuhury Reserved forest (184,015 acres)

During the conflict, and shortly before the establishment of the BATB operation in Bandarban, the Government of Bangladesh implemented a so-called ‘transmigration programme’ as part of its counterinsurgency strategy that saw indigenous landowners forcibly displaced by security forces. During a 6-year period between 1979-1985, approximately 400,000 settlers were brought in from outside the CHT and placed on indigenous land under the supervision of military and civil officials, in disregard of the pre-existing land rights of the indigenous peoples.¹⁰⁶

In May 2000, over 90,000 indigenous families from the three CHT districts remained internally displaced – removed from their land and their former livelihoods.¹⁰⁷ In the CHT region generally, the number of Internally Displaced People (IDPs) was estimated to be as high as 280,000.¹⁰⁸

The implementation of the 1997 Peace Accord

After many years of negotiation, the Chittagong Hill Tracts Peace Accord, was signed in December 1997 between the Bangladeshi Prime Minister and the leader of the Jana Sanghati Samity political party.¹⁰⁹ Although the Accord put a formal end to the armed conflict¹¹⁰, the implementation of the agreed reforms to restore a measure of autonomy and promote the cultural, economic, social, civil and political rights of the CHT’s indigenous peoples has been slow, and the Government of Bangladesh has failed to stop human rights violations against the CHT’s indigenous population.¹¹¹ According to a 2013 progress report on the implementation of the 1997 Peace Accord, several components of the Accord remain unaddressed.¹¹² For instance, the CHT Land Dispute Settlement Commission (‘the CHT Land Commission’) established in 2001 under the CHT Land Disputes Resolution Commission Act, has remained inactive.¹¹³ No cases of land conflict have been registered, processed or settled to date.

Poverty and malnutrition

In Bandarban’s seven sub-districts between 28% and 50% of the population lived under the Upper poverty line in 2010, as compared to the Bangladesh national average of 32%.¹¹⁴ In Thanchi sub-district, the poverty incidence is 50% or more, and in the four sub-districts Alikadam, Lama, Naikhongchhari, and Ruma, the corresponding poverty numbers are between 39% and 49%.¹¹⁵ According to more recent data from UNDP and the Chittagong Hill Tracts Development Fund, the poverty incidence in the whole of the CHT is 74.1%.¹¹⁶

The district average literacy rate is 36%, and school attendance amongst 5-24 year olds is 44.5%.¹¹⁷ Bandarban has the highest level of child malnutrition in Bangladesh.¹¹⁸ 48% of the children suffer from so-called ‘childhood stunting’¹¹⁹, which means that because of undernutrition and infections during the first 1,000 days of the child’s life, they are significantly shorter than healthy peers in their age group. Childhood stunting is an irreversible condition that leads to diminished cognitive and physical development, reduced productive capacity and poor health.

LAND CONFLICT IN CHT

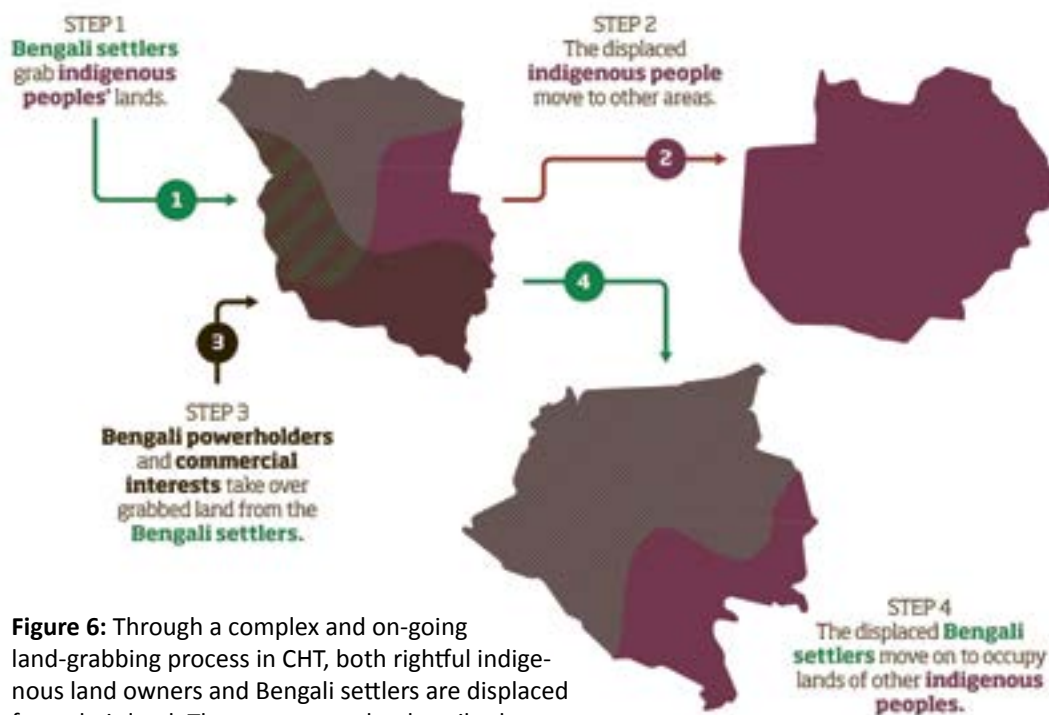


Figure 6: Through a complex and on-going land-grabbing process in CHT, both rightful indigenous land owners and Bengali settlers are displaced from their land. The process can be described as a 'domino-effect' dynamic where one instance of land grabbing leads to yet other cases.

Indigenous land rights

In its tobacco cultivation operations, BAT does not publish any policies or operational procedures on indigenous land rights, nor does it make reference to land issues in general. BAT Headquarters did not comment on Swedwatch's finding that BATB had omitted to survey or address risks associated with potential land conflicts within their area of operation in Bandarban.

While the CHT Land Commission has remained inactive, large areas of land under indigenous ownership in Bandarban have become inaccessible to their rightful customary owners. In Bandarban, it is estimated that, in 2009, over 90% of the total of 97 administrative units in Bandarban have 'high' or 'medium' levels of land disputes. Two main developments have been cited as responsible for the transfer of land use from indigenous cultivators to other actors: 1) the leasing of indigenous land by the government and, 2) the introduction of afforestation projects by the Government of Bangladesh on indigenous land.¹²⁰

None of the interviewees in Swedwatch's Bandarban survey provided information on any unresolved land conflicts in BATB's tobacco cultivation operation during the growing season 2015-2016. However, a lawyer from the CHT who works in Ban-

◀ Land grabbing mechanisms in CHT

The abuse of indigenous peoples' land rights in the CHT is ongoing, and gradually increasing amounts of land are being transferred from its customary indigenous owners to other actors such as government, settlers, businesses, and powerful individuals.

Land ownership in the CHT is currently governed by three partly overlapping legal systems – generic Bangladeshi laws, specific CHT laws, and customary laws supported by international conventions¹²². As a result, one plot of land may have multiple land titles, and conflicting legal rights. The complicated legal framework has resulted in a situation where land grabbing is often based on getting actual possession of land on the ground and that at operational level, practical land use has become more important than legitimate land rights.

Many different agencies are involved in claiming land in the CHT, for example public agencies such as the civil administration and the security forces, as well as private agencies such as business houses, plantation leaseholders, political leaders, and land dealers.

What distinguishes the new and relatively complex trend of land grabbing by commercial actors and powerholders is that it affects not only indigenous peoples' land, but also land used by Bengali settlers. In many cases, Bengali settlers who have been displaced by powerful interest groups have, in turn, occupied 'empty' or unused fallow lands of the indigenous people. In other cases, the settlers have taken over lands which are being used by indigenous peoples who do not have the capability to resist.

These interactive processes have resulted in a domino effect situation with sequential land grabbing and displacement of people in the CHT. The following are four typical steps in a sequence of land grabbing, which involves indigenous land owners, Bengali settlers, and commercial interests:

STEP 1: Bengali settlers grab an indigenous people's lands;

STEP 2: The displaced indigenous people move to other areas or into Reserved forests;

STEP 3: Bengali powerholders and commercial interests take over grabbed land from the Bengali settlers, and;

STEP 4: The displaced Bengali settlers move on to occupy lands of other indigenous peoples.

Source: Adapted from Adnan, S., Dastidar, R., 2011 and USAID, 2010. ¹²³

darban stated that it is likely that many disputed incidences of tobacco farming on indigenous peoples' land in the district exist, but that these have not been documented, and therefore rightful indigenous land owners are not able to bring these cases to mediation and to pursue compensation.¹²¹

6.2 Contract farming model

Swedwatch examined the formal contracts between BATB and farmers and through interviews with farmers in Bandarban, Chakoria and Lalmonirhat, reviewed how the contract relationship and risk-sharing works in practice. There is a strong indication that BATB's formal contracts with its registered farmers are neither fair nor transparent, and that the company's unclear commitments on purchase volumes and quality grading make farmers' profits unpredictable.

Flawed contracts with farmers

Eleven BATB-registered farmers were interviewed as part of Swedwatch's field study in Bandarban district. All stated that they sign contracts with BATB at the beginning of each tobacco season. Nine of the farmers commented directly on the content and format of the written contracts, and stated that they were not able to read and understand them before signing the documents. Two of the interviewed farmers made no comment on the nature of the contract.

The nine farmers described how after signing, the company 'took the paper', and they were not given a contract copy to retain. Three of the farmers informed Swedwatch that they have signed blank pieces of paper as contracts. As one farmer said:

"The company gave me a form where something was written in English, but it was not filled in by the company staff. I signed at the bottom of that blank form where the BAT field officer showed me. I don't know what was written there, and I didn't get a copy."

The farmers' information regarding the contracts was confirmed by several sources in Bangladesh, independent of each other. During an interview with Swedwatch, Farida Akhter – director of the Dhaka based NGO UBINIG, and active in field research with BATB farmers across Bangladesh for many years – stated that BATB does not provide copies of contracts to their farmers.¹²⁴

A former BATB field officer in the Chittagong region, who worked for the company during the 2000s, and who also used to be a BATB-registered farmer himself, informed Swedwatch that the contracts which BATB signs with its farmers are in English and do not contain any substantial clauses. According the same source, the only information on these contracts is related to the personal details of the BATB farmer in question.

Further, a local journalist from the Chittagong region with good knowledge of the BATB leaf operation also assured Swedwatch that BATB does not draw up formal contracts with its registered farmers.

A Chittagong region BATB officer with good knowledge of the company's Bandarban and Chakoria leaf operations, explained during an interview with Swedwatch that BAT Group policy requires a signed contract with the farmer each season before he or she starts growing tobacco for the company:

“We give them a form printed on a blank paper, which they sign together with a counterpart from the company,”

The BATB officer explained that the reason why the company does not sign official contracts with farmers is that the tobacco control law prohibits this. However, the referred-to Bangladesh Tobacco Control Law and the 2010 Circular from the Bank of Bangladesh¹²⁵, do not include any such provisions. The officer added that, since BATB gets the contract forms from the head office in London, local company staff are not able to make any duplicates.

BAT Headquarters state this is not accurate. Regarding the Bandarban farmers' claims about the contract signing process, BAT assert that these are 'baseless and unfounded',¹²⁶ adding that:

“The contracts (between BATB and farmers) not only set out obligations of both parties and entail terms and conditions, beneficial for both, but also comprise of conditions, which are beneficial for the environment and government. The contracts are formulated in understandable Bengali with clearly written terms and conditions.”

BAT Headquarters also provided Swedwatch with a contract template, written in English and including clear clauses on price, agreed purchase volumes, references to the company's social and environmental guidelines, as well as a ban on farmers using wood from protected forests for processing flue-cured tobacco. The contract template presented in Annex 2: 'BATB's Farmer Contract shared with Swedwatch'.

On 24 May 2016, following Swedwatch's exchange with BAT Headquarters, a former BATB field officer in Bandarban informed Swedwatch that:

“Starting from 22 May (2016), for the first time in 25 years, BATB has provided registered farmers with a written contract which clearly states prices and purchase volumes in Bangla language.”

According to the former BATB field officer, the company has told farmers that the contracts will be valid for the coming 2016-2017 season, and assured farmers that copies of the signed contracts will be provided as soon as possible.

Uncontrolled subcontracting in BAT's supply chain

A problematic informal subcontracting system exists in BAT's supply chain. In Chakoria and Bandarban, Swedwatch's survey shows that BATB farmers enter into contract agreements directly with BATB. In contrast, Swedwatch's interviews in Lalmonirhat indicate that BATB-registered farmers subcontract production to landless farmers.

Swedwatch interviewed Maidul Islam, Programme Manager and agriculture expert at the large and well-respected national level development organisation RDRS's Lalmonirhat unit¹²⁷, who explained:

“There is a problem in this area with a strong syndicate of BATB farmers who subcontract and exploit poorer landless farmers.”

In Swedwatch's interview with eight BATB-registered farmers in Lalmonirhat, interviewees elaborated that the subcontracting system keeps landless farmers in poverty. The set-up described indicates an organised system of exploitation with some BATB farmers buying as many as four or five BATB registration cards from other farmers.

“The subcontracted farmers don't get any of the advance credit, technical support or subsidised prices for inputs from BATB so their costs are high.”, says one farmer.

It was also explained that when it is time to sell the tobacco produce, the BATB farmers take more than a fair share of profits, while paying subcontracted farmers below the rates paid by BATB.

A second group-interview with farmers growing tobacco for the local market indicated that BATB farmers who have 'good relations' with BATB company staff, are able to obtain more than one registration card. These farmers say that, because they themselves are so poor, it is not an option for them to grow tobacco for a BATB card holder:

“If we would work as subcontractors for a BATB card holder, we would not be assisted by the company. The cost for fertilisers, pesticides and everything else would be too high for us, and we would not be able to keep up with BATB's quality requirement.”

The subcontracting system is lucrative for the BATB farmers and undercuts efforts to diversify agricultural production. An interview with the Upazila¹²⁸ Agriculture Officer in Lalmonirhat Sadar sub-district, Enamul Haque, illustrates that the opportunity for BATB card holders to make money through this second layer of the supply chain is one reason why it is so difficult to promote alternative crops.

“The high profit that this system generates is why farmers with company cards do not want tobacco to go away from this area.”



Sorting tobacco leaves. PHOTO: REPÓRTER BRASIL

Heavy investment costs

“From the time of land preparation in September, until tying the dried tobacco leaf bundles in April, we need 100,000 BDT (GBP 868) per acre to be able to grow tobacco. The company gives us a 5,000 BDT (GBP 43) cash advance per acre. Farmers like us, who cannot afford the remaining investment cost, have to take additional loans from local money lenders.”

/ BATB FARMER IN BANDARBAN.

By signing the production agreement and the BATB registration card, farmers commit to selling their produce exclusively to BATB. According to the eleven BATB farmers interviewed in Bandarban, they themselves are responsible for the major part of the investments required for each tobacco season. The farmers typically rent land, hire labourers, and purchase inputs such as fertilisers, pesticides, and fuel wood needed for curing the leaves at the end of the season.

According to the interviewees, BATB will support the farmer by providing seeds, a portion of required fertilisers, and a smaller cash advance of between 5,000 and 10,000 BDT (roughly GBP 43 – 87) per acre¹²⁹ at the beginning of the season, with some variations between different areas and different years. The value of BATB’s inputs and the cash advance is then deducted when BATB pays the farmer for leaves. BATB also provides some loans for farmers to construct or repair tobacco drying kilns.

According to information shared by BAT Headquarters, BATB provided interest-free cash loans of just over 6,000 BDT¹³⁰ per acre in Bandarban and Chakoria between 2000 and the 2014-2015 production season. Starting from the 2015-2016 growing season, the cash advance was increased to approximately 13,000¹³¹ BDT per acre. As for the inputs which BATB provided as part of an in-kind advance, these comprised seeds, seedbed cover, some fertilisers, and fungicides.¹³²

Unpredictable profits

The BATB farmers interviewed in Bandarban stated that, in addition to fluctuating prices for renting land and for paying for labour and inputs, they perceived the following risks to their tobacco investments:

1. Uncertainty in BATB's purchase volumes at the end of the season;
2. BATB's inconsistent and unfair quality grading of the tobacco leaves;
3. Force Majeure events such as floods, pests, and fires impacting on the tobacco yield and the quality of the leaves;
4. Lost working time and costs resulting from illness.

FACTS

Farmers' investment risks in Bandarban and Chakoria

Swedwatch's interview survey spanned two tobacco cultivation seasons: the 2014-2015 season, and the 2015-2016 season. The findings show that investment risks for BATB tobacco farmers are high as they depend on, for example, BAT's decisions on purchasing volumes, unforeseen weather events and factors beyond their control.¹³³

According to a large number of interviewees in the survey, the 2014-2015 season presented unexpected difficulties for BATB farmers for two reasons:

- In both Bandarban and Chakoria, at the end of the tobacco growing season, many farmers were left with unsold tobacco due to the fact that BATB did not buy the agreed amount of produce. The interviewees stated that the reason provided by BATB officers was that global market prices had fallen.
- After the tobacco harvest, interviewees described how many Bandarban farmers' unsold tobacco produce was washed away or damaged in heavy rains during a cyclone.

The 2015-2016 growing season presented Bandarban farmers with more unforeseen challenges:

- According to interviews with a local BATB officer and with farmers, those who harvested in April 2016 before the rains started had a good yield, whereas farmers who harvested after the rain had significantly lower yields than expected. As a result, although BATB buys all the produce from their farmers, many farmers' profits were below their own prediction forecasts.
- According to another interviewee – a local NGO representative – the lower yield was also due to increased pest depredation.

The Bandarban farmers stated that they cannot expect any support from BATB when harvests fail or when BATB changes pre-agreed purchase volumes of tobacco. The farmers in both Bandarban and Chakoria, as well as a number of community representatives and government officers interviewed by Swedwatch, also claimed that BATB do not contribute towards medical costs for its registered farmers and their family members. The farmers stated that they themselves carry all the costs for lost working time and for medical expenses in case of illness.

BAT Headquarters told Swedwatch that, in acknowledgement of the impact from the floods in Bandarban in 2015, BATB supported affected farmers with a 15% increase in the amount of interest-free cash loans available during the subsequent 2015-2016 crop season.¹³⁴ BAT Headquarters did not comment on BATB's alleged lack of support for farmers' medical costs and lost working time during sickness.

Loans and over indebtedness

The eleven interviewed Bandarban BATB farmers explained that they need cash for investment during three stages in the tobacco growing cycle:

- 1.** During land preparation, preparation of seedlings and sowing in September– December;
- 2.** For paying labourers, with the highest costs incurred during the intensive harvesting and processing period between March – May, and;
- 3.** To purchase the fuel wood needed to cure the tobacco leaves in April.

Three farmers stated that they do not need to take out loans for their yearly tobacco investments, while the remaining eight BATB card holders – all tenant farmers who rent land – explained that the current BATB cash advances are not enough to cover their investment costs. Their only option is to turn to independent local money lenders; resulting interest rates cut the farmers' earnings substantially.

A former BATB officer from Bandarban confirmed that a large majority of tenant farmers with small or medium-sized land – in both Bandarban and Chakoria – need to take out loans from local money lenders in order to cover the full investment costs of tobacco cultivation. The smaller cash advances from BATB are automatically deducted from the company's payment to farmers at the end of the production season. However, many farmers cannot cover the costs for repaying the interest and the loans to local money lenders, leaving them with a deficit after selling their tobacco leaves. As a consequence, they begin the following season unable to repay outstanding loans and incur new loans to cover the investment costs of the new season.¹³⁵ This interviewee stated that, after the 2015-2016 season, the incidence of over-indebted farmers fleeing from the area to escape from heavy debt burdens had increased.

FARMERS TRAPPED IN DEBT

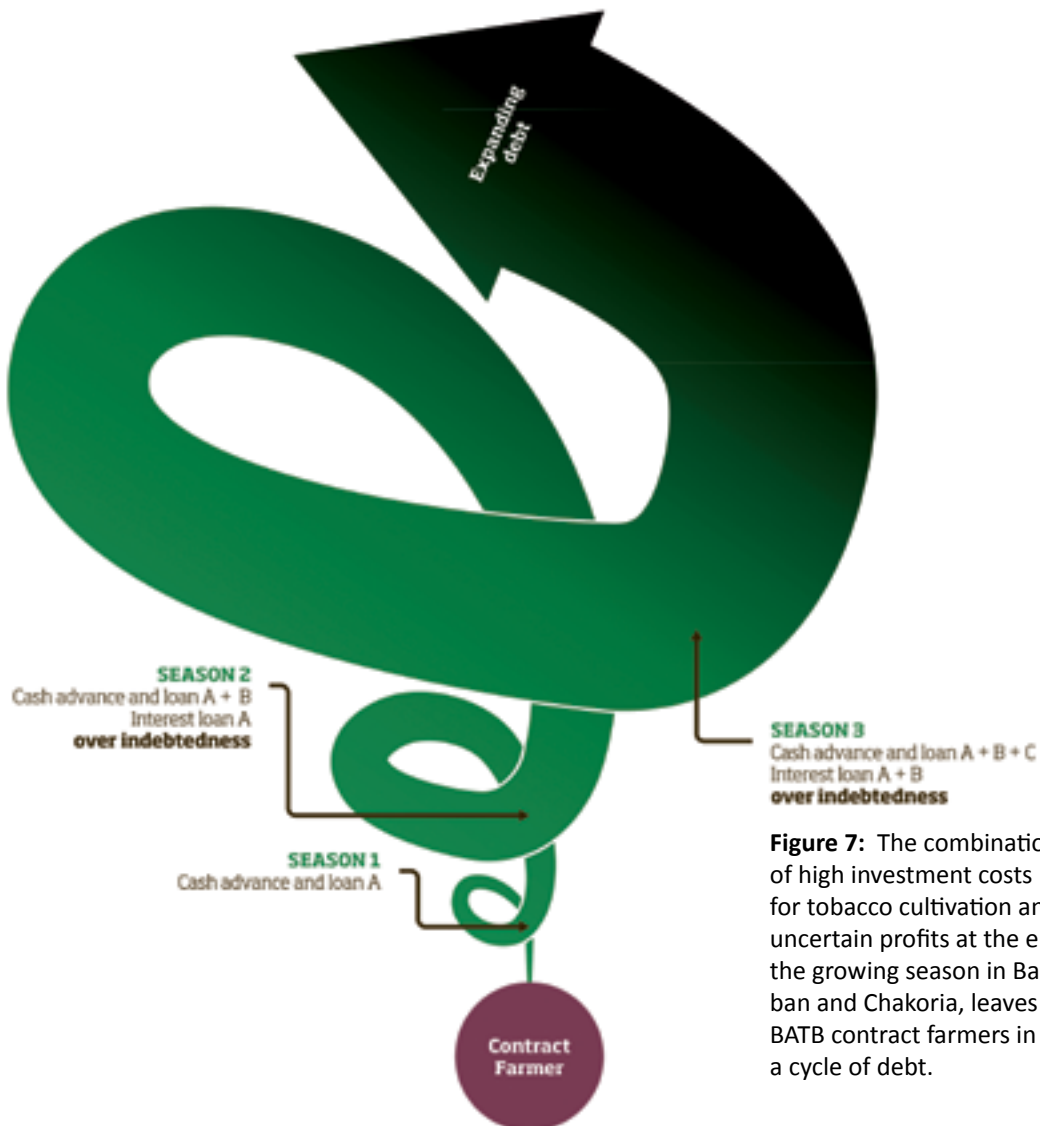


Figure 7: The combination of high investment costs for tobacco cultivation and uncertain profits at the end of the growing season in Bandarban and Chakoria, leaves many BATB contract farmers in a cycle of debt.

One Bandarban farmer, who made a significant loss in the 2014-2015 season, said that he is growing tobacco in 2016 again, so that he can earn more to recover the money that he lost in previous years:

“This year I have to pay back the loan from the company, and my debt to the local money lender and his interest.”

A number of Swedwatch’s interviewees in Chakoria share the Bandarban farmers’ concerns about over indebtedness. Swedwatch interviewed Abdul Quader, Agriculture Extension Officer in Chakoria who explained that the risk for farmers ending up in over indebtedness increases at times when BATB rejects their leaves – either based on quality grading or for other reasons. He stated that BATB farmers who cannot pay back their loan at the end of the tobacco season will ask the money lender for an extension. A prolonged loan period will only be granted if the farmer assures the lender that he will grow tobacco again next season.

“Many farmers have to extend their loan for two to three years. One loan leads to another, and the farmers are trapped into a cycle of debt”, said Abdul Quader.

Swedwatch interviewed a local money lender in Chakoria, who is also a registered BATB farmer. He explained that loans to tobacco farmers constitute higher risk than lending money to vegetable farmers. Farmers who grow vegetables can normally pay him back within six months, while for tobacco farmers it takes about one year to settle loans and accompanying interest, which he sets at 40% per season.¹³⁶ He added that all the tobacco farmers who come to him are tenant farmers, since farmers who do not own land are not able to take out bank loans and that medium-sized money lenders like himself represent the best option for tenant farmers in the area. The local Farmers’ Association has a savings and credit scheme, but they stopped taking in new members. In the area there are microfinance institutions¹³⁷ that provide loans to farmers with a 30% interest rate. According to the money lender, however, borrowers are required to make weekly payments, and farmers who are late with a payment, by even one day, may have their credit impacted and the terms of their loan may then enter into negotiation with the local administration.

In recent years, the money lender has seen that some tobacco farmers who cannot pay back their loans have gone into hiding or fled from the area. This has left families in precarious situations:

“The wives who have been left behind by their over-indebted tobacco farmer husbands are in a difficult situation. They are ashamed and often verbally abused by other community members.”

Although some of the wives continue tobacco farming and take out new loans, most work as agricultural labourers instead. The money lender explained that the children in these families often quit school since the whole family has to work in order to be able to settle loans.

In two Swedwatch group interviews with BATB farmers in Bandarban at the end of the 2015-2016 growing season, the farmers stated that because the tobacco yield was lower than expected, they would be unable to pay back all the loans to the money lenders:

“For the next season, we will have to start out with our existing loan, and then take additional loans at higher interest rates than last year from the local money lender.”

Unfair prices and lack of dialogue

“There is no scope for price negotiation with the company staff, but every year, there is hostility, dissatisfaction and verbal arguments between the farmers and the company staff regarding the grading of the tobacco leaves.”

/ BATB FARMER IN BANDARBAN

A majority of the interviewed Bandarban farmers say that the quality grading of the produced tobacco leaves depends on BATB officers’ assessments. A few farmers say

they have no problem in getting a fair price for their leaves, while a handful of interviewees mention instances where company officers attempt to ‘cheat’ farmers, especially those who do not keep their accounts properly.

“When we take our highest quality leaves to the company, the company staff make various excuses and intentionally downgrade our product, thus giving us a lower price than we deserve.”, said one farmer.

In response, BAT Headquarters in the UK shared a leaflet on quality grade descriptions with Swedwatch, which the company circulates amongst its farmers for reference. In order to ensure fair grading, BAT Headquarters stated that:

“Representatives from different ministries and organisations, including the tobacco industry, as well as farmers’ representatives from different areas are all actively involved in the process.”

BAT Headquarters added that the Government of Bangladesh Department of Agriculture Marketing monitors the price paid by the industry throughout the season, and all tobacco companies are obliged to submit reports of the amounts of tobacco they have purchased in each quality grade to the Ministry of Agriculture.

While negotiating for conditions and prices with the industry, tobacco farmers can expect little support from existing local farmers’ associations and unions who are not effective in representing farmers’ interests, according to a local journalist interviewed by Swedwatch. With extensive experience from working in the Chittagong region and CHT, he also adds that, when it is time to collect the tobacco leaves, all the tobacco companies in the area act in unison:

“The company agents assess the quality grade of tobacco without even touching the leaves, and if one company rejects a farmer’s leaves, he will not be able to sell to anyone else either.”

A typical situation – according to the journalist – might be that BATB officials reject a farmer’s bales of the highest quality grade of tobacco, grade one, saying that ‘We can’t take your tobacco, there is no global demand.’ He added that:

“A few days later the company officers come back and say they can buy, but at the medium grade, grade three. The farmer is not happy of course.”

A Bandarban BATB farmer gave a similar view:

“If one company does not buy any leaves from certain farmers, other companies will never buy leaves from those farmers either. That is why the farmers do not have any bargaining power even if they know that they are not getting the right price.”

6.3 Labour and income

Swedwatch's field studies in Bangladesh show that the work in BATB leaf operations is carried out by farmers, their spouses and children, and by hired men and women labourers and their children.

Who are the tobacco workers?

“If a farmer and his wife and children can manage the whole tobacco cultivation process by themselves, that farmer can earn some income. But if he has to pay for labourers, it is impossible to make money.”

/ BATB FARMER IN BANDARBAN.

Swedwatch's interview surveys in Bandarban, Chakoria and Lalmonirhat generated descriptions of the tasks that different people perform in BATB tobacco cultivation.

The farmers, who are mostly men, are responsible for the overall supervision of the work, seedling preparation, preparing the land, pesticide and fertiliser application, harvesting, curing, and carrying the load from field to home and from home to company storage facilities.¹³⁸

The farmers' wives help their husbands with land preparation, irrigation, and a number of other tasks during the processing stage, such as bundling, sorting, organising, putting leaves into the kiln, monitoring the temperature in the kiln, and tying according to quality. In addition to the tobacco work, the wives look after the household, cook, and care for the children.

The adolescent boys in the survey – both farmers' sons and hired labourers – conduct much of the same work as the men in the field, and they also tend to the fire during the actual drying of the leaves. Girls and boys of all ages are responsible for irrigating and leveling the field. Some of them carry loads as well and bring seedlings from the bed to the field. After harvesting, they break the leaves, cut the stems, and help to monitor the kiln temperature while curing.

A local community development worker from a Bandarban NGO with a longstanding engagement in livelihoods and poverty alleviation, described the role of women and children in tobacco growing in the district:

“About half of the people working in the tobacco fields are women and a very significant number are children.”

An interviewed former BATB child labourer and farmer stated that child labour is widespread in BATB Bandarban and Chakoria tobacco production. From his observations, he estimated that more than half of BATB farmers in these two areas rely on child labour. He said that, on average, two to three children – from age 12 and older – work in tobacco cultivation on each BATB farm. This includes both farmers' own children and children who are hired as labour by the farmers.





**Marma indigenous
men and women
pulling out a fishing net
and washing dishes.
Sangu River,
Bandarban, CHT.**

PHOTO: PAVEL GOSPODINOV
VIA GETTY IMAGES. THE PHOTO
IS NOT RELATED TO THE FIELD STUDY
AND FINDINGS OF THIS REPORT.

A number of Bandarban farmers said to Swedwatch that, especially during the harvesting season, farmers' children have to work in tobacco production. One farmer said that his youngest son, who is in grade four at school, works with him in the tobacco field together with his two older brothers. Another farmer's adolescent children work in tobacco cultivation and processing during the full duration of the production season. A farmer with smaller children said that:

“My sons are still too young to work a lot, but they help their mother with processing tobacco leaves at home.”

Seven out of the 14 interviewed day-labourers have their children working alongside them in the tobacco field, typically for about four to five hours per day. Some of the older children work the same eight to ten hour shifts as their parents. Three interviewed female day-labourers from Chakoria explained to Swedwatch that labourers' children normally start work in tobacco at the age of ten to twelve years, and that women and child workers are important for particular tasks in tobacco cultivation:

“Tobacco farmers need us women and child workers, especially for tasks requiring detailed precision such as applying pesticides or watering small plants.”

During Swedwatch's field visit in Chakoria in 2015, direct observations of child labour in BATB farmers' tobacco fields outside of school hours were made on three occasions. The first observation was of seven primary school-age children working in one BATB field. The second observation was of approximately 30 children working in a large field under tobacco cultivation for BATB. The children were of mixed ages, from primary school age to teenagers. In the third instance, Swedwatch observed approximately 25 children engaged in tobacco work in the same large BATB tobacco field. Again the children working were of mixed ages, with the youngest ones of primary school age.

BAT Group has a policy that prohibits work by children, with the exception of work on farms for children between 13 and 15 years of age, 'provided it is light work, does not hinder their education or vocational training and does not involve any activity which could be harmful to their health or development (for example, handling mechanical equipment or agro-chemicals)'. On its website, the company explains that 'The reality of rural agricultural life in many parts of the world means certain kinds of work can play a formative, cultural, social and familial role for children.'¹³⁹

According to information shared by BAT Headquarters¹⁴⁰, zero incidences of child labour in tobacco growing have been reported across Bangladesh via the company's SRTP supply chain management programme to date.¹⁴¹ BAT shared a commissioned study from Bangladesh with Swedwatch, which found that the incidence of children helping with tobacco work during school hours is under 2%, while 27.3% of the farmers in the sample responded positively when asked whether they deploy school going children during harvest season.¹⁴²

BAT Headquarters added that their company staff respond to incidences where children in tobacco farming families carry out household chores during school hours:

“Every year BATB reviews children’s involvement in domestic tasks during school hours and takes measures accordingly, such as running awareness raising and counseling sessions.”

Interview respondents	Working hours during preparation, planting, and growing (Sept - March)	Working hours during harvesting and processing (April - May)
BATB-registered farmers (men)	10-12	Up to 20 hours
Farmers’ wives	5-10	12-17
Farmers’ sons and daughters (adolescents)	4-7	15-16
Monthly/seasonal male labourers	8-12	18-19 “and more”
Male and female day labourers	8-10	Most 8-10, some up to 18
Adolescent boy day labourers	4-5	15-16
Day labourers’ children	4-10	4-10

Table 2: Overview of Swedwatch Bandarban interview respondents’ estimates of working hours for BATB registered farmers and their household members – their wives and children – as well as estimates for labourers hired by the BATB farmers and their children who work alongside parents in the tobacco field.

Typical working hours and tasks

“During the curing stage we have to work 18-20 hours per day. There is an extra intense phase when the adults can’t sleep for two to three days – they have to work at the kiln, and maintain the temperature while curing the leaves.”

/ BATB FARMER, BANDARBAN.

BAT does not have provisions for maximum working hours for their registered farmers, their families, or the farmers’ hired labourers. The correspondence from BAT Headquarters clarified that BATB does have a working relationship with farmers through the contract agreement but added that:

“BATB’s contracts do not dictate to farmers how many hours they should dedicate to producing the crop.”¹⁴³

Income: Farmers, spouses and children

“I never calculate properly. But if you talk about real numbers, there is no profit. We take a loan from a local money lender, and spend the money in phases during the tobacco season. When we sell the leaves, we get a big amount of cash money at once, and this is what we think is our profit.”

/ BATB FARMER, BANDARBAN

According to a tobacco expert at the NGO UBINIG, on average 15% of tobacco farmers in Bangladesh make a profit. The remaining 85% of farmers incur a loss or break-even.¹⁴⁴

Four out of the eleven Bandarban farmers interviewed by Swedwatch said they made a profit during the last tobacco season. For example, one BATB farmer who owns his own land and relies on paid labourers and his wife for the work in the tobacco field, stated that:

“After I pay all my expenses at the end of the season, I will make a profit of 50,000 BDT (434 GBP) per acre, which is impossible to get if I grow other crops.”

Two farmers said they made a loss and one thought that he made no profit. Three said they made a small profit, and two did not mention if they made a profit or a loss. A land owner farmer who grew tobacco on half of his ten-acre plot for over 20 years, most recently for BATB, stopped cultivating tobacco a few years ago:

“I have my own land, and I’m a middle-income farmer so I didn’t have to take loans from local money lenders.”

Still, the increased costs of pesticides, fertilisers, and labour, in combination with the companies’ modest price increase year by year and the stricter grading system meant that he could no longer make a profit:

“It was even becoming difficult for me to recover my investment costs.”

Four interviewed farmers made the general comment that farmers working for BATB cannot make a profit unless they cut labour costs and use their own family as labour. According to the interviewees in the survey, farmers’ wives and children work in tobacco for the benefit of their families, and do not receive any payment for their work.

Income: Hired labourers

BAT’s publicly available documents do not refer to salaries for farm labourers. BAT Headquarters stated that some farmers will hire casual labour when required, and underlined the fact that the Bangladesh Labour Law does not oblige farmers to sign a contract for hiring casual labour.¹⁴⁵



Woman planting tobacco as part of contract farming for British American Tobacco Bangladesh.

Swedwatch interviewed 14 hired labourers who work for BATB-registered tobacco farmers in Bandarban. None of them had a formal employment contract. The majority of these tobacco workers stated that they are paid on a daily basis, while two labourers have an informal seasonal or monthly agreement with the farmer.

A number of labourers in Bandarban clarify that BATB does not know how much the farmers' labourers are paid, or what their contractual arrangement with the farmers are, and the BATB field officers do not interact with labourers. One seasonal male labourer said:

“When the company people come to the farm, they never ask the farmer about me, or talk to me.”

The results from Swedwatch's interviews show that women labourers make less money than their male coworkers in the field with a daily wage of 150-200 BDT (1.3-1.8 GBP) and no additional support from the employer. This can be compared to the male day labourers in Bandarban who typically make 300 BDT (2.6 GBP) per day, with occasionally higher payments for longer working days during the harvest and processing period.

Three BATB women labourers from Chakoria stated that, in this district, they make 200 BDT (1.7 GBP) per day, as compared to 350 BDT (3 GBP) for male workers. No lunch is provided by the employer and they work seven-day weeks. The labourers say that if they could make 400-500 BDT (3.5-4.3 GBP) per day they could live comfortably, buy food every day and send their children to school.

“With this salary, we can't afford to buy healthy foods. Our daily diet is vegetables, lentil soup, and rice. Once a week we can afford fish, and we eat chicken maybe once every 2-3 months. If we had money, we would buy milk, eggs, fruit and meat.”, said one labourer.

The women labourers say that when they were pregnant they had to live on small loans from neighbours.

“If we are away from work for a longer period of time, we take out many loans – from the shop, and from people in the village.”

A 16-year-old Bandarban boy interviewee who works as a day labourer gets a similar daily wage to the women – 180 BDT (1.6 GBP) per day. The male day labourers in Bandarban typically make 300 BDT (2.6 GBP) per day, with occasionally higher payments:

“I make 300 BDT (2.6 GBP) per day, but some days I also get 350 BDT (3 GBP). We are very poor so my wife and children also have to work as day labourers in the tobacco field to earn money for the family. The employer does not provide us with food and accommodation, as we are day labourers. The farmers do not pay for medical costs for day labourers”, he said.

Male seasonal labourers get 45,000 BDT (391 GBP) for the full season from September to May, and the labourers who are paid on a monthly basis make a salary of

6,000-8,000 BDT (52-69 GBP). These labourers typically eat with the farmers' family and are also provided with accommodation and sometimes extra sundries. One seasonal male labourer described:

“In addition to the cash, the employer also provides us labourers with food, accommodation, cigarettes and betel leaves. The farmer’s wife cooks for us, and we have the same food that their family eats.”

Three BATB female labourers from Chakoria inform Swedwatch that children aged 10-12 years and above earn 50-100 BDT (0.4-0.9 GBP) per day depending on age, tasks and speed of work. Children who are between five and seven years old make 10-20 BDT (0.1-0.2 GBP) per day.

Income: Land leasers and money lenders

“The people who make money from BATB tobacco farming are those who provide cash credit to the farmers and charge interest. The farmers have to pay 30-50% interest on a seasonal loan of say 100,000 BDT (868 GBP).”

/ BATB FARMER, BANDARBAN.

Many of the farmers interviewed by Swedwatch in Bandarban and Chakoria reflect the view that – apart from BATB – the stakeholders in the local supply chain who make the most money from growing tobacco are the land owners who rent out land parcels to BATB farmers, followed by local money lenders who provide loans.

Another farmer reflects on the profits of farmers who lease out land as they take cash advances from the tenant farmers:

“A land owner who has 20 acres of land can get 1.2 -1.4 million BDT (10,421-12,158 GBP) in one year, and he gets the cash in advance from the tenant farmer at the beginning of the tobacco season.”

6.4 Health and wellbeing

The results from Swedwatch's interviews show that tobacco farming impacts negatively on the wellbeing and health of farmers, their wives and children, and on the health of hired workers in the BATB leaf operations.

BAT does not have a policy of specific commitments to protect children and adults in its tobacco cultivation operations from the combined health effects of Green Tobacco Sickness,¹⁴⁶ pesticide exposure, and excessive working hours. In its Supplier Code of Conduct¹⁴⁷, BAT requires its suppliers to ‘provide a safe working environment, adopt procedures to identify and address workplace health and safety risks, implement safe working practices, and provide (where relevant) appropriate protective equipment to prevent occupational injuries or illnesses’. The company does not clarify what constitutes health and safety risks in tobacco farming. On its website, BAT acknowledges the incidence of Green Tobacco Sickness.¹⁴⁸



Local shop selling pesticides and fertilisers to farmers. Chakoria, Cox's Bazar.

In a communication with the NGO Human Rights Watch (HRW) in 2015, BAT clarifies that it defines hazardous work as “including, but not restricted to, harvesting, topping and suckering – because [these tasks] may involve exposure to Green Tobacco Sickness (GTS)”. BAT further accepts that where suitable precautions take place to mitigate GTS, 16 and 17-year-olds may work, provided that they “have safety training and appropriate personal protective equipment (PPE) provided by the farmer prior to commencing work.” BAT notes that there is no standard definition of hazardous work in the tobacco industry, and that they are engaged in an international multi-stakeholder initiative to agree on such a definition.¹⁴⁹

In an email exchange with Swedwatch¹⁵⁰, BAT Headquarters did not comment on whether the company has carried out any assessment and monitoring of health impacts from Green Tobacco Sickness or effects of pesticide-use in BATB operations. A commissioned company study shared by BAT states that around 5% of farmers in the survey reported that they suffer from skin disease and respiratory diseases. Regarding protective measures, BAT made general references to BATB's training programme 'Farm Labour Practice' to promote safe working practices amongst its farmers, and to measures for safe storage and disposal of agrochemical containers on farms.

Swedwatch interviewed Dr. Saber Hossain, Residential Medical Officer at Thana Health Complex, who receives many patients engaged in tobacco cultivation at his clinic in Chakoria Town, the district centre. In his observation, the male farmers and labourers he sees at his clinic who handle tobacco leaves mostly suffer from skin diseases such as thickened skin, itching, and eczema. Many tobacco workers suffer from problems such as pneumonia and chronic bronchitis.

“The respiratory problems are a result of inhalation of dust and chemical compounds from the raw tobacco”, Dr. Saber Hossain explained.

He further stated that malnutrition and so-called Failure to thrive syndrome¹⁵¹ are common among children in tobacco families. Women involved in tobacco farming suffer from similar diseases as the men and the children, but in addition they also commonly suffer from back ache and body aches as a result of the hard labour in tobacco farming.

Adults

“When I work in front of the kiln I feel thirsty all the time, I’m coughing and get short of breath. My body aches and my head feels dizzy.”

BATB FARMER’S WIFE, BANDARBAN.

Farmers:

When Swedwatch interviewed BATB contract farmers and their wives in Bandarban, three farmers stated that they do not experience any negative health effects from tobacco farming. Six farmers and four wives reported that they suffer from exhaustion from the hard labour in the field and in front of the kiln. All ten respondents described respiratory problems including chest pain, coughing, difficulty breathing, and asthma.

A group of four female BATB farmers from Lalmonirhat described how they bring the green tobacco leaves home after the harvest, then sort them and leave them to dry in the sun. When they handle the leaves over a period of a few days, they say that a layer of skin falls off their hands.

“And when there is a foggy or rainy day, we have to bring it inside the house into our bedroom. This is when the smell and dust from the tobacco leaves makes it hard to breath and sleep.”, they say.

Swedwatch conducted a group interview with four male BATB farmers, also from Lalmonirhat, who are responsible for applying pesticides and who do not use protective equipment. They experience a range of symptoms, including breathing problems, body aches, stomach ache and vomiting, as well as weakness.

Labourers:

All 14 interviewed male- and women labourers hired for work in Bandarban BATB farms reported the same health problems with exhaustion and respiratory problems.

In a group interview with three BATB women labourers in Chakoria, they stated that work in tobacco farming is more detrimental to their health than work in, for example, rice or vegetable cultivation:

“When we handle the leaves, there is a strong, bitter smell on our hands, and we have to wash really well. With curing we get breathing problems and cough.”

The women labourers also described the physical effects that they experience when applying pesticides to the tobacco plants:

“The liquid has a bad smell, and we try to cover our faces with scarves. Our eyes start burning, we feel dizzy for about two hours, then we are OK again. If the pesticide liquid drops on the skin, it really burns.”, said one labourer.

Children

A large number of Swedwatch’s interviewees testify that children are engaged in hazardous tasks which expose them to contact with green tobacco plants, dust from tobacco, and smoke from kiln drying. The children also work excessive hours and perform work at night.

A 16-year-old boy in the survey described how he participates in the sensitive process of curing the tobacco leaves:

“I cannot sleep or eat regularly and that leads to other health problems. I feel weak. When I work in front of the kiln, my eyes burn, I feel pain in my chest and I cough a lot.”

In addition to impacts on health and wellbeing, the interviewed children described how the tobacco work impacts on their schooling, and their time to rest, play and socialise. Bandarban children’s first-hand accounts are complemented by views from BATB farmers and a primary school teacher in a BATB tobacco cultivation area in Chakoria.

School:

A number of interviewees reflected on how tobacco work impacts on children’s schooling. One Bandarban farmer stated that:

“Of course it is a common phenomenon in this area that during March to May, the children cannot attend school as they have to work with tobacco leaves.”

Another interviewee from Bandarban said that, in general, children of tobacco farmers cannot go to school during March to May. According to him, they lag behind in their studies and achieve poorer results than other children. Seven out of the 14 interviewed day labourers have their children working alongside them in the tobacco field. These children do not go to school.

Teenagers' stories from the tobacco fields:

A family affair

Six adolescent interviewees in the survey shared their own stories of what it is like to work in tobacco cultivation and processing for BATB. A 16-year-old daughter of a farmer registered with the company describes to Swedwatch how she feels when she works in tobacco harvesting and processing:

– My shoulders ache from the hard work. The smoke from the kiln makes my eyes burn, and I also cough a lot during this time.

She felt bad that she had to quit school after grade seven as her father could not afford to let her continue her schooling:

– I'm not angry with my father, but I wish I could study further. I feel sad. I do not have time to play, and to spend time with my friends, which hurts me a lot. But now we have got a mobile network here, so sometimes, when I get the opportunity, I talk to my friends and relatives on the phone.

A 16-year-old boy works as a day labourer for a BATB farmer. Usually he works in the field for 4-5 hours per day, but during the high season in March-April, he has 15- to 16-hour working days:

– During this time I cannot go to school and I miss many classes. This is a very important year for me as I have to sit for the national exams next year. But there is no option for me but to help my parents, he says.

Two other adolescent boys, who are sons of BATB farmers, work for their parents for the full duration of the tobacco season.

Both of them attend school during the first months of the tobacco growing cycle, putting in four to five hours of work per day after school. When the harvesting and processing phase arrives, they work 15-16 hours per day and are not able to attend school and cannot study regularly. Both these boys state that they feel bad for missing school, but at the same time are obliged to help their parents with farming with no time for rest or playing with friends.

– When I work with tobacco leaves for several hours, sorting, tying and organising them and putting them in the kiln, the palms of my hands become bitter and I cannot eat for several hours, says the first boy.

The work also affects their sleep and their breathing:

– I cannot sleep properly, my eyes start to water and I have a burning sensation all day. I feel pain in my chest and I cough and sneeze more than usual, says the other teenage boy.

One 17-year-old boy has been given a piece of land by his father, who is a registered BATB farmer. He runs his own tobacco farm and employs and supervises labourers who work with him in the field. He says that, since there are no other livelihood options in the area, peoples' only option is to work with tobacco farming:

– Even if we have to work very hard and have excessive overtime, we choose this so that we can earn good money and feed our families, he says proudly.

School children sick and weak from working in the fields

Could you tell us about the overall home and school situation of the students in your school?

– In this area, a majority of the students' parents are involved in tobacco cultivation. Most of the farmers can't afford to hire day labourers, and this is why their children have to support their parents in their tobacco work. When the children come home from school, they work to help their parents at home or in the field. During the tobacco harvesting and processing, many children can't attend school at all.

– In our school, I would say that 50% of the students have health problems. During assembly in the morning, there are often one or two children who faint from weakness.

– We have a high dropout rate. Normally, in grade 1-3, we have about 80 children in one class. From grade 4-5, when the children are 10-12 years old, the children are strong enough to start working in tobacco. The drop-out rate from school is very high, especially for boys. The number of students in a class goes down from 80 to maybe 30.

What are the tasks that children perform in tobacco cultivation?

– They help their parents with watering the tobacco seedlings, and clean the insects from the leaves manually. During harvesting, they break the green tobacco leaves, and carry loads of leaves from the farm to the drying kiln. After the harvest, the children clean the dry, tough tobacco stems off the land. Some children help their parents to tend to the drying kiln during the curing process, and then to sort and package the dried leaves.

Do you think that the work in tobacco has any effects on the children's health, wellbeing and development?

– Of course it does. When children work in the tobacco field, we, as teachers, can see how tired and sick they become. Especially in my classes, where the children are between six and ten years old, the heavy loads in combination with malnutrition affect their physical growth. They don't get enough rest after school.

– Also, during the tobacco season, the parents are so busy that they don't have time to take care of the children and cook proper food for them. After the harvest, the whole family becomes weak from lack of sleep and hard labour, and the kids often fall ill. Children from tobacco families are sick more often than kids from families where the parents grow other crops.

– The exposure to nicotine and pesticide inhalation is bad for the children. Most of them develop permanent coughing and breathing problems.

How do your students from tobacco farming families see their futures, what do they want to do when they grow up?

– The work in tobacco farming makes the children weak, and even those who are attending school are unable to concentrate on their studies. They lag behind in the class and lose interest to study further.

– The children from middle-income families dream about becoming pilots, teachers or doctors, but children from poor tobacco families don't have dreams. They never say what they want to become. Some may say that they want to continue tobacco farming, but most don't have dreams to share with the class.

Food security and nutrition

“At first we didn’t understand the consequences of tobacco cultivation. Then, slowly, when all the crop lands were converted to tobacco, for the first time this area faced a shortage of local vegetables and food crops.”

/ COMMUNITY DEVELOPMENT WORKER FROM A BANDARBAN NGO

BAT does not publicly share policies, operational procedures or measures to ensure household food security in its operations – especially for farmers with smaller land parcels. BAT Headquarters state that tobacco does not have more detrimental impacts on food security than other crops. The company claims that tobacco is grown on farmers’ land for only 3-4 months per year, and that the remaining 8 months ‘follow a cropping pattern, mostly for food crops’.¹⁵²

However, a 2011 study by Farida Akhter at the NGO UBINIG¹⁵³, describes how the tobacco cultivation season across Bangladesh is much longer than the 3-4 months’ estimate given by BAT. According to the research, the season typically spans over approximately six months, starting with sowing during October to December, and concluding with harvesting between February and March.

Akhter compares the tobacco cultivation season with the crop-cycle for a range of possible alternative commercial and subsistence food crops, including cereals – such as rice and wheat, pulses, and potatoes. The study finds that, since the crop cycle overlaps entirely or partly with that of tobacco, they cannot be grown on land under tobacco cultivation during the same agricultural season.

A number of Swedwatch’s interviewees from Bandarban describe how, over the past twenty years, tobacco has expanded onto land that was previously used for growing other commercial crops such as rice, corn, sugar cane and potatoes, as well as combinations of vegetables, bulbs, and herbs for subsistence use.

During an interview with Swedwatch, Phillip Gain, the founder of the Bangladeshi NGO Society for Environment and Human Development (SEHD), shared his assessment of the extent of tobacco cultivation in Bandarban on former agricultural land:

“Based on SEHD’s research and our recurrent field work in Bandarban, I estimate that between 80% and 90% of the land suitable for vegetables and food production in the district is now under tobacco cultivation.”

6.5 Forests and biodiversity

At a district and landscape level, Swedwatch’s research shows that BATB tobacco cultivation puts indigenous land rights and unique forests and biodiversity values at risk.

Swedwatch’s research shows that Bandarban and CHT are home to some of the region’s most important forests, which host threatened species and unique ecosystems with cultural significance for indigenous peoples.¹⁵⁴

BAT has an environmental policy and, under its supply-chain management programme, it states that it attempts to replace fuel from natural forests in its supply chain with other fuels. BAT asserts its commitment to biodiversity conservation, and states that it has conducted a biodiversity assessment for its Bangladesh market using the company-specific method 'Biodiversity Risk and Opportunity Assessment' under the 'BAT Biodiversity Partnership'¹⁵⁵ with a number of international conservation NGOs.¹⁵⁶ A BAT conference publication from 2015 states that in 2010, a biodiversity assessment identified deforestation in CHT as a risk, and during the years 2011-2014 an action plan was implemented.¹⁵⁷

Statements shared by BAT Headquarters claim that as a result of BATB's efforts to develop alternative fuels for farmers in Bangladesh, wood fuel usage by farmers from unsustainable sources was down to zero by the end of 2015.¹⁵⁸ According to BAT Headquarters, the BATB standard contract format used with farmers contains a clear clause which forbids farmers to use fuel wood from Reserved forests in the drying kilns for producing flue-cured tobacco.

The number and frequency of biodiversity assessments carried out by BAT globally, the results and the resulting management plans are not publicly available.

The Bandarban tobacco farmers interviewed by Swedwatch claimed to use up to nine tons of fuel wood for curing tobacco leaves from one acre of land. Two farmers stated that they buy their wood from small local woodlots; while a handful of interviewees stated that wood is purchased from Reserved forests sold both in the market and by local traders. During the field survey in Chakoria in 2015, Swedwatch documented a BATB-farmer-owned kiln constructed inside a mature forest area and observed stacks of woodcuts stored in the kiln yard.

According to the interviewees, the price of fuel wood is rising every year. One farmer explained why:

"Most of the firewood comes from the Reserved forest. Every year, the availability of firewood in the forest is declining, and people have to travel further into the deep forest to cut the wood and the cost is increasing tremendously."

A few of the interviewees gave descriptions of the local system whereby the people or the small businesses that bring wood from the Reserve forest have to deal with the Forest Officers. The farmers themselves say they buy firewood locally:

"The firewood from the Reserved forest is available in the local market, so we don't have to pay any extra fee to or bribe the Forest Officer.", one farmer explains.

A local journalist interviewed by Swedwatch said that he is sure that the local forests are impacted negatively as a result of uncontrolled outtake of firewood for tobacco curing:

"In my estimate, there are around 15,000 tobacco kilns in Bandarban and Chakoria. If a large number of them are using wood from natural forests as the main fuel, this obviously would be a high risk for deforestation."

7. BAT's responsibility for adverse impacts

BAT's three tobacco leaf operations in Bangladesh impact negatively on human rights and the environment, affecting contract farming households, persons working as labour on BATB tobacco farms, indigenous land owners, and local forest resources. In order to ascertain the degree to which BAT may be responsible for impacts and risks, and in order to identify appropriate measures that should be taken by BAT, Swedwatch has utilised the UNGP analytic model as a framework. Research findings have been matched against BAT's policies, due diligence, and remediation actions to date.

When assessing BAT's responsibility for impacts in its Bangladesh operations, Swedwatch sees BAT as fully responsible for the actions of its subsidiary BATB. This is both because of BAT's majority ownership of BATB, and because BATB is bound to follow BAT Group's sustainability and human rights policies in all its operations, employ the global BAT supply-chain management programme Social Responsibility in Tobacco Production (SRTP), and to report on its implementation as part of BAT's annual sustainability report.

Swedwatch has identified ten principal negative human rights and environmental impacts related to BAT operations in Bangladesh. Table 3. (below) provides a summary of these impacts and describes BAT's responsibility for each of them, whether causing, contributing or linked to. Impacts are categorised based on where impacts have been identified.

According to the UNGPs, companies that are causing or contributing to human rights abuses are responsible for ceasing their detrimental practices, ensuring that they are not repeated in the future, mitigating the consequences of the problem, and remedying any actual impacts. Companies that are linked to human rights abuse should maximise their leverage and put pressure on other actors to work towards stopping and preventing further breaches of human rights.

For further analysis of BAT's impact assessments, the company's mechanisms for tracking and reporting, policies, degree of responsibility, and responses to date, please see 'Annex 3: Analysis of BAT's Human Rights & Environmental Measures in the Supply Chain'.

TABLE 3: BAT’s responsibility for human rights and environmental impacts in its Bangladesh supply chain for raw tobacco. The impacts affect (i) BATB contract farming households’, (ii) persons working on BATB farms, (iii) forests, and (iv) indigenous land owners.

BATB CONTRACT-FARMING HOUSEHOLDS	
<i>BATB Bandarban & Chakoria operations</i>	
Impact	BAT’s responsibility
<p><i>Impact 1</i></p> <p>A. BATB farmers’ economic losses and over indebtedness.</p>	<p><i>BAT contributes to impact</i></p> <p>Through BATB’s non-transparent contracts, uncertain quality grading, and unpredictable purchase volumes – where farmers carry the largest risks in respect of return on investment – BAT contributes to farmers’ economic losses and over indebtedness to local money lenders. BATB’s agricultural production contract practice does not fulfil any good practice criteria, as outlined in The Legal Guide.¹⁵⁹</p>
<p><i>Impact 1</i></p> <p>B. BATB farmers’ bonded labour.¹⁶⁰</p>	<p><i>In Swedwatch’s opinion BAT contributes to impact</i></p> <p>It can be argued that BATB’s uncertain quality grading and unpredictable purchase volumes lead to cases of over indebtedness. Farmers become dependent on BATB since their only option for paying off debts to local money lenders is to enter into new contracts with BATB. In these cases, according to Swedwatch’s analysis, BATB contributes to cases of bonded labour.</p> <p>The company’s omission to provide opportunities for contract renegotiation in cases of Force Majeure events, and the lack of complaints mechanisms and platforms for open dialogue with farmers, contribute to the persistence of the problems.</p>
<p><i>Impact 2</i></p> <p>Child labour, impacts on BATB farmers’ children’s health, wellbeing and schooling</p>	<p><i>BAT contributes to impact</i></p> <p>Through its failure to recognise and act to eliminate child labour in contract-farming households, BAT contributes to the continued use of child labour, including hazardous work, and its detrimental impacts on children.</p>
<p><i>Impact 3</i></p> <p>Impacts on BATB farmers’ and spouses’ health</p>	<p><i>BAT contributes to impact</i></p> <p>Through its failure to ensure the provision of protective equipment, training and a safe work environment, BAT contributes to health problems in contract-farming households.</p> <p>Through its failure to contribute to costs for medical care and lost time from illness, BAT contributes to farmers’ economic loss from these health problems.</p>
<p><i>Impact 4</i></p> <p>Impacts on BATB farming households’ food security and nutrition</p>	<p><i>BAT contributes to impact</i></p> <p>The expansion of BATB tobacco cultivation on large areas of land previously used for cultivating food crops for subsistence use contributes to negative impacts on food security and nutrition – especially for poorer farming households with small land parcels.</p>

PERSONS WORKING ON BATB FARMS	
<i>BATB Lalmonirhat operation</i>	
Impact	BAT's responsibility
<i>Impact 5</i> Exploitation of tenant farmers through BATB farmers' subcontracting of production	<i>BAT contributes to impact</i> BAT – through its failure to stop its own contract farmers from subcontracting production to tenant farmers – is contributing to exploitation in a second layer of its supply chain. The subcontracted farmers do not have access to company support, cash advances and inputs.
<i>BATB Bandarban & Chakoria operations</i>	
Impact	BAT's responsibility
<i>Impact 6</i> Impact on basic labour rights – BATB hired labourers work without contracts	<i>BAT contributes to impact</i> Through its failure to ensure that their contract farmers draw up contracts with their workers, BATB is contributing to breaches of basic labour rights. For example, women labourers receive lower pay than their male counterparts.
<i>Impact 7</i> Child labour, impacts on BATB labourers' children's health, wellbeing and schooling	<i>BAT contributes to impact</i> Through its failure to recognise and act to eliminate child labour in their contract farmers' hired labour force, BAT contributes to the continued use of child labour, including hazardous work.
<i>Impact 8</i> Impacts on BATB farmers' labourers' health	<i>BAT contributes to impact</i> Through its failure to enforce the use of protective equipment, training and a safe work environment, BAT contributes to health problems in the group of BATB farmers' hired labourers.
FORESTS	
<i>BATB Bandarban & Chakoria operations</i>	
Impact	BAT's responsibility
<i>Impact 9</i> Deforestation and forest degradation	<i>BAT contributes to impact</i> Through its failure to stop the sourcing of fuel wood from natural forests, and through its support of the construction of kilns in forest areas, BATB is contributing to forest degradation and deforestation.
INDIGENOUS LAND OWNERS	
<i>BATB Bandarban operation</i>	
Impact	BAT's responsibility
<i>Potential impact 10</i> Potential impact on indigenous land rights	<i>BAT contributes to impact</i> Through its failure to investigate the serious and well-known land conflicts in its area under cultivation, BATB is likely to be engaged in tobacco cultivation on conflicted land, which has been 'grabbed' either from indigenous traditional owners, or from Bengali settlers. BATB thus contributes to potential impacts on indigenous land rights.

Employer or Partner

There are strong indications that an employment relationship, as opposed to a partnership, exists between BAT and contract farmers. This is further supported in the application of the four criteria from The Legal Guide¹⁶¹. Swedwatch sees a strong case for arguing that BATB's contracted farmers in Bandarban and Chakoria are legally dependent on the company and that the relationship between BATB and the contract farmers can be defined as an employment relationship. According to the UNGPs, such a dynamic would significantly increase BAT's degree of responsibility for impacts on people and the environment.

As an employer, BATB would be required to strictly adhere to all ILO conventions on labour rights. The company would have to ensure, for example, equal pay for men and women, respect of maximum working hours, and provision of social security in the form of pension schemes, holidays, and parental benefits.

Table 4. (below) outlines BAT's increased degree of responsibility if BAT were to be recognised as employers. In Swedwatch's opinion, BAT would be considered to be directly causing the impacts – both in regards to farmers' economic losses, over indebtedness, and bonded labour, as well as on basic labour rights for the farmers' hired labourers.

Further analysis and argument in support of the existence of an employment relationship can be found in Annex 3: 'Analysis of BAT's Human Rights & Environmental Measures in the Supply Chain'.

BATB CONTRACT-FARMING HOUSEHOLDS	
Impact	BAT's responsibility
<p><i>Impact 1</i></p> <p>A. BATB farmers' economic losses and over indebtedness</p> <p>B. BATB farmers' bonded labour.</p>	<p><i>In Swedwatch's opinion BAT directly causes impacts.</i></p> <p>Through BATB's non-transparent contracts, uncertain quality grading, and unpredictable purchase volumes – where farmers carry the largest risks of return on investment – BAT directly causes farmers' economic losses, over indebtedness, and cases of bonded labour.</p> <p>The company's failure to provide opportunities for contract renegotiation in cases of Force Majeure events, and the lack of complaints mechanisms and platforms for open dialogue with farmers, contribute to the persistence of the problems.</p>
Impact	BAT's responsibility
<p><i>Impact 6</i></p> <p>Impact on basic labour rights - BATB hired labourers work without contracts</p>	<p><i>BAT directly causes impact</i></p> <p>Through its failure to ensure that their contract farmers draw up contracts with their workers, BATB is directly causing breaches of basic labour rights.</p>

Table 4: BAT's responsibility for human rights and environmental impacts in its Bangladesh supply chain for raw tobacco under a scenario where the company's contracts with its farmers is defined as an employment relationship.

8. Discussion and conclusions

In many developing countries, governments do not invest sufficiently in smallholder farmers – for example, in training and productivity improvements, agricultural credits, marketing, and infrastructure. In the absence of government investments, many actors see the potential for big agriculture purchasing companies to provide income-generating opportunities and to contribute to poverty alleviation in rural areas. Large purchasing companies such as BAT should in theory be aware that high levels of accountability and responsibility are needed to prevent negative impacts on farmers, labourers, and communities in complex operating environments.

Government versus company responsibility

The Government of Bangladesh – not BAT – has a responsibility to address gaps in legislation and develop solutions to socio-economic challenges. As this report highlights, this may include the endorsement of ILO convention 169 on Indigenous Rights, the support of CHT Land Commission surveys, and the proper registration of cases of land grabbing from indigenous land owners. Likewise, it is the ultimate responsibility of the Government of Bangladesh to pursue the challenging but necessary steps toward an agriculture sector where children's rights are fully respected and where principles of decent work and norms for basic labour rights become standard. However, according to the UNGPs, BAT has a responsibility to not aggravate existing problems. These may include land conflict, abuse of labour rights, malnutrition or deforestation.

In an environment where the Government of Bangladesh is still struggling to provide basic services and income opportunities, it is likely that many farmers will be largely dependent on BAT. It may also be argued that the fact that BAT is such an influential and important player in Bangladesh, with a large contribution to national tax revenue, means that they should use their leverage to influence the Government of Bangladesh to introduce basic social security for the farmers and workers in its supply chain. Also, as a company with international human rights and environment standards and policies, there is great potential for BAT to take steps which could raise the bar on sustainability and human rights across the Bangladeshi tobacco industry.

High-risk sectors and impact assessments

Based on the findings in this report, it is reasonable to establish that tobacco cultivation is a high-risk sector from both a sustainability and a human rights perspective.

In Bandarban, Chakoria and Lalmonirhat, the tobacco farmers are directly contracted by BATB and thus closely integrated into the business activity. The BAT tobacco farming operations are large enterprises in these tobacco growing areas, with significant impacts on people and the environment. Swedwatch considers that BAT holds a clear responsibility for carrying out comprehensive impact assessments which should

include, as a minimum, Human Rights Impact Assessments according to the UNGP methodology, and social and environmental impact assessments (ESIA) in line with the OECD Guidelines for Multinational Enterprises. The assessment processes should include meaningful consultations with affected rights-holders and other stakeholders such as workers, communities and vulnerable groups, in line with UNGP good practice criteria and with the provisions in the Agriculture Supply Chain Guidance.

Tobacco leaf operations consist of a large number of smaller ‘projects’, the individual tobacco farms, spread out across the landscape in the tobacco growing areas. In order to be able to assess the combined, or so-called ‘cumulative’ impacts, of all these projects taken together, tobacco companies may apply and adapt good practice approaches and tools both from ‘Cumulative Impact Assessment’¹⁶² methodologies, and from the family of approaches called ‘Strategic Environmental Assessment’.¹⁶³

A review of the areas under tobacco cultivation in the three districts covered in this study, shows vastly diverging figures. The unreliable numbers, and the lack of breakdowns per company, make it difficult to conduct reliable, independent assessments of the impact of BAT’s tobacco cultivation on environment and human rights. The compilation of this type of data is a prerequisite to enable international good practice impact assessments.

In Bandarban, Swedwatch sees a risk that existing militarisation and the fact that the district is a closed zone to foreigners makes it harder for international academics, NGOs and media to investigate and report on the impacts of BAT’s operations. The high poverty levels increase the risk of BATB farmer indebtedness and bonded labour. The fact that BAT tobacco cultivation has expanded on land previously used for subsistence food production, puts household food security and nutrition at risk. This risk is higher for poor households, especially those with smaller land parcels who grow exclusively tobacco and as a consequence do not have access to home-grown foods as an alternative to purchased food items.

Through its serious failure to investigate land conflicts in its area under cultivation, BATB – knowingly or unknowingly – is likely to be engaged in cultivation on disputed land, and thus contributes to impacts on indigenous land rights. In order to ensure that it does not cement or worsen existing land conflicts, BAT should maximise its leverage to mobilise an independent investigation of land ownership in its Bandarban operation, and should support initiatives that will enable indigenous land owners to access mediation services and fair compensation.

The Bandarban land conflicts and related human rights abuses against indigenous peoples are not caused by BAT. However, without investigating land conflicts within their area of operation, BAT may reinforce old land grabbing patterns and contribute to increasing incidents of land-grabbing.

The OECD and FAO Guidance for Responsible Agricultural Supply Chains recommends companies to identify, assess and prioritise risks in the supply chain and to identify so-called ‘red flag’ locations which warrant enhanced due diligence.¹⁶⁴

Examples of 'red flag' sourcing areas are those:

- Affected by conflict;
- Considered as weak governance areas;
- Where violations of human rights or labour rights have been reported;
- Where tenure rights are contested;
- Where communities face food insecurity; and
- Affected by environmental degradation or defined as protected areas.

All of these risks are relevant to BAT's Bandarban operation, and some are present also in Chakoria and Lalmonirhat.

BAT is expanding into marginalised areas in, for example, Myanmar and Vietnam, where poorer smallholder farmers are at risk of being highly dependent on a powerful international company. As such, special measures are needed to support poorer smallholder farmers, vulnerable people, and ecosystems in the areas of operation. In these new areas of operation, BAT has the opportunity to conduct proactive risk assessments and consultations – which were not carried out before establishing BATB's Bangladesh operations.

The BAT-commissioned studies on poverty, human rights, and the environment in the company's areas of operation, which have been shared with Swedwatch, do not follow international good practice standards and several of the results are in contradiction of Swedwatch's findings. BAT and other tobacco companies should replace the practice of commissioning their own studies with truly independent studies, where methods and results can be scrutinised and verified by government and civil society.

In cases where BAT sources tobacco through commercial leaf suppliers, who in turn contract farmers, BAT should require these same international standard assessments of sustainability and human rights impact assessments from the leaf suppliers.

Benefits and increased income gaps

Unless care is taken to ensure fair and open contracts, and prevent and mitigate negative impacts, tobacco cultivation can lead to increased polarisation between on the one hand affluent households, and on the other hand poorer, less resilient households in the areas of operation.

In Swedwatch's study, those who made the most money from tobacco cultivation in Bandarban and Chakoria were local money lenders and farmers who were renting out land to BATB farmers. The study indicated that less resourceful landless farmers, women labourers and children, gained the least benefits and suffered most negative impacts from tobacco farming. In Lamonirhat the landless farmers who were sub-contracted by BATB farmers were exploited in this second layer of the supply chain.



Tobacco contract farming in Brazil. PHOTOS: REPÓRTER BRASIL.. THE PHOTOS ARE NOT RELATED TO THE FIELD STUDY AND FINDINGS OF THIS REPORT.

As a main priority, BAT should focus its sustainability efforts on ensuring respect for human rights and environmental integrity in its core business – tobacco cultivation and processing – by its contracted farmers. The company’s three small CSR projects in Bangladesh are not addressing or mitigating the negative human rights and social impacts identified in this study, neither in terms of size, outreach or results.

Impacts on local sustainable development

BAT and other multinational tobacco companies face sustainability and human rights challenges in their supply-chains which are similar to those of other agriculture companies. However, from a government perspective, the FCTC provision to replace tobacco cultivation with other livelihood options is a long-term goal with an aim to reduce both demand and supply. This distinguishes tobacco companies from other companies that source commercial non-food crops, such as rubber, from developing countries.

The FCTC is incorporated both into the UN Sustainable Development Goals, and into Bangladesh’s Seventh Five Year Plan 2016-2020.¹⁶⁵ A handful of interviewees tell Swedwatch that in Bangladesh’s tobacco supply reduction measures, conflict exists between local leaders, who want to limit tobacco cultivation because of its impacts on local sustainable development, and national-level interests to maintaining the high tax revenues that BAT brings to Bangladesh. As this report has shown, local power-holders such as land owners who lease land to tobacco farmers, and BATB contract farmers – who subcontract out production – also have an economic interest in the continued expansion of tobacco cultivation.



BAT's statement that the tobacco season spans over 3-4 months and does not negatively affect food security, contradicts Swedwatch's findings that tobacco cultivation takes up to eight months per year, excludes the cultivation of a number of food crops, and ultimately affects many farmers' household food security. The BATB farmers' continued sourcing of fuel wood from forest areas with high biodiversity values shows that the company contributes to deforestation and degradation of natural forests.

In the absence of reliable data, it is difficult for government officers to plan and budget for efforts to ensure food security and self-sufficiency, as well as protection and sustainable use of forests – both at national and local levels.

Supply-chain transparency and audits

The tobacco industry has complex supply chains in developing countries. Still, BAT and other companies do not disclose sourcing countries, suppliers, and cultivation areas. This makes it difficult to tie specific companies to sustainability problems and human rights abuse on the ground.

For tobacco stakeholders, such as investors, government bodies, actors in the supply chain, civil society and media, to be able to hold tobacco companies accountable for how they operate, it is imperative that companies disclose sourcing countries, suppliers, and operation areas for their raw tobacco. This is especially reasonable since this study found that BAT already has an existing internal system which enables the company to trace raw tobacco back to a farmer or a group of farmers.

BAT's supply chain management programme SRTP is an industry-owned supply chain management system that is managed and audited by the tobacco industry-linked consulting company AB Sustain. The findings in this study show that BAT does not transparently communicate the results from the audits. In addition, the fact that the company reports 'zero incidences' of for example child labour, is in strong contrast to findings in this report. This discrepancy raises concerns regarding whether existing systems are effective in identifying and managing the range of existing and potential impacts in the supply chain.

Human rights

According to the UNGPs, the action required to handle human rights impacts depends both on the degree of responsibility and on the company's ability to act and influence the situation in a positive way – the company's so-called 'leverage'.

Swedwatch's analysis shows that BAT as a company has significant leverage, and should be expected to act with resolve to remediate and compensate for its impacts on human rights and the environment. The company makes a large contribution to Bangladesh's national tax exchequer at the national level, and conducts large business operations in each of the three leaf cultivation areas in the study. Especially in Bandarban and Chakoria, there are few alternative cash income opportunities that can compete with tobacco in terms of income and markets. Swedwatch concludes that BATB has strong leverage both in influencing central and local decision-makers, and its contracted farmers.

In addition, BAT's supply chain for raw tobacco in Bangladesh is short and uncomplicated. In the three study areas, BATB enters into contracts directly with its registered farmers. Through the contract relationship and through the presence of company field officers who are directly working with farmers, the company has strong and direct leverage. This can be used to improve sustainability in its tobacco leaf operations.

BAT has a high degree of responsibility for its farmers' economic losses and over indebtedness, which in Swedwatch's opinion could be seen as bonded labour. Swedwatch argues that BAT directly causes these negative impacts, or at least strongly contributes to their negative effects. BAT should therefore cease existing contract practices and take action to help prevent farmers from being in a situation of bonded labour. Since May 2016, BAT has started to provide a new revised contract format to their farmers. The formats need further additions to enable farmers to renegotiate contract conditions in the case of Force Majeure events. It remains to be seen whether or not BATB consistently improves its actual working relationship with its farmers to insure that their operation is free of human rights abuse.

The new contract formats provide a chance to improve this relationship, through clear and predictable investment costs and income for farmers. In light of high inherent investment risks and fluctuating costs – company officers should inform farmers

on best and worst case scenarios for each season, so that each farmer can make an informed choice regarding whether to venture into tobacco farming or not.

The fact that this study found occurrence of BATB farmers engaging in unregulated subcontracting to landless farmers is an indication that the company does not have effective measures in place to ensure zero exploitation in the supply chain.

Because BATB farmers are highly dependent on the company for cash income generation, the absence of farmers' organisations that genuinely represent farmers' interests, stand to perpetuate the unbalanced power relationship – even if formal contracts were to be improved and rectified. In order to ensure fair and open dialogue with farmers, grievance mechanisms and independent conflict resolution mechanisms are essential.

Many of the incidences of, for example, child labour, labour rights abuse and health impacts found in Swedwatch's research, strongly affect BATB farmers' hired labourers and their children. The fact that there are no formal contracts for labourers makes it difficult for BAT to take action to improve the situation.

General social security schemes for farmers and workers are a Government of Bangladesh responsibility. Based on the International Bill of Human Rights, it could be argued that in the situation where these services are weak or non-existent, BAT does have a responsibility to contribute towards developing functioning systems. The farmers, the agriculture labourers, and their families are closely integrated into BAT's business model for the supply chain, and it should be in the company's interest to ensure that basic rights – to for example pensions, holidays or parental benefits – are respected.

Medical costs for sickness resulting from Green Tobacco Sickness, pesticides exposure, smoke from kilns, and excessive workloads, are clearly work-related. The findings in this report also show that the impacts from tobacco work on poorer farmers and labourers may be more detrimental both to the health of household members, and to the family economy. Again, BAT should take all possible proactive measures to reduce the risk-factors involved, and to contribute to medical costs incurred.

BAT's strong contribution to the widespread occurrence of child labour in its operations means that the company should act immediately and with strong resolve. The company should ensure that all children are removed from hazardous work in tobacco fields, and that their rights to health, wellbeing, schooling, and leisure time are fully respected.

Annex 1: Area under BATB tobacco cultivation

A review of statistics and estimates regarding land-use for tobacco in the districts covered by this report vary greatly depending on sources. This annex provides an outline of the estimates provided.

Bandarban

According to the Government of Bangladesh, the total area under tobacco cultivation in Bandarban – by all tobacco companies present in the district – was 10,135 acres during the 2013-2014 growing season.¹⁶⁶

However, two local journalists and one NGO worker in Bandarban – all with extensive experience and in-depth knowledge of local agriculture – estimate that total tobacco cultivation in the district is higher than the Government of Bangladesh statistics and that it in fact ranged from 15, 000 and 20,000 acres for the 2014-2015 growing season.

BAT Headquarters told Swedwatch that, during the 2015-2016 growing season, BATB's contract farmers were cultivating tobacco on 1,954 acres¹⁶⁷ of registered land.¹⁶⁸ BAT Headquarters added that BATB's share of the total production of tobacco in Bandarban is 60%, while the remaining 40% is cultivated by other producers. The figure given by BAT is in the order of one-fifth of the Government of Bangladesh reported tobacco growing area in 2013-2014, and one-tenth or less compared to the estimates from Swedwatch interviewees.

Two interviewed BATB officers, one current employee and one former company officer – both highly familiar with the company's current operation – independently of each other put the total area under tobacco cultivation for BATB during the two seasons of 2014-2015 and 2015-2016 slightly lower than the NGO worker and the journalists – at approximately 10,000 acres. One officer added that BATB produces approximately 90% of the total tobacco yield in the district, with the remaining 10% produced by other Bangladeshi tobacco companies.

Compared to the figure quoted by BAT Headquarters, the BATB local officers' estimates are in the order of five times higher.

Another contradiction between the available figures is that BAT Headquarters state that the 1,954 acres cultivated in Bandarban are for Flue-cured Virginia tobacco, whereas the Government of Bangladesh figure for the total cultivation of Virginia in Bandarban in 2013-2014 is only 235 acres.



Review of data on area under tobacco cultivation, Agriculture Office in Lalmonirhat Sadar, Lalmonirhat.

Chakoria

According to the interviewed BATB officer from the Chittagong region, the company's leaf operation in Chakoria started in 2005, and expanded rapidly to become the dominating crop on agriculture land during the 2013-2014 growing season.¹⁶⁹ A government agriculture extension officer in Chakoria states that BATB started a test plantation with 50 farmers in Chakoria about 15 years ago and that today BATB is the leading company in terms of the size of operations.

During Swedwatch's interview with the former BATB officer with in-depth knowledge of the company's operation, he estimated that the total area under tobacco cultivation for BATB during the 2015-2016 season is at least 15,000 acres.

The Government of Bangladesh does not provide breakdown figures for area under tobacco cultivation in Chakoria. An interviewed journalist with longstanding experience from the district estimates that the total area is approximately 20,000 acres – for all tobacco companies.

BAT Headquarters state that the BATB Chakoria operation was initiated in 1982, and reached its highest land coverage in 2010. During the 2015-2016 growing season, BATB's contract farmers were cultivating the flue-cured Virginia variety of tobacco on 1,882 acres of registered land.¹⁷⁰

Lalmonirhat

In the Rangpur region, where Lalmonirhat district is situated, BATB started its tobacco cultivation in the 1960s.¹⁷¹ The Government of Bangladesh does not provide breakdown figures for the area under tobacco cultivation in Lalmonirhat.

BAT Headquarters told Swedwatch that BATB started its operation in the district in 2002, and that the highest land coverage was reached in 2010. During the 2015-2016 growing season, BATB was engaged in tobacco cultivation by its contract farmers on 1,616 acres of 'registered land'.¹⁷²

In Lalmonirhat, Swedwatch found indications that official figures on the area under tobacco cultivation may be understated, and that data collected by the local agriculture office from farmers show that tobacco cultivation is actually increasing.

Enamul Haque, Upazila¹⁷³ Agriculture Officer in Lalmonirhat Sadar Sub-district, told Swedwatch during an interview that the government aims at decreasing tobacco cultivation, and instead encourages farmers to grow other crops:

“The agriculture production in the district is diversifying day by day. Farmers are growing more vegetables and grains, and the land area under tobacco cultivation is decreasing. In 2014, tobacco was cultivated on 2,964 acres of land in Lalmonirhat.”

The agriculture officer explains that the total area of tobacco cultivation in the sub-district is decreasing.

During Swedwatch's interview, another agriculture officer showed handwritten records on types of crops grown in the area, which are collected from farmers on an annual basis. Instead of a decrease, these records show a steady increase in the area under tobacco cultivation from 2,297 acres in 2010 to 3,594 acres in 2014. The colleagues from the agriculture office agree that it is clear that in actual fact, based on the collected data from farmers, the tobacco cultivation is increasing.

“Maybe this is not so surprising. The ministry has not set a clear target or produced a binding decree on how we should decrease and control tobacco production at the local level.”, says Enamul Haque.

He also reflects on the fact that the central government has an interest in maintaining high tax revenue from tobacco companies.

Annex 2: BATB's Farmer contract shared with Swedwatch

SL NO: 2016/.....

**BRITISH AMERICAN TOBACCO
BANGLADESH
Chittagong South Leaf Region, Bandarban**

**Contract Agreement with Tobacco Farmer
for Registration in Crop Year 2016**

Farmer's Name :
Father's Name :
Village : Reg. Number.....
Union :
Thana :
District :
National ID Number :
Bank Name :
Bank Branch Name :
Bank A/c Number :

Sir/Madam,

Considering your acknowledgement to below terms and condition this day of (date) British American Tobacco Bangladesh Company Limited (Later on called "The Company") is registering you as Flue Cured Virginia Tobacco Farmer:

1. In 2016 Crop season you will cultivate hectare company recommended Flue Cured Virginia tobacco from which Kg (Approximate) tobacco will be produced. Company will not be bound to buy more than this quantity;
2. Your cultivation area should not be less than approved hectareage. If you cultivate more, company will not be liable for marketing that excess quantity;
3. To produceagreed qty.... Kg of tobacco, company will supply good quality seed, quantity of which will be determined by company representative. Also, company will support you by providing technical support on time;

4. You should havenumber of size usable curing barn on your own or leased land. All cost of barn construction and responsibility of barn management belong to you;
5. You should produce tobacco by using only company supplied seed. Company will not be bound to buy the tobacco produced by using other varieties/cultivars which company did not supplied;
6. At the time of transplanting of tobacco seedlings, maintain the spacing: row to row 106 cm & plant to plant 45 cm or row to row 106 cm & plant to plant 56 cm. Seedlings should be well developed, pencil like thick & at least 15 cm in height;
7. You are bound to top the tobacco plants at least once and three time de-suckering as per the instruction of company representative;
8. Ensure balanced fertilization to maintain soil health. Use compost & green manure to reduce dependency on chemical fertilizers;
9. Should ensure Integrated Pest Management (IMP) to produce tobacco. Should not use any agrochemicals/crop protection agents which is not approved by company as well as Agriculture Extension Department, Ministry of Agriculture; Peoples Republic of Bangladesh;
10. At all stages of tobacco production, should abide by the company's guidelines on "Social Responsibility in Tobacco Production (SRTP)" and "Environment, Health & safety (EHS)";
11. After being registered you should collect Identity card from the company where your registered tobacco production area is mentioned. You must produce this identity card at the time of collecting fertilizers requisition slip, tobacco transport permit, tobacco selling voucher & withdrawing money from bank account;
12. In any circumstances you should not collect wood or branches from "Reserved Forest" and use as fuel for curing flue cured tobacco. It is against BATB's tobacco production principles and also prohibited by government. For curing tobacco use wood alternatives like paddy straw, paddy husk, jute/daincha stick, dry leaves, sugarcane bagasse, paddy husk briquette etc;
13. Within March 2016 to..... June 2016 you should bring at your own cost the 2016 produced.....agreed qty... Kg of FCV tobacco to Bandarban buying center or company selected other buying center/s;

14. Your tobacco will be purchased as per Bangladesh government's grade description (i.e. Bangla-1 to Bangla-8) and recommended per Kg price;
15. To sell the tobacco, you must classify (grade) your tobacco as per Bangladesh government's classification (grade description) i.e. Bangla-1 to Bangla-8. Each tobacco bale should not be more than 70 (seventy) Kg;
16. Tobacco will be bought only in the presence of buyer, seller and government representatives (if available);
17. In any circumstances company will not buy tobacco leaves less than eight inches, suckers, scorched/burn leaves, parish/dead leaves, rotten leaves, fixed green leaves, diseased leaves, torn leaves, pest (cigarette beetle moth) attacked leaves, sun cured leaves, leaves with >15% moisture;
18. In a tobacco bale, other than tobacco there should not be any other materials (Non Tobacco Related Materials) like brick or stone chips, grass, straw, leaf, etc. Moreover it is absolutely prohibited to use polythene or nylon thread or sheets to stich & cover the tobacco bale instead of jute twin & jute hessian. Tobacco bale will be rejected to buy if polythene or nylon or feather of bird or chicken is found in that bale;
19. At the time of tobacco buying by company, two kg per bale will be deducted as tare weight;
20. Company will not be responsible for any damage to your bale until company has accepted the bale in its designated buying court and you should remove the bale/s which company has rejected for reason on the same day from the company designated buying court at your own cost;
21. You cannot sell your produced tobacco supervised by company to any person, firm or any other company until it is rejected by company representative. If you violate this term and sell your tobacco to any other person or company, as a consequence company may cancel your registration;
22. Company will not be responsible for failing to buy completely or partially or postponing or delaying buying for war, mass processions, riot, strike, Barricade, lock out, earth quake, thunder, storm, flood, cyclone or for reason which are beyond company control and by which company may be affected directly or indirectly;

23. If any registered farmer or his/her associate/s disrupt or cause disruption to company activity by direct or indirect involvement in any procession, offensive attitude or any unlawful activity or humiliate any company manager/officer/staff in the buying center or in growing area, company reserves the right to cancel his/her registration instantly and company will not be bound to buy that farmer's tobacco;
24. You are bound to adjust all the loan amount you have received from company during tobacco cultivation from your tobacco sale proceeds;
25. **It is mandatory to follow all government rules & regulation in all stages of tobacco production and child labor is restricted in any stage of tobacco production;**
26. If it is proved that you have failed to fulfill any of the above 1-25 terms & conditions, company reserves the right to cancel your registration.

If you agree & accept the above terms & conditions, please sign below, keep one copy and return other copy to us.

Sincerely Yours

**British American Tobacco Bangladesh
Company Limited**

I'm receiving the agreement after reading/hearing and accepting the terms and conditions.

Signature of the Farmer
Manager/In-charge, Leaf Area

Annex 3: Analysis of BAT's human rights & environmental measures in the supply chain

This annex contains Swedwatch's analysis of BAT's policies, due diligence measures and responsibility for impacts on people and the environment in its tobacco leaf operations in Bangladesh. The main findings from the literature review and the Bangladesh case studies are compared with BAT's policies, due diligence, and remediation actions to date. The UNGP analytical model is used as a starting point for discussing BAT's degree of responsibility for impacts and risks for people and the environment in the supply chain. Based on the UNGP model, a review of what may constitute an appropriate response from BAT to improve the situation is presented.

A) Assessing impacts on people & the environment

The UNGPs require all companies to assess potential and actual impacts on human rights in its supply chain. The assessment should draw on internal and independent external expertise, include consultation with relevant stakeholders and potentially affected groups, and comprise all risks related to the business activities.

BAT's group policies and related documents describe a number of general potential impacts of tobacco cultivation in its global supply chain. These include, for example, child labour, exploitation of labour, the right to form unions, general environmental impacts, and health and safety in the work place.

In spite of identifying these potential impacts on people and the environment in their tobacco cultivation areas worldwide, BAT has not published any specific impact assessments for individual countries or for specific leaf operation areas.

BAT makes reference to its own commissioned studies from Bangladesh. The studies are not publicly available, but were shared directly with Swedwatch by BAT Headquarters.¹⁷⁴ Some of the results from the BAT studies contrast with the findings in this report. For example, whereas Swedwatch's survey showed that child labour is widespread in BATB tobacco cultivation and affects school attendance, one BAT study states that the incidence of children engaged in tobacco work during school hours is only 2%.¹⁷⁵ Also, Swedwatch's findings on work-related health impacts amongst BATB farming households and their labourers are not aligned with BAT's finding that a large majority of farmers do not experience any negative health impacts.¹⁷⁶

Examples of BAT-commissioned studies

Through email communication with Swedwatch, BAT shared the following four commissioned studies¹⁷⁷, which explore some of the business impacts on people and the environment:

The role of tobacco growing in rural livelihoods, Rethinking the debate around tobacco supply reduction. 2011. Commissioned by BAT, produced by the consultant company DD International.

Tobacco Cultivation, an Assessment of Socio-Economic and Environmental Impacts, Bangladesh. 2012. Commissioned by BAT. Prepared by Policy Research Institute of Bangladesh (PRI). Field level survey conducted by consulting company Nielsen Bangladesh.

Socio-economic Impact of Tobacco Cultivation in Bangladesh: Present Status, Profitability and Challenges. 2015. Commissioned by BAT. Prepared by The Agriculture University of Bangladesh.

Different types of fuel and materials used for barn construction and tobacco curing along with the sources of supply at Cox's Bazar, Chittagong and Chittagong Hill Tract regions. 2013. Institute of Forestry and Environmental Sciences, Chittagong University, Chittagong, Bangladesh.

SWEDWATCH COMMENT:

While BAT identifies some general risks in its global supply chain, Swedwatch's study found a number of specific impacts on human rights and the environment in the three study areas in Bangladesh – Bandarban, Chakoria and Lalmonirhat. Below is an overview of these impacts, described under the four headings:

1. BATB contract-farming households;
2. Persons working on BATB farms;
3. Forests; and
4. Indigenous land owners.

BATB CONTRACT-FARMING HOUSEHOLDS

BATB Bandarban & Chakoria operations

1a. BATB farmers' economic losses and over indebtedness

BATB contracted farmers experience economic losses and over indebtedness, resulting from BATB's non-transparent contracts, uncertain quality grading, and unpredictable purchase volumes.

1b. BATB farmers' bonded labour

In Swedwatch's interpretation, it can be argued that over indebtedness, and resulting farmers' dependency on BATB, equates to bonded labour, and is in breach of the ILO Convention on Forced Labour. The high investment costs for tobacco farming necessitates many farmers taking out loans from local money lenders at the beginning of the cultivation season. BATB's uncertain quality grading and unpredictable purchase volumes constitute risks, which make the farmers' income uncertain.

In cases where the income is lower than expected, some farmers cannot pay back their loans. Because there are no other income generation opportunities in the tobacco growing areas that can compete with tobacco farming for BATB in terms of potential income, and also because of the high land-leasing prices, farmers – especially tenant farmers – have no other option than to enter into new contracts with BATB in order to be able to pay back their loans.

2. Child labour, impacts on BATB farmers' children's health, wellbeing and schooling

BATB farmers' children – from primary school age and older – work in tobacco farming. The children work long hours including night-time working.

They are also involved in hazardous work with exposure to Green Tobacco Sickness, pesticides and smoke from tobacco-curing kilns. The tobacco work impacts negatively on the children's health, wellbeing and schooling.

3. Impacts on BATB farmers' and their spouses' health

BATB tobacco farmers' and their wives' health is impacted negatively from excessive work load and working hours, nicotine exposure from Green Tobacco Sickness, and exposure to pesticides, tobacco dust and kiln smoke.

4. Impacts on BATB farming households' food security and nutrition

The expansion of BATB tobacco cultivation on land previously used for cultivating food crops for subsistence use impacts negatively on food security and nutrition – especially in poorer farming households with small land parcels.

PERSONS WORKING ON BATB FARMS

BATB Lalmonirhat operation

5. Exploitation of tenant farmers through BATB farmers' subcontracting of production

Tenant farmers in Lalmonirhat who are sub-contracted by BATB-registered farmers are being exploited in an uncontrolled second layer of the company's supply chain.

They receive no support from BATB in the form of cash advances and inputs, and are given lower prices for their produce than registered farmers.

BATB Bandarban & Chakoria operations

6. Impact on basic labour rights - BATB-hired labourers work without contracts

Tobacco labourers who are hired by BATB farmers work without contracts. Women labourers receive lower pay than their male counterparts.

7. Child labour, impacts on BATB labourers' children's health, wellbeing and schooling

Children are part of the BATB farmers' work force – both salaried children directly hired by the farmers, and unpaid children working alongside their labourer parents in the field.

The children work long hours, including night-time working. They are also involved in hazardous work with exposure to Green Tobacco Sickness, pesticides, smoke from tobacco-curing kilns. The tobacco work impacts negatively on the children's health, wellbeing and schooling.

8. Impacts on BATB farmers' labourers' health

The adult hired labourers perform the same tasks as the farmers and spouses, and suffer the same health impacts from excessive workloads, nicotine exposure from Green Tobacco Sickness, and exposure to pesticides, tobacco dust and kiln smoke.

FORESTS

BATB Bandarban & Chakoria operations

9. Deforestation and forest degradation

Sourcing of fuel wood for tobacco curing for the BATB operations impacts negatively on forest cover and biodiversity.

INDIGENOUS LAND OWNERS

BATB Bandarban operation

10. Potential impact on indigenous land rights

In the current situation in Bandarban – which is characterised by a significant incidence of unresolved land conflicts – BATB's contract farming of tobacco potentially leads to a 'domino effect' type of land grabbing.

Swedwatch notes that, in spite of a range of clear operational risks and a large number of people belonging to vulnerable groups in the Bangladesh operation areas – especially in the Bandarban operation – BATB does not have any publicly available baseline studies or risk and impact assessments for these operations, or for any of their other leaf operations worldwide.

According to UNGP, there are certain groups – identified as 'vulnerable groups' in ICESCR¹⁷⁸ – who should be given extra attention, and be consulted regularly as part of BAT's due diligence, such as women, children, indigenous peoples, and internally displaced people. BAT does not provide references to their consultations with such groups.

B) Tracking & Reporting on Progress

According to the UNGPs, once impacts have been identified, companies are required to track and publicly report on their progress to prevent, manage, and remediate these over time.

In order to track supply-chain impacts, BAT uses self-assessments and audits of all their leaf suppliers – both in operations where BAT contracts farmers directly, and in operations where BAT employs commercial leaf supplying companies such as Universal Corporation or Alliance One, who in turn contract tobacco farmers.

The self-assessments are carried out under BAT's Social Responsibility in Tobacco Production (SRTP) programme, and are reviewed by a consultant company – AB Sustain. At least every four years, AB Sustain conducts on-site reviews of BAT's first-tier suppliers including an analysis of policies, processes and practice, and includes farm-visits.

The suppliers score themselves on a performance scale from 1 – 100% against the following main criteria:

- Social responsibility;
- Agronomy: field;
- Agronomy: natural resources management;
- Tobacco processing;
- Socio-economic factors, and;
- Preventing child labour.

In addition, the suppliers report annually on the wood fuel sources used for processing the tobacco.

Every year, BAT publishes total global average figures of their suppliers' self-assessment scores, in the form of average percentages for all BAT suppliers worldwide. For example, in 2014, all BAT's suppliers scored themselves at an average of 89% in the area of 'preventing child labour'.

BAT Headquarters tell Swedwatch¹⁷⁹ that the tobacco industry is working jointly on a new programme – Sustainable Tobacco Programme, which will replace SRTP across all BAT's operations during 2016. BAT did not share details on which new elements or improvements will be included in the new programme.

BAT has an additional reporting mechanism linked to its Statement of Business Conduct (SoBC). All group companies are required to report on any suspected breaches



Children and adults engaged in tobacco cultivation for British American Tobacco Bangladesh.

of the SoBC – for example, incidences of child labour or bonded labour – to BAT Headquarters.

In the area of human rights, BAT Headquarters state that a human rights due diligence process is in place across the Group, which includes ‘key audit controls and twice-yearly reviews of all BAT operations against country-level human rights risk indicators for businesses’. BAT Headquarters add that Bangladesh is classified as one of the company’s high risk markets, and therefore is ‘subject to further scrutiny’.¹⁸⁰

SWEDWATCH COMMENT:

BAT’s reviews and audits are carried out by AB Sustain, previously LeafTc, (Leaf Technology Consultant), which was established in 2002. LeafTc’s co-founders and co-directors, Robin Crellin and Adrian Barnes, worked for BAT from 1972 to 2002 and 1976 to 2001, respectively, and were engaged in the development of SRTP from 2000. BAT was AB Sustain’s first tobacco client, and subsequently other tobacco companies also started using their auditing services.¹⁸¹

In their annual reports, BAT does not provide breakdowns for their suppliers’ self-assessment scores by country, individual supplier, or areas of operation – only global compound averages.

According to BAT Headquarters¹⁸², in the BATB operations across Bangladesh there have not been any reported incidences of child labour or bonded labour, and during the 2015-2016 crop season wood fuel usage by BATB farmers from unsustainable sources was zero.

The AB Sustain audits of BAT's suppliers' self-assessments are not independent, and the results are not reported in a way that enables public scrutiny of the validity and robustness of the monitoring of human rights and environmental impacts. Swed-watch's findings from Bangladesh, which show, for example, widespread child labour, elicit questions concerning how well BAT's own monitoring and reporting systems reflect actual sustainability problems and human rights breaches in their tobacco cultivation.

Although encouraging that BAT carries out human rights audits and controls' based on country-level human rights risks, the purpose and criteria for these, as well as the proclaimed scrutiny as regards countries with high human rights risks are not clearly communicated or explained.

C) BAT's policies on human rights & the environment

The UNGPs require a company to have policies in place that encompass all human rights and that have been approved at the highest level of the company. The policies should articulate the company's commitment to respect human rights. The following guidance as to the specific actions to be taken is outlined by the UNGPs:

- Periodic assessment of actual and potential human rights impacts of company activities and relationships;
- Integration of these commitments into internal control and oversight systems;
- Tracking of performance;
- Public and regular reporting on performance; and
- Remediation.

BAT's Statement of Business Conduct (SoBC)¹⁸³ is detailed and operationalised in its Supplier Code of Conduct (SCoC). BAT states that the SCoC supports the company's 'on-going commitment to human rights and uphold international standards, including the UNGPs and the OECD Guidelines for Multinational Enterprises'. The company stresses that its Human Rights Policy details its commitments to 'eliminate child labour and the exploitation of labour, as well as to respect freedom of association'.

The 'Agriculture' section of the BAT policy on 'Integrated Environmental, Health and Safety Policy Manual', and the 'Environmental Sustainability' section of the SCoC contain general provisions on mitigating environmental impacts, incorporating biodiversity protection and conservation into their recommended practices, contributing to sustainable agriculture practices, and minimizing the use of water.

The additional area on 'local communities' in the human rights policy, as well as other topics brought up in BAT's publicly available information such as pesticide use, use of fuel from natural forests, and impacts on biodiversity, do not refer to specific internationally binding norms.

SWEDWATCH COMMENT:

In line with the UNGPs, BAT is responsible for developing a human rights policy, which – as a minimum requirement – incorporates all rights under the UN Bill of Human Rights and the ILO Core Conventions.

In BAT's current human rights policy the company states that it recognises both the entirety of the UNGPs and the full set of clauses in the OECD Guidelines for Multinational Companies. However, the focus of the company's policy is on three explicit human rights commitments that are the implementation responsibility of the company's sustainability board: child labour, labour exploitation, and freedom of association.

Swedwatch sees a need for BAT to complement and detail its policies in areas that mirror the full range of actual and potential impacts in its global tobacco supply chain. In light of Swedwatch's study, the following norms and conventions are of the essence:

1. The ILO convention on Forced Labour;
2. The UN Convention on the Rights of the Child;
3. The ILO Convention on the Worst Forms of Child Labour;
4. The ILO Convention 169 on Indigenous Rights; and
5. The Convention on Biological Diversity.

In Annex 4: 'International Minimum Norms', Swedwatch has reworded specific, relevant articles from international conventions to make them relevant for BAT and their operations.

Again, in line with the UNGPs, once BAT has developed a comprehensive policy, the company is responsible for integrating all aspects into their impact assessments, their control and oversight systems (for example the SRTP, the audits, and the SoBC reporting mechanism), their public monitoring reports, and into remediation mechanisms for human rights impacts that have already occurred.

Concerning the specific issue of Forced Labour, a positive recent development in tobacco supply chain sustainability in the UK is the recognition during 2016 by one tobacco company – Imperial Brands – of so-called 'debt bondage', whereby contracted farmers or other employees may become dependent on the company through over indebtedness, as one of the human rights risks in its supply chain. The definition is explained in Imperial Brand's official statement submitted under the UK Modern Slavery Act 2015¹⁸⁴. This statement may provide a reference for BAT in further developing its commitments to combat and prevent any potential incidences of bonded labour¹⁸⁵ in the supply chain.¹⁸⁶

In the table below, based on the results of this study, Swedwatch analyses BAT's responsibility and its current responses to the identified impacts in the BATB Bandarban, Chakoria, and Lalmonirhat operations and includes the responses provided by BAT.

BATB CONTRACT-FARMING HOUSEHOLDS

BATB Bandarban & Chakoria operations

Impact	BAT's responsibility & response to date
<p><i>Impact 1</i></p> <p>A. BATB farmers' economic losses and over-indebtedness.</p>	<p>BAT contributes to impact Through BATB's non-transparent contracts, uncertain quality grading, and unpredictable purchase volumes – where farmers carry the largest risks in respect of return on investment – BAT contributes to farmers' economic losses and over-indebtedness to local money lenders.</p> <p>BATB's agricultural production contract practice does not fulfil any good practice criteria, as outlined in The Legal Guide¹⁸⁷.</p> <p>BAT's response to date Swedwatch's study does not have any indication that BATB has tried to prevent the economic losses and over-indebtedness of its registered farmers, or that it has helped remediate and compensate for losses and incurred debt.</p> <p>Subsequent to Swedwatch's communication of the results from its field study to BAT in early May 2016, on 22 May 2016 BATB provided a new contract format to its registered farmers in Bandarban, to be used during the upcoming 2016-2017 season. The format includes clauses on purchase volumes and prices.</p>
<p><i>Impact 1</i></p> <p>B. BATB farmers' bonded labour.¹⁶⁴</p>	<p>In Swedwatch's opinion BAT contributes to impact It can be argued that BATB's uncertain quality grading and unpredictable purchase volumes lead to cases of over-indebtedness. Farmers become dependent on BATB since their only option for paying off debts to local money lenders is to enter into new contracts with BATB. In these cases, according to Swedwatch's analysis, BATB contributes to cases of bonded labour.</p> <p>The company's omission to provide opportunities for contract renegotiation in cases of Force Majeure events, and the lack of complaints mechanisms and platforms for open dialogue with farmers, contribute to the persistence of the problems.</p> <p>BAT's response to date BAT reports zero cases of bonded labour in its Bangladesh operations.</p>
<p><i>Impact 2</i></p> <p>Child labour, impacts on BATB farmers' children's health, wellbeing and schooling</p>	<p>BAT contributes to impact Through its failure to recognise and act to eliminate child labour in contract-farming households, BAT contributes to the continued use of child labour, including hazardous work, and its detrimental impacts on children.</p> <p>BAT's response to date BAT does not provide comprehensive and consistent descriptions of the extent of the problem in its supply chain.</p>
<p><i>Impact 3</i></p> <p>Impacts on BATB farmers' and spouses' health</p>	<p>BAT contributes to impact Through its failure to ensure the provision of protective equipment, training and a safe work environment, BAT contributes to health problems in contract-farming households.</p> <p>Through its failure to contribute to costs for medical care and lost time from illness, BAT contributes to farmers' economic loss from these health problems.</p> <p>BAT's response to date BAT does not provide comprehensive and consistent descriptions of the extent of the problem in its supply chain.</p>
<p><i>Impact 4</i></p> <p>Impacts on BATB farming households' food security and nutrition</p>	<p>BAT contributes to impact The expansion of BATB tobacco cultivation on large areas of land previously used for cultivating food crops for subsistence use contributes to negative impacts on food security and nutrition – especially for poorer farming households with small land parcels.</p> <p>BAT's response to date BAT denies any negative impact of tobacco cultivation on food security, and does not provide comments on nutrition aspects.</p>

PERSONS WORKING ON BATB FARMS

BATB Lalmonirhat operation

Impact	BAT's responsibility & response to date
<p><i>Impact 5</i></p> <p>Exploitation of tenant farmers through BATB farmers' sub-contracting of production</p>	<p>BAT contributes to impact</p> <p>BAT – through its failure to stop its own contract farmers from subcontracting production to tenant farmers – is contributing to exploitation in a second layer of its supply chain. The subcontracted farmers do not have access to company support, cash advances and inputs.</p> <p>BAT's response to date</p> <p>BAT has provided no comments on this impact.</p>

BATB Bandarban & Chakoria operations

Impact	BAT's responsibility
<p><i>Impact 6</i></p> <p>Impact on basic labour rights - BATB hired labourers work without contracts</p>	<p>BAT contributes to impact</p> <p>Through its failure to ensure that their contract farmers draw up contracts with their workers, BATB is contributing to breaches of basic labour rights. For example, women labourers receive lower pay than their male counterparts.</p> <p>BAT's response to date</p> <p>BAT comments that contracts for casual labourers are not required under Bangladeshi law. The company does not provide comments on the unequal pay between men and women.</p>
<p><i>Impact 7</i></p> <p>Child labour, impacts on BATB labourers' children's health, wellbeing and schooling</p>	<p>BAT contributes to impact</p> <p>Through its failure to recognise and act to eliminate child labour in their contract farmers' hired labour force, BAT contributes to the continued use of child labour, including hazardous work.</p> <p>BAT's response to date</p> <p>BAT does not provide comprehensive and consistent descriptions of the extent of the problem in its supply chain.</p>
<p><i>Impact 8</i></p> <p>Impacts on BATB farmers' labourers' health</p>	<p>BAT contributes to impact</p> <p>Through its failure to enforce the use of protective equipment, training and a safe work environment, BAT contributes to health problems in the group of BATB farmers' hired labourers.</p> <p>BAT's response to date</p> <p>BAT does not provide comprehensive and consistent descriptions of the extent of the problem in its supply chain.</p>

FORESTS

BATB Bandarban & Chakoria operations

Impact	BAT's responsibility & response to date
<p><i>Impact 9</i></p> <p>Deforestation and forest degradation</p>	<p>BAT contributes to impact</p> <p>Through its failure to stop the sourcing of fuel wood from natural forests, and through its support of the construction of kilns in forest areas, BATB is contributing to forest degradation and deforestation.</p> <p>BAT's response to date</p> <p>BAT claims to have conducted biodiversity assessments in a number of operations, but resulting action plans or management plans are not publicly available.</p>

INDIGENOUS LAND OWNERS	
<i>BATB Bandarban operation</i>	
Impact	BAT's responsibility & response to date
<i>Potential impact 10</i> Potential impact on indigenous land rights	BAT contributes to impact Through its failure to investigate the serious and well-known land conflicts in its area under cultivation, BATB is likely to be engaged in tobacco cultivation on conflicted land, which has been 'grabbed' either from indigenous traditional owners, or from Bengali settlers. BATB thus contributes to potential impacts on indigenous land rights. BAT's response to date BAT does not provide comments on the issue of indigenous land rights.

D) BAT: Employer or partner?

Applying the four criteria from the Legal Guide¹⁸⁸, as described in section 3. 'The global tobacco supply chain' of this report, Swedwatch sees a strong case for arguing that BATB's contracted farmers in Bandarban and Chakoria are legally dependent on the company. Based on this dependency, the cooperation between BATB and its farmers is defined as an employment relationship.

Swedwatch's analysis using criteria from The Legal Guide.	Indicates agricultural production contract relationship	Indicates employment relationship
1. Contract farmers are subordinate to BATB to a large degree. Farmers are subordinate to BATB in the sense that the company has authority and control over how the work is carried out. The field officers supervise and evaluate the work of the farmer, and can impose sanctions. Farmers' associations in the areas are not effective in strengthening farmers' bargaining power and representing their interests in dialogue with the company.	-	X
2. Contract farmers are economically dependent on BATB. Farmers are largely dependent on BATB since tobacco farming is one of few cash-income generation opportunities in the areas. The farmers are also contractually bound to selling exclusively to BAT. In cases of indebtedness, the dependency on BATB is enhanced.	-	X
3. The contract farmers' production is largely integrated into BATB's business activity. In similarity with other large tobacco companies, BAT's supply chain for raw tobacco is highly controlled and integrated into the company's business model. This means that the tobacco farming can be viewed as part of BAT's business activity.	-	X
4. BATB's contract farmers carry significant financial risk. According to the results of Swedwatch's study, BATB contract farmers carry the highest share of financial investment risk in tobacco cultivation.	X	-

Swedwatch cannot prove the case of an employment relationship beyond reasonable doubt. A national court would take the decision on whether or not BATB farmers could be considered as employees of BATB based on how the actual relationship plays out in practice – not how it is formulated in a written contract. The four criteria are not exhaustive, nor are all required to be present. Instead the court looks at the full picture of the relationship, and makes an overall assessment on the legal dependency.

Annex 4: International minimum norms

Internationally binding conventions and minimum norms, conventions and articles of relevance for BAT's tobacco farming operations.¹⁸⁹

1. INDIGENOUS PEOPLES' RIGHTS

ICESCR article 1: Right to Self-determination

1:2. Allowing peoples to develop and progress in social, economic, and cultural terms, to dispose of their land's natural resources and wealth, and not to be deprived of their own means of subsistence.

ILO Convention 169 on Indigenous Rights

Articles on:

- a. Property and Cultural Rights to Land and Forests.
- b. Free Prior Informed Consent (FPIC).

Convention on Biological Diversity

Articles on:

- c. Indigenous and local peoples' right to biodiversity resources.

2. LABOUR RIGHTS

ICESCR art. 7

- a. Ensuring equal pay for equal work is paid without distinction based on grounds mentioned above (for example sex), taking into account differences in wages by country and region.

Right to a living wage:

- d. Wage statement.
- f. Keeping accurate written records on hours of work.

Right to safe and healthy working conditions:

- e. Providing details on the effects of potentially harmful substances and the measures to be taken to protect workers' health and safety in their use.
- i. Allowing workers to remove themselves from potentially unsafe or unhealthy work situations, not subjecting them to adverse consequences as a results and not requiring them to return to work as long as the condition(s) continue.

Right to rest, leisure and paid holidays:

- a. Maintaining a maximum of 6 days of work every 7 days, not to regularly exceed 48 hours of work per week with overtime not exceeding 12 hours per week.
In situations where the business is under extraordinary pressure and only for short periods of time, strive to limit work hours to 80 hours every 6 days if agreed to by the worker.
- b. Allow workers in certain work environments (such as construction, utilities, and exploration), to voluntarily work additional hours beyond those referenced above.
- c. Compensating for overtime at a rate higher than the normal hourly wage rate or providing time off in lieu thereof where permitted.
- d. Striving to provide employees with at least three weeks of paid leave per year, subject to requisite seniority, collective bargaining, and other relevant considerations.

ICESCR art 8

Right to form and join trade unions and the right to strike.

ICESCR art 9

Right to social security, including social insurance:

- d. Considering, in the provision of employee benefits, gaps in state-provided welfare schemes that normally provide for such items as medical care, sickness benefit, maternity leave or benefits, disability coverage or retirement.
- e. Making required payments to state social security schemes and other such mechanisms for employees.

ICESCR art 10

Right to protection of mothers before and after childbirth.

ICCPR art. 8

Right not to be subjected to slavery, servitude or forced labour:

- e. Ensuring that all feasible measures are taken to prevent workers from falling into bondage through company loans or otherwise.

3. CHILD RIGHTS

ICESCR art 10

Right to children's and young people's protection from exploitation (no child labour):

- 1. Not engaging children under the age of 18 for work, which is likely to harm their health, safety or morals.
- 2. Not engaging children between the ages of 15 and 18 for work that may hinder their education or compromise their health (with the exception that in some countries the age limit may be reduced to 14, provided that the state in question has received an exemption).

ICCPR art. 24

Right to protection of the child and right to acquire a nationality.

Children are recognised as being in need of extra protection. Given their status as minors, children are considered a vulnerable group under human rights.

Protection of the child includes protection from sexual and economic exploitation (refer to right 7.b concerning exploitative child labour)

UN Convention on the Rights of the Child

'Children have a right "to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development'

ILO Convention Worst Forms of Child Labour

UN Children's Rights and Business Principles

4. RIGHT TO FOOD

ICESCR art 11

Right to adequate food and its fair distribution:

3. Taking reasonable steps to ensure that company operations do not adversely impact local or regional access to adequate food.

5. RIGHT TO HEALTH

ICESCR art 12

Right to Health:

3. Taking reasonable steps to ensure that company operations do not adversely impact individuals' level of health, including adverse impacts related to water and air.
4. Providing medical assistance and emergency care for workers in the work place if they are unavailable elsewhere.

Universal Declaration of Human Rights (UDHR)

Rights to livelihoods – food, health, and social security.

6. PROTECTION AND SUSTAINABLE USE OF FORESTS AND BIODIVERSITY

Rio Convention on Environment and Development

Precautionary principle.

Convention on Biological Diversity

Ensuring that business operations do not impact negatively on high value conservation resources at ecosystem, landscape, and species levels, including biodiversity, which holds value in terms of its livelihoods, cultural and religious purposes.

Annex 5: Industry initiative: Eliminating Child Labour in Tobacco Growing

The Eliminating Child Labour in Tobacco Growing (ECLT) Foundation was officially launched in 2002 as a joint initiative between actors within the tobacco sector, including British American Tobacco p.l.c.

The ECLT Foundation is governed by 14 board members, representing leading tobacco manufacturing and leaf-supplying multinational companies as well as tobacco growers' associations. In 2014 the members signed a pledge of commitment on working collaboratively with relevant local, national, regional and international stakeholders to combat all forms of child labour within tobacco-sourcing supply chains.

The ECLT Foundation implements community projects and conducts advocacy to allow tobacco-growing communities to benefit from agriculture. The foundation also works towards ensuring better education and health and safety for the tobacco farmers' children. It currently implements projects in Guatemala, Kyrgyzstan, Malawi, Mozambique, the Philippines, Tanzania, Uganda and Zambia. According to the ECLT Foundation, more than 500,000 families in tobacco growing communities directly benefitted from its projects during 2014 alone. Over 22,000 children are said to have been withdrawn from child labour as of the inception of the initiative.

Since the ECLT Foundation does not implement any projects in Bangladesh, Swed-watch does not refer to the ECLT initiative in the main text of this report.

The information has been adapted from the ECLT website (<http://www.eclt.org/>).

Endnotes

- 1 In this study Swedwatch uses the term 'bonded labour' to refer to a form of forced labour where a person is coerced to work through the use of accumulated debt, as defined by the International Labour Organisation (ILO). http://www.ilo.org/global/topics/forced-labour/news/WCMS_237569/lang--en/index.htm, retrieved 05042016.
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During the interview in Lalmonirhat 2 December 2015 Maidul Islam clarified to Swedwatch that his organisation RDRS does not encourage or provide savings and credit schemes for tobacco farming. He explained further that, in the farmer groups and federations – which RDRS support with training and capacity-building – there are many men and women tenant farmers who are subcontracted by BATB farmers, and yet others who grow tobacco for the local market.

128 'Upazila' is the official Bangladeshi term for 'Sub-district'.

129 This report uses a factor of 2.47 for converting from hectares to acres.

130 Corresponding to 15,000 BDT per hectare.

131 Corresponding to 32,000 BDT per hectare.

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