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Palais des Nations
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Copy: Masamichi Terabatake, President, CEO and Representative Director, Japan Tobacco Inc.,
Eddy Pirard, President and CEO, Japan Tobacco International SA

Tuesday, 30 August 2022

Re: JT International SA response to Joint Communication from Special Procedures

Ref: AL OTH 43/2022

Dear Ms. Balbin,

Thank you for your letter of 5 July 2022. We take the issues you have raised very seriously and will further engage with members of the Working Group and the Special Rapporteurs concerned in a constructive and transparent manner to further improve human rights and labor standards in the tobacco sector in Malawi. I hope that you find the detailed responses to your questions within this letter useful to your investigation.

Please note that this letter is sent by JT International SA (**JTI**) based on information provided by JTI Leaf Malawi (**JTILM**) and Japan Tobacco Inc. Before responding to the specific questions and concerns highlighted in the Joint Communication from Special Procedures, we would like to provide you with a brief global overview and a more detailed overview of our leaf operation in Malawi.

Global overview

Our commitment to human rights is formalized through the JT Group Human Rights Policy¹, which is aligned to the UN Guiding Principles on Business and Human Rights (**UNGPs**), and which sets out policies applicable to the whole Japan Tobacco group of companies (**JT Group**). The policy was approved by the Board of Directors of Japan Tobacco Inc. and was informed by relevant internal and external expertise, including our external Human Rights Advisory Board which was established in 2016, and which continues to meet on an annual basis². This policy covers our global operations.

As stated in our human rights policy, we recognize that implementing measures to respect human rights throughout our global operations and business relationships is an ongoing process. We are fully committed to our human rights journey and will continue to expand and improve our activities in this area. For more information on our approach to human rights and the progress made to date,

¹ JT Group Human Rights Policy:

https://www.jti.com/sustainability/governance_compliance/policies/pdf/JT_Group_Human_Rights_Policy.pdf

² External Human Rights Advisory Board: Donna L. Westerman (Sustainable Purchasing Leadership Council); Jonathan Drimmer (Paul Hastings); Paul Bowden (The Nottingham Law School); Richard Karmel (Mazars); and Rona Starr (Association for Professional Social Compliance Auditors).

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please reference our inaugural JT Group Human Rights Report published in 2021, which is publicly available on our web site³.

We source tobacco leaf from 34 countries around the world, either directly from growers in our Vertically Integrated (**VI**) operations or from third-party leaf suppliers. We currently work with approximately 60,000 directly contracted tobacco growers in 10 VI operations⁴. Contracting directly with leaf growers enables us to produce a customized crop, while improving growers' productivity, leaf quality and enhancing leaf provenance and integrity. It also allows us to carefully monitor and improve labor conditions on farms.

Across our leaf supply chain, we do not just source leaf but are also focused on strengthening a resilient, sustainable and transparent leaf supply chain, supported by a robust process of continuous improvement. The JTI Leaf Sustainability Framework consists of three pillars (economic, social and environmental), with six focus areas (crop integrity, crop production, resource management, climate change, human rights and grower livelihoods). The continuous improvement process around the pillars and focus areas is defined as our Leaf Supply Chain Due Diligence Process (**SCDD**), based on a five-step continuous improvement framework: identify, prioritize, respond, measure and report. This process follows the UNGPs, the Guidance on Responsible Agricultural Supply Chains provided by the Organization for Economic Co-operation and Development and the UN Food and Agriculture Organization, as well as recommendations by the International Labour Organization (**ILO**).

Our leaf operation in Malawi

JTILM is a VI operation that was created in 2009 after the JT Group acquired the tobacco leaf supplier Tribac Leaf Limited and its affiliates. The Company currently employs approximately 290 permanent employees and over 1,000 seasonal employees during peak season.

JTILM currently directly contracts with 8,558 small-scale growers (average production area ranging from 1-3 hectares). These growers are contracted to grow a customized tobacco crop for JTI under the stewardship of JTILM and pursuant to Good Agricultural Practices (**GAP**) and Minimum Agronomic Standards (**MAS**). In return, they receive prescribed crop inputs from JTILM that include certified seed, fertilizer, crop protection agents and personal protective equipment. The support that JTILM provides also includes recommendations delivered by JTILM Agronomy Technicians through a scheduled visitation program for the duration of the crop cycle. JTILM has a team of 98 Agronomy Technicians and the grower to Agronomy Technician ratio is 87:1. Each grower is visited between seven and nine times each crop season, where observations are made against JTI's MAS, Agricultural Labor Practices (**ALP**), and Minimum Forestry Standards (**MFS**). The direct contract that JTILM has with individual growers, including via the scheduled visitation program, also allows it to monitor compliance with key standards, including in terms of labor practices i.e. ALP.

By enabling growers to become more productive and efficient in the way they grow, harvest, and cure tobacco, JTILM is supporting them to become more profitable. The economic benefit for those growers directly contracted by JTILM is significant. Since introducing a VI operation in Malawi, JTILM contracted growers have seen their average yields and income increase by over 100%. In 2009, the average grower yield in Malawi was 800 kilograms per hectare, whereas now JTILM contracted growers are averaging 1,900 kilograms per hectare.

³ JT Group Human Rights Report:

https://www.jti.com/sites/default/files/global-files/documents/JTG_Human_Rights_Report_2021.pdf

⁴ JTI VI operations: Bangladesh, Brazil, Ethiopia, Japan, Malawi, Serbia, Tanzania, Turkey, the U.S., and Zambia.

The journey towards direct contracting and an integrated production system

When JTILM first started operating in Malawi, it was apparent that the dominant auction system needed a complete overhaul to allow the direct contracting of growers, which would in turn help ensure traceability and known leaf provenance of tobacco including monitoring farms for child labor, workers' rights and workplace health and safety through the implementation of programs like ALP. JTILM proactively engaged with government authorities and other key stakeholders to highlight the benefits of market reform, and in 2012 the government made a significant policy shift that mandated that 80% of tobacco production should be under contract and the remaining 20% be traded over auction.

In 2014, the government passed the Tobacco (Integrated Production System) Regulations, as an interim legal and regulatory measure to cater for this new contracting system. The shift from untraceable growers to contracting was further anchored in Malawian legislation through the newly enacted Tobacco Industry Act (2019) (**TIA**), which repealed the Tobacco Act (1970) and the Control of Tobacco Auction Floors Act (1970) and created a legal framework that recognized contracting. This enabled JTILM to have direct access to growers and implement programs like ALP and monitor their implementation and institute improvement measures.

In 2014, JTILM ceased purchasing tobacco through auction sales entirely. It currently procures all its VI tobacco leaf requirements through contracted growers only.

Third-party leaf suppliers in Malawi

Besides JTILM's operation on the ground, JTI also has a Tobacco Supply Agreement (**TSA**) with three global third-party leaf suppliers: Alliance One International, Inc.; Premium Tobacco International DMCC; and Universal Leaf Tobacco Company, Inc. All these suppliers have local legal entities who directly contract and engage with tobacco growers in Malawi. Details of these agreements and our engagement with suppliers to live up to their commitment to ensure respect of human rights and implement a robust SCDD process are provided in the detailed answers to your questions.

JTILM's response to areas of concern and specific questions raised in the Joint Communication from Special Procedures

In your letter you have raised several areas of concern, and kindly provided some background. Thereafter, you have raised ten concrete questions in relation to the areas of concern. Our response follows the same structure.

In relation to the areas of concern that you raised, JTILM has tried to assist the Working Group and Special Rapporteurs by providing the latest references to relevant Malawian legislation in Schedule 1 of this response. The regulatory framework in Malawi has evolved significantly over the last decade and continues to do so, and so we hope you find this summary useful. JTILM has also included some position statements in Schedule 1.

Question 1: Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

With regard to the relevant allegations, we have provided our view of the legal framework and JTILM position across all areas of concern (see Schedule 1), and a detailed response to the allegations is integrated in the answers to the questions below. In addition, we would also like to take the opportunity to clarify some elements within the Joint Communication from Special Procedures that we believe were misinformed.

It is alleged that leaf buyers impose a loan system on their contracted growers (page 8 of your letter of 5 July 2022). However, funded contracts are not mandatory, as stipulated in the TIA. The same Act further recognizes the role of Grower Associations in bargaining and negotiating on behalf of growers in terms of tobacco production and marketing. It also mandates the Tobacco Commission to prescribe minimum terms and conditions for every contract. Furthermore, in the event of a disagreement between a grower and a buyer regarding the grade of tobacco, the TIA states that the Tobacco Commission will arbitrate over that disagreement. Regarding provision of agricultural inputs, in the case of funded contract farming, section 45 (3) of the TIA forbids buyers from providing inputs for alternative crops to growers. Accordingly, JTILM does not provide agricultural inputs for alternative crops to growers.

It is further alleged that *"the tobacco industry in Malawi is structured and operates in an unusually opaque and anti-competitive manner"* (page 8 of your letter of 5 July 2022). While we cannot speak for other tobacco companies that operate in Malawi, this allegation is certainly not true as far as the activities of JTILM are concerned. As already noted, JTILM has a number of measures in place to ensure full transparency: it contracts directly with leaf growers which allows it to monitor and improve compliance with key standards, including labor conditions on farms; it does not purchase tobacco through auction sales; the JTI Leaf Sustainability Framework and approach to SCDD ensure a resilient, sustainable and transparent leaf supply chain; and JTI's TSA with third-party leaf suppliers ensure that they respect human rights and implement a robust SCDD process.

Moreover, the tobacco industry, like all other industries in Malawi, is regulated and monitored by the Competition and Fair Trading Commission (**CFTC**), which is established under the Competition and Fair Trading Act (**CFTA**). Overall, the CFTC's role is to safeguard effective competition and prevent as well as punish anti-competitive behavior. The CFTC's specific role within the tobacco industry is to vet and clear grower contract templates which buyers enter with growers, prior to contracting to ensure the said contract templates comply with the law. Additionally, the CFTC is empowered to carry out investigations when there is reasonable belief or suspicion that the CFTA is being / has been infringed. Therefore, the CFTC provides the necessary checks and balances for all industry players to compete in a fair manner.

Lastly, it is alleged that *"the [Tobacco] Commission is..., composed of members of the tobacco industry, who may allegedly have conflicts of interest in relation to the regulation of the industry"* (page 2 of your letter of 5 July 2022). Under section 6 of the TIA, the Board of the Tobacco Commission consists of eight industry members: one representative for the buyers; one of Grower Associations representing smallholder farmers; one of Grower Associations representing medium to large scale farmers; one representative of service providers; one person appointed by the Minister of Agriculture with the sufficient knowledge and experience necessary for the development of the industry; and three ex-officio members (i.e. Secretary for Agriculture, Secretary to the Treasury and Secretary for Trade). This all-inclusive stakeholder representation approach is not unique to the tobacco industry and is also practiced for governing bodies of other cash crops in Malawi. For instance, in the case of cotton, the Cotton Act includes representatives for growers, buyers, processors and owners of cotton estates in the Cotton Council. Similarly, the Smallholder Tea

Authority which governs the tea industry has a representative nominated by the Tea Association and appointed by the Minister for Agriculture and not more than three growers' representatives who are also appointed by the Minister for Agriculture. The Smallholder Sugar Authority which governs the sugar industry has two members representing the Dwangwa Sugar Corporation Limited, nominated by the Corporation and one member representing the smallholders, appointed from a panel of three individuals nominated by the said smallholders.

The inclusion of different industry stakeholders in the governance structure of the Tobacco Commission is intended to ensure that knowledgeable and experienced industry experts ably participate in decisions affecting the industry. Additionally, this all-inclusive stakeholder representation guarantees grower representation and provides growers with a voice.

Question 2: Please highlight the steps that your company has taken, or is considering to take, to protect tenant farmers and their families against human rights abuses by businesses who operate and/or are domiciled in Malawi to ensure that these business enterprises respect human rights throughout their operations, including by carrying out human rights due diligence in line with the UN Guiding Principles on Business and Human Rights. In particular, please explain what concrete steps is Japan Tobacco Group taking to identify, prevent, mitigate and account for potential or actual human rights abuses throughout your supply chain in Malawi. Further, kindly elaborate on the results that have been achieved with such steps.

JTILM has been present in Malawi since 2009. From the very beginning, JTILM has recognized the challenges on the ground as well as in the regulatory framework and has worked to address those challenges in partnership with tobacco growers and grower communities, the Government of Malawi, civil society, international organizations (e.g. the ILO) and third-party leaf suppliers.

As per the JT Group Human Rights Policy, JTI is committed to respecting human rights across its operations and supply chain and to conducting human rights due diligence. JTILM has implemented this policy in full and has undertaken various forms of human rights due diligence over the years. These will be covered in detail below, including any actual and potential adverse impacts identified and the responses developed to mitigate or cease these from occurring.

In 2019, JTILM undertook an impact assessment in Malawi as part of the broader approach to SCDD, with the help of the business and human rights consultancy twentyfifty Ltd.⁵ This was done in line with the UNGPs and at a time during the tobacco harvest when there is the greatest demand on labor and farming communities are at their most vulnerable, with the highest incidence of food and cash insecurity. The field researchers selected a diverse range of farming communities that would potentially demonstrate a variety of conditions and key challenges. Within each of the visited communities, the researchers sought to engage with the different impacted groups in both general and targeted discussions. The impacted groups included: growers; workers; tenants; migrant and seasonal workers; wives of growers and tenants; and children, farming families and non-farming families or community members. Recognizing that vulnerable individuals may not actively participate in formal engagement or focus group discussions, considerable emphasis was placed on informal research and engagement e.g. through walks across farms and through growing communities to record observations with the researchers splitting to allow one to engage men in the community,

⁵ twentyfifty Ltd. is an independent, for-profit business consultancy that works with companies to identify and manage their impacts on people and the environment, and to lead change that benefits business and society. twentyfifty is well-known for its leading work on the implementation of human rights due diligence, under the framework of the UN Guiding Principles on Business and Human Rights. It has worked with JTI since 2015 in the implementation of its ALP program with third-party tobacco suppliers.

whilst the other would seek out discussions with women. In total, 291 rightsholders were engaged throughout this process.

Through this exercise, JTILM identified and prioritized five main issues: tenancy, women's rights, workers' rights, children and youth, and grower livelihoods. With regard to tenancy, the researchers found that the legacy tenant farming system is prevalent in small-scale agriculture in Malawi and can lead to conditions for potential exploitation of tenants and their families by the landlord. These risks include poverty pay and indebtedness, limited access to nutritional food, and at times verbal or physical abuse under practices that amount to forced labor.

To better understand the extent of tenancy labor in the JTILM supply chain, a more detailed labor arrangements survey was then carried out in 2020. This found that 79% of the farm workers on JTILM contracted farms were in tenant-like working conditions.

In response to these findings, JTILM developed a detailed action plan to address all of the prioritized issues from the impact assessment, including (but not limited to) tenancy. However, for the purposes of the response to this question, we have focused on the responses specifically developed to help address the issue of tenancy. The main responses were as follows:

- A JTILM Sustainability Governance Committee and a tenancy / forced labor sub-committee was established to develop effective responses and monitor progress against them.
- In 2019, an additional annex was introduced to the main grower contract which provided a seasonal contract template between the grower and farm worker.
- In 2021, JTILM printed and distributed farm labor record books to all contracted growers and their workers to track and record working hours, payment of monthly minimum wage and other deductions made to farm workers on contracted farms to ensure that appropriate labor standards are followed. Further improvements e.g. the inclusion of unique barcodes for each worker booklet have since been identified and will be rolled out in 2022 for crop year 2023.
- JTILM signed a Memorandum of Understanding (**MoU**) with the Ministry of Labor in 2021 to conduct independent labor inspections on JTI contracted farms to identify labor related issues including human trafficking, forced labor and child labor. These independent labor inspections will commence in September 2022.
- A workers' rights awareness campaign was rolled out to raise awareness of contracted growers, farm workers and the general public about the need to observe labor laws and standards on all JTI contracted farms.
- A financial literacy needs assessment was carried out, to inform the development of specific financial literacy training for growers and their spouses. The content has been finalized and the training will be conducted from September to November 2022. The training has targeted 1,000 growers and their spouses, with the aim of improving farm management to further improve grower returns and enhance livelihoods.

In addition to the strong governance that has been put in place with regard to the JTILM Sustainability Governance Committee and tenancy / forced labor sub-committee, JTILM has benefited from JTI's robust Internal Audit function periodically reviews all VI operations. This additional layer of independent and objective assurance helps to identify any gaps in local risk management, governance and internal control processes. JTILM was last audited in June 2022 and the general level of compliance was found to be good. In addition, the audit identified one observation relating to the issuance and correct management of the farm labor record books (as might be expected, given that the action plan described above is still in the process of being implemented) and an improvement plan has been put in place to address the issue.

JTILM has committed to eradicate tenancy from its supply chain over time. However, tenant farming is a legacy issue and is endemic within small-scale agriculture in Malawi. It is estimated that there are millions of tenant growers in Malawi, and the issue will take a multi-stakeholder approach years to resolve. There are also concerns that immediate abolition could cause further harm to tenants who are some of the most vulnerable people in the country: abolishing the system entirely without a viable alternative solution would risk leaving tenants in a worse position than before. JTILM is conscious of this and continues to work with rightsholders, NGOs, government, and other public bodies to formulate solutions.

Question 3: Please explain what concrete steps have been taken by your company to exercise leverage, in line with the UN Guiding Principles, in your business relationships to prevent and mitigate human rights abuses mentioned in the above allegations.

As mentioned earlier in our response, besides the JTILM VI operation, tobacco leaf is also sourced from three global legal entities of third-party suppliers. Each of these suppliers has a local legal entity that engages directly with growers in Malawi. These are Limbe Leaf Tobacco Company Limited, Alliance One Tobacco (Malawi) Ltd and Premium Tobacco Malawi Limited.

JTI has a TSA in place with all three of these third-party suppliers' global legal entities. These agreements apply to all sourcing countries. Each of these agreements requires the relevant suppliers:

- to comply with all applicable laws governing the activities under the TSA, the principles of the JTI Supplier Standards⁶ and JTI's Code of Conduct⁷;
- to put in place all necessary provisions in the form of material capabilities and process, to enable full and reliable traceability of all green leaf entering their supply chain and which may be included in any goods supplied to JTI or any of its affiliates;
- to ensure that constituent components of goods supplied to JTI are fully traceable e.g. not only to know where but under which social and environmental conditions the tobacco has been grown; and
- to meet all the requirements imposed by the relevant national laws and regulations concerning human rights.

Furthermore, each supplier is required to endeavor (and shall ensure that its tobacco suppliers shall endeavor) to discharge their obligations as set out in the UNGPs.

The engagement with third-party suppliers globally to implement ALP was initiated in 2015. Since 2016, JTI's third-party suppliers have been providing a bi-annual ALP report (which evolved over

⁶ JTI aims to achieve high standards of integrity across its business operations and its supply chain. Its Supplier Standards define the requirements for suppliers providing goods and services to JTI. We require suppliers to comply with the JTI Supplier Standards and to also ensure that their suppliers involved in providing goods and services to JTI comply with the JTI Supplier Standards. JTI expects suppliers (and their suppliers) to have policies, employee communications, due diligence processes and control systems to implement these standards within their business operations and supply chains. Human rights and labour standards are integrated into the JTI Supplier Standards. Suppliers must respect human rights by adopting and maintaining standards of labour practices and working conditions that comply with all applicable local legislation and international conventions. Modern slavery in all its forms such as servitude, using forced or compulsory labour in all its forms, human trafficking, exploitation, and child labour are prohibited. See JTI Supplier Standards:

<https://www.jti.com/sites/default/files/global-files/documents/supplier/jti-supplier-standards.pdf>

⁷ The JTI Code of Conduct ensures that we conduct business ethically and are a responsible corporate citizen. The Code provides guidance to employees to uphold a culture of integrity in all that we do. See JTI Code of Conduct:

<https://codeofconduct.jti.com/our-products/engaging-with-business-partners/>

time to a SCDD report, and as of this July became an annual, post crop season report). All entities from which JTI sources tobacco leaf in Malawi have been reporting since 2016. Today 97% of JTI's tobacco leaf supplying entities globally are reporting their ALP and SCDD progress, which is independently verified by Bureau Veritas. The structure of questions in the reporting template follows the SCDD process: e.g. what issues are identified and through which means; what are the priorities; how these priorities are being addressed and how progress is measured. Based on these reports, JTI runs a dialogue for improvement with those third-party leaf suppliers through global or in-country meetings.

Global meetings with key suppliers take place every year between February and March, and cover a variety of sustainability related topics, including that of human rights compliance. These meetings began in 2015 and included the global entities of all three suppliers of tobacco leaf from Malawi. In addition, in 2017, as part of the process described above, we engaged directly with the third-party suppliers' entities in Malawi to discuss ALP implementation and continuous dialogue for improvement.

Finally, the findings of the impact assessment undertaken in Malawi in 2019, were shared with our third-party suppliers and now provide the structure of our ongoing engagement with them.

Over the years, JTI has partnered with various stakeholders to build capacity across the tobacco leaf supply chain through a series of face-to-face webinars and training. For instance, until 2018, JTI had a Public Private Partnership (*PPP*) with the ILO. The PPP focused on developing and delivering tailored Fundamental Principles of Rights at Work training to JTI and its third-party suppliers' staff from Brazil, Malawi, Tanzania, Zambia, Serbia, Turkey, and Germany. In 2016, the ILO through the PPP conducted a training session on eliminating child labor in tobacco growing to JTILM and all three third-party leaf suppliers in Malawi.

Furthermore, with our business and human rights consultants twentyfifty Ltd., we have organized a series of human rights webinars and training for suppliers' local entities (including Malawi) on a variety of different topics. Examples include Extreme Breach processes; rights of workers; theory of change; and impact measurement. With regard to Extreme Breaches, we recognize that some human rights violations should be identified and responded to as a matter of urgency e.g. modern slavery, forced labor, human trafficking, and systematic abuse and violence. Key criteria for an effective Extreme Breach process include the involvement of relevant internal and external stakeholders including authorities, a clear timeframe, protection of rapporteur(s) and victim(s) and putting a follow-up system in place. JTILM as well as our three third-party suppliers operating in Malawi have such an Extreme Breach process in place.

To ensure the supply of traceable tobacco leaf of a known provenance, JTI third-party suppliers are phasing out any purchases of auction tobacco and focusing on direct contract sourcing in Malawi. For crop year 2020 the ratio of contracted vs auction tobacco in purchases from third-party leaf suppliers was 80:20, in crop year 2021 it was 90:10 and for crop year 2022 and beyond, 100% of the tobacco leaf purchased from suppliers will only be from contracted growers.

All of our third-party suppliers in Malawi have gone to great efforts to fulfill their UNGP obligations. This is reflected in the fact that all were granted Exemption Certificates from the U.S. Customs and Border Protection Withhold Release Order on imports of tobacco from Malawi. Such exemptions are only granted after a rigorous evaluation of each entity's social compliance programs and efforts to identify and minimize the risks of forced labor from its supply chain.

We would also like to highlight two industry initiatives through which we exercise leverage, the Eliminating Child Labour in Tobacco Growing Foundation (**ECLT**)⁸ and the Sustainable Tobacco Program (**STP**). ECLT is focused on addressing child labor through advocating policy change, undertaking research, sharing best practice and implementing child labor eradication programs within tobacco growing communities. STP is an industry-wide collaboration platform around eight key themes (water, climate change, human and labor rights, livelihoods, soil health, crop, natural habitat and governance), which acts as an enabling framework for effective SCDD. Further details on both of these programs can be found in Schedule 2.

Question 4: Please advise about the steps taken to address the indicators of debt bondage along your supply chain and in particular at the tenant farmer level in Malawi.

JTILM's focus has long been on providing quality crop inputs at the best possible price to the contracted grower (e.g. the wholesale price negotiated with input suppliers is directly passed on to the contracted growers), rather than providing cash loans.

During the annual technical review an analysis of the crop input package is conducted taking into consideration the necessity, cost, delivery, integrity and quality of the crop inputs, while recognizing the need for these specific inputs to deliver the desired customized crop for JTILM without compromising or over burdening a grower with a higher than needed crop input loan. Once the crop input package has been agreed internally it is shared with the Tobacco Commission and any changes are made accordingly. Upon final agreement, the Tobacco Commission will communicate the approved crop input package for the upcoming season.

In 2016, due to the high interest rates applied to bank loans in Malawi – the original platform in which grower financing was facilitated – JTILM sought to move away from bank financed loans to self-financing the crop input loans themselves. This self-financing model enabled growers to move from commercial interest rates of well over 25% to 0% with a small 6% administrative fee to cover operational costs. Whilst this increased the risk exposure to JTILM (approximately USD 14 million per annum), it was believed to be a worthwhile investment to improve grower returns and reduce debt avoidance. Over the last three years JTILM has ensured that the crop input loans provided to its contracted growers does not exceed 40% of their gross returns.

Since 2017, JTILM loan recovery rates have exceeded 98% while the average grower retention sits at 97%, clearly demonstrating that our grower base is predominantly made up of long-term, mutually beneficial partnerships.

Since 2019, a decision was taken to release the collateral that a contracted grower deposits with the bank prior to entering a contract with JTILM for the upcoming season. The release of these funds is based on pre-defined criteria and the release of these funds is timed to coincide with the peak labor periods of the crop cycle, thereby supporting the ability of contracted growers to pay their farm workers.

In Malawi, JTILM also has an initiative called Market Match which links JTILM contracted tobacco growers to viable, reliable market off-takers for complementary crops e.g. groundnuts, soya and maize. These crops are grown in rotation with tobacco – promoting GAP while enhancing grower livelihoods through the provision of a secondary source of income and enhancing food security. In 2021, Market Match involved approximately 5% of the JTILM contracted grower base and the current plan is for them to increase this to approximately 38% by 2023.

⁸ Eliminating Child Labour in Tobacco Growing (ECLT) Foundation:
<https://www.eclt.org/en>

Question 5: Please advise the steps taken by your company in providing tenant farmers and their families access to effective remedy and adequate access to healthcare services for alleged human rights violations, including through your company's operational grievance mechanisms. In addition, kindly provide information on the steps taken by your company to establish operational-level grievance mechanisms to address the adverse human rights impacts caused by your company and/or its subsidiaries throughout your operations globally.

JTILM, as well as all three third-party suppliers in Malawi, have an operational-level grievance mechanism in place for growers and farm workers to report any concerns relating to human and labor rights issues that fulfil the effectiveness criteria of the UNGPs. According to data from the latest SCDD bi-annual report (January 2022) the third-party suppliers that we source from in Malawi reported that 30,571 growers and farm workers have access to an effective operational-level grievance mechanism.

One of JTI's third-party suppliers in Malawi has developed its own grievance mechanism, whereas the other two and JTILM are using Deloitte's Tip-offs Anonymous, which is a toll-free line grievance system through which growers and farm workers can raise concerns anonymously. We have repeatedly engaged with our suppliers to ensure that an effective grievance mechanism is available to all growers and farm workers. JTILM's use of Deloitte's Tip-offs Anonymous was originally focused on reporting concerns related to bribery and corruption but has since been expanded to include reporting of concerns around workers' rights. When a potential violation is reported, Deloitte gathers information from the anonymous victim and / or rapporteur about the details of the incident, including the exact location where it allegedly happened. Deloitte then reviews the information and submits it to JTILM management. JTILM deploys its internal investigations capability to further investigate the report. Management then acts on the investigation report accordingly (e.g. referring the issue to community leadership, local police or labor officers) and follows up until the issue is resolved.

To raise awareness about the grievance mechanism and workers' rights, JTILM in 2021 started implementing a multi-media workers' rights campaign. The campaign is implemented by placing key campaign messages including the toll-free lines on national and community radios, television, road shows (interactive dramas), billboards, shop branding and posters.

As mentioned earlier in the document, in 2021 JTILM signed a MoU with the Ministry of Labor to conduct labor inspections on JTILM contracted growers' farms to identify labor related issues and develop action plans to address them. The labor inspections will commence in September 2022.

Labor training sessions have been conducted in collaboration with the Ministry of Labor for all JTILM Agronomy Technicians ahead of the inspections, so they are aware of national and international labor laws and standards and are well equipped to train contracted growers.

Access to healthcare

In 2017, JTILM identified access to basic health services in its supply chain as a particular issue by analyzing ALP observation data. In response, JTILM through its Grower Support Program (**GSP**) initiative commissioned the construction of 16 village clinics in grower communities across Malawi. An additional 15 village clinics were constructed in 2018 and one was constructed in 2020. One staff house was constructed in one of the village clinics in 2020 and two are being constructed this year. The two staff houses have been built in village clinics that are being upgraded into health centres. When fully upgraded, the health centres will provide broader health services to grower communities than is currently available. JTILM provided equipment, start-up medical supplies, solar electricity, and a solar powered water system for each of the village clinics. JTILM signed a MoU with the Ministry of Health to take over operations of the village clinics. The clinics have decreased the

average distance to a health facility from 14 kilometres to five kilometres for up to 80,000 community members.

Question 6: Please indicate the steps that your company is taking or is considering to take to support the government of Malawi to combat human trafficking and to provide protection and assistance to victims of trafficking and contemporary forms of slavery.

JTI does not tolerate modern slavery in any of its forms – such as forced labor, servitude and human trafficking – and is committed to tackling it through a range of initiatives, including its global human rights program.

The impact assessment conducted by twentyfifty Ltd. included many engagements with tenant farmers in all tobacco growing regions in Malawi and provided significant insights into the conditions these tenants face and how they come to be tenant farmers. This did not identify any cases that would amount to human trafficking. Further, JTILM has not identified a single case of human trafficking within its supply chain to date, either as a result of ALP observations on regular farm visits or through its grievance mechanism Tip-offs Anonymous. For this reason, human trafficking has not been identified as a prioritized issue within JTILM's SCDD action plan.

JTILM's close cooperation with, and support for, the Government of Malawi has been elaborated in several instances in this response. This support is a continuous process that seeks to prevent and mitigate any potential or actual human rights impacts. This extends from support for building an enabling regulatory framework (Integrated Production System, abolishing tenancy etc.), through collaboration with international organizations to concrete interventions by JTILM on the ground (ARISE, GSPs, ALP, awareness campaigns, GAP, Market Match etc.) and via exercising leverage with third-party suppliers.

While our initiatives to prevent issues that may occur because of the legacy tenant farming system in Malawi were elaborated earlier in the response, we would like to provide some additional information and re-emphasize some of the actions taken by JTILM that we deem relevant to this question:

- The labor arrangements survey carried out in 2020 indicated that 57% of workers in JTILM's supply chain migrated to their current workplace from another district. This is in line with other studies carried out by the ILO and Ministry of Labor which showed that labor in Malawi tends to migrate from the Southern regions of the country to the Center and North. This is mainly due to the high population density in the Southern regions of the country which has limited land sizes and limited agrarian enterprises that dominate most rural areas in Malawi.
- A periodic in-house census is conducted through JTILM Agronomy Technicians to update the number of farm workers in its supply chain. The most recent survey was done in 2020 and it estimated the number at 17,754 farm workers.
- JTILM distributed Farm Labor Registers to all contracted growers which records the details of where each of their farm workers come from. Every farm worker has a copy of this booklet and all demographic details are recorded to provide the necessary traceability for each worker on the farm.
- Labor training conducted by the Ministry of Labor for all JTILM Agronomy Technicians included a module on human trafficking. This includes all necessary steps that contracted growers should take to ensure that any migrant labor they employ follows the prescribed due process.
- The MoU with the Ministry of Labor has prescribed training for 113 Agronomy Technicians, 309 Zone Leaders and all contracted growers. Quarterly farm labor inspections will be conducted that will generate reports. The reports will be discussed between the Ministry of

Labor and JTILM and action plans will be drawn to implement remedies for identified issues. These Labor inspections are scheduled to commence in September 2022 and the first post-inspection meeting is planned for November. Following a request from the Ministry of Labor for logistical support, JTILM has agreed to donate two vehicles and two motorcycles for conducting such inspections.

- The post labor inspection meetings between the Ministry of Labor and JTILM will review the findings of the labor inspectors and develop action plans for addressing them. Follow up on the action plans will be done after subsequent inspections planned to be conducted quarterly.

Question 7: Please indicate if any labor inspections have taken place in your company and if so, if any instances of labor exploitation have been identified and what the consequences have been, if applicable.

Our ALP program, which JTILM fully implemented in 2015, provides a platform for JTILM Agronomy Technicians to undertake regular labor inspections on their contracted growers' farms (between seven and nine times each crop season). ALP was developed with the support and guidance of the ILO, and reflects internationally recognized labor standards regarding child labor, rights of workers, and workplace health and safety. During these visits JTILM Agronomy Technicians observe whether the ALP standards are met or not. Where standards are not met, the Agronomy Technicians will record an observation and discuss the issue with the contracted grower. In crop year 2022, JTILM Agronomy Technicians recorded 3,123 ALP observations, with the vast majority of these under the workplace health and safety pillar.

Any indication of child labor or forced labor will be recorded as an Extreme Breach, with a system generated email triggered to inform the Origin Lead, Agronomy Director, Corporate Affairs Director and Leaf Supply Chain Due Diligence Director about the observation. The observation is then fully investigated and relevant action taken if required. In crop year 2021, 19 Extreme Breaches were registered indicating cases of child labor, none of these was related to the nature of examples shared in your section "Child Labor, including its worst forms".

As mentioned earlier, JTILM signed a MoU with the Ministry of Labor in December 2021. The MoU provides that the Ministry of Labor will carry out labor inspections on JTILM contracted farms from September 2022 to identify any gaps in the enforcement of labor standards, including instances of labor exploitation, and devise action plans jointly with JTILM to address any identified gaps.

From March to July 2022, a total of five labor training sessions were conducted for all JTILM Agronomy Technicians by the Ministry of Labor to equip them with knowledge of labor standards so that they can in turn train all contracted growers in their zones for crop year 2023.

Question 8: Please provide information on the measures taken by your company to prevent diseases due to chemicals reportedly used and ensure the right to health, including reproductive health, of all the reported workers, including women and children.

JTI is globally addressing the risk of exposure of people to Crop Protection Agents (CPAs) and processes have been put in place to minimize this risk by focusing on toxicity and exposure.

JTILM procures and supplies all necessary CPAs to their contracted growers, and these are included in the annual grower pack. This pack is customized for the crop produced in Malawi. The CPAs included are limited to those that target the main pests and diseases which damage tobacco in Malawi. The amount of each CPA provided to a grower is calculated for an annual usage based on the surface of tobacco the farmer is contracted to grow for JTILM.

The CPA usage recommendations are documented in JTILM's MAS, which contains detailed information about the production of tobacco following the principles of GAP. The recommendations cover the number of applications required for a particular CPA, its respective dosage, safe usage practices and proper disposal of empty containers. The Integrated Pest Management principles embedded within MAS and a compendium of pests, diseases and disorders in tobacco, serve as guidance for tobacco production in which a CPA must only be used when deemed necessary.

The CPAs provided in the grower packs are selected for their efficacy against targeted pests and diseases, but also according to their toxicity level. Wherever possible, JTILM selects CPAs with the lowest toxicity from the annual list of recommended pesticides for use on tobacco in Malawi, which is managed by the Agricultural, Research and Extension Trust (**ARET**). JTILM does not provide growers with CPAs that do not appear on the ARET list.

JTI is working to eliminate the use of Highly Hazardous Pesticides (**HHPs**) in its VI operations and in those of its third-party leaf suppliers. HHPs are divided by JTI into two groups: the first group includes HHP Criterion 1⁹ and the second group includes HHP Criteria 2 to 7¹⁰. JTI is committed to the elimination of HHP Criterion 1 from the tobacco being transplanted in 2022, while HHP Criteria 2 to 7 will be progressively eliminated thereafter. JTI considers HHP Criterion 1 the active ingredients and not the formulations as stated in the WHO-FAO International Code of Conduct on Pesticide Management – Guidelines on Highly Hazardous Pesticides (2016). Importantly, in Malawi, none of the CPAs supplied by JTILM is classified under HHP Criterion 1 to 7.

As regards exposure, JTILM provides Personal Protective Equipment (**PPE**) in the grower pack. This is selected based on the type of CPAs that the contracted growers are applying, and the methods of application being used.

Empty CPA containers together with used PPE and application tools are collected from growers after use. Growers put them into the bags provided by JTILM and bring them to a centralized collection point. Waste disposal is carried out via a certified program under a contract with the CPA provider.

Training and awareness is a key component in addressing exposure. JTILM provides necessary information to both its Agronomy Technicians and contracted growers:

- JTILM Agronomy Technicians receive annual training from the CPA provider. During this training, all aspects of the CPA grower pack are addressed (e.g. safe usage (wearing PPE, mixing CPAs, application conditions etc.), CPA application recommendations, and CPA empty container management (triple rinsing, safe storage and correct disposal)).
- For the contracted growers, training is also provided on an annual basis and addresses the same topics as those for the Agronomy Technicians. However, the focus is more on practical demonstrations of safe usage prior to the stage of the crop cycle that requires the use of CPAs. Moreover, the grower manual included in the grower pack is translated into vernacular including narrative, photos and a Material Safety Data Sheet. Training attendance is also recorded.

⁹ HHP Criterion 1: active ingredients in WHO Hazard class Ia and Ib (*The WHO Recommended Classification of Pesticides by Hazard and Guidelines to Classification – 2019*), available at: <https://www.who.int/publications/i/item/9789240005662>

¹⁰ HHP Criterion 2 to 7: as defined in the *WHO-FAO International Code of Conduct on Pesticide Management – Guidelines on Highly Hazardous Pesticides – 2016*

In addition, JTILM have several programs in place that allow it to monitor the effectiveness of these measures and to identify areas for improvement:

- Tobacco from contracted growers is tested for the presence of potential residues. This allows JTILM to determine whether any CPAs other than the ones provided in the grower pack have been used. Levels of identified residues are assessed following CORESTA¹¹ guidelines.
- As of this crop year, JTI will decline any tobacco coming from its own VI operations and from those of its third-party leaf suppliers that contain residues of HHP Criterion 1 (detection above the laboratory Limit of Quantitation). This will be done globally.
- JTILM tests the percentage of active ingredient contained within the CPA from the grower pack to ensure alignment within the parameters stated by the CPA manufacturers and to check the presence of other extraneous compounds found in the CPA. From this year JTILM will also track any potential product contamination with HHP criterion 1.
- CPA management related criteria and observations are included in the workplace health and safety pillar of ALP, and therefore JTILM Agronomy Technicians monitor any non-compliance on their regular farm visits.

Question 9: Please explain what measures have been adopted to ensure that the staff of your company as well as your business partners have adequate awareness, knowledge, and tools to identify and report human rights abuses, including those alleged in the present letter, throughout your operations.

JTI is working hard to embed human rights thinking into its company culture and improve employees' understanding of the human rights implications of business decisions. To do this, it provides regular training and continuously share information about human rights and the JT Group Human Rights Policy.

In 2017, we developed an online mandatory human rights e-learning module that is available in 25 languages. To reach employees without computer access, we also have a dedicated section on respecting human rights integrated into face-to-face training on our Code of Conduct.

In November 2018, we organized an awareness-raising session on human rights to engage and educate our staff on the subject through an external voice. At the session, Margaret Jungk, formally at BSR and the Danish Institute for Human Rights, gave a speech that was recorded and shared with the rest of the company via our intranet.

Later this year, we will launch a new digital human rights e-learning platform in 32 languages focusing on behavioral change. The objective is to increase awareness and understanding of human rights risks and to empower our employees to do the right thing regarding ethical behaviors. Users are to complete the modules in any order they like and will have the ability to drop in and out of modules and sub-categories. Rather than completing a lengthy training in one sitting, employees will learn more about human rights through bitesize content and gamification. This method is designed to improve engagement and promote better retention of information. Employees will be provided with a human rights certificate on completion of the assessment at the end of the module.

In addition to the above, which are all initiatives that have not yet been covered in this response, we would like to refer you to previous answers in which we have provided many examples of how

¹¹ CORESTA (Cooperation Centre for Scientific Research Relative to Tobacco) is an association founded in 1956, ruled by French law, the purpose being to promote and facilitate international cooperation and best practices in scientific research relative to tobacco and its derived products:

<https://www.coresta.org/>

business and human rights issues have been brought to the attention of employees and business partners, to enable them to identify and report actual and potential human rights violations. These include, but are not limited to:

- Establishing an operational-level grievance mechanism and training employees, growers and farm workers on how to raise concerns and complaints anonymously.
- Utilizing multi-media campaigns – including on radio stations, television, roadshows, and advertising billboards – to raise awareness of the grievance mechanism and workers' rights in general.
- Signing an MoU with the Ministry of Labor that will ensure JTILM Agronomy Technicians are trained on national and international labor laws and are well equipped to train their contracted growers.
- A well-established ALP program in which JTILM Agronomy Technicians can record observations on their regular farm visits and have the ability to escalate Extreme Breaches directly to senior management.
- Running a series of webinars and training for third-party suppliers to build their knowledge on the topic of business and human rights.
- Inserting human rights and traceability clauses into third-party suppliers' TSAs.

Question 10: Please indicate what measures have been taken to ensure that human rights defenders and civil society organizations in north and central regions of Malawi are able to carry out their legitimate work freely and in a safe and enabling environment without fear of threats or acts of intimidation and harassment of any sort.

The JTI Code of Conduct makes it very clear that intimidation and / or harassment will not be tolerated by employees. We would welcome any evidence, if the OHCHR has that, of any threats or acts of intimidation and harassment by JTILM employees in relation to JTILM business so a thorough investigation can take place. This can be done anonymously through Your Voice¹² or you can email our Business Ethics Team directly at onebehavior@jti.com.

JTILM does not prevent, and does not have the legal capacity to prevent, anyone accessing one of their contracted growers' farms. JTILM would be more than happy for such visits to take place so long as anyone wanting to access private property has the consent of the people responsible on the farm or so long as that power is exercised with respect to applicable local law.

For example, the Malawi Non-Governmental Organization (**NGO**) Act provides the framework for NGOs to operate in Malawi provided they have registered with the NGO Board indicating the activities to be undertaken. Providing an NGO is lawfully registered, they may access a growers' farm upon receiving prior consent. JTILM's own visits to its contracted growers' farms are conducted in accordance with the contract in place with the grower and according to the scheduled visitation plan.

¹² JTI reporting concerns mechanism 'Your Voice':
<https://codeofconduct.jti.com/raising-concerns/>

Final remarks

We thank you for the opportunity to provide such a detailed response to the allegations set out in the Joint Communication from Special Procedures and we hope that we will be able to engage with the Working Group and Special Rapporteurs in more detail in the coming months. We have already requested a face-to-face meeting with you and hope this takes place soon. We are keen to work in partnership with your office, the industry, government and other key stakeholders to further tackle the issues that exist within the agricultural sector in Malawi.

We take the information you have brought to our attention very seriously and will further look into the issues you have raised. To that end, we would be very grateful if you could provide any further or more granular information that is available, including as to specific operations, geographies or entities to which the allegations relate, or any other facts you consider would help us. Anything further you are able to provide will be used for the exclusive purposes of better directing our enquiries and response.

I hope you find this response helpful to your investigation and if any additional information or clarification is needed on any of our responses within this letter, we would be more than happy to put you in direct contact with the JTILM team. In this regard we would like to extend an invitation to any of the Working Group Members or Special Rapporteurs to visit the VI operation in Malawi, this can easily be arranged and would include numerous farm visits.

Yours sincerely,



Vassilis Vovos

SCHEDULE 1 – JTILM RESPONSE TO AREAS OF CONCERN

Human rights legal framework in Malawi

The Republic of Malawi has a comprehensive human rights legal framework that provides for the legal needs of specific groups in society and further articulates their respective rights. The Constitution, which is the supreme legislation, contains the Bill of Rights in Chapter IV which catalogues an extensive list of human rights. Specific legislation has been enacted with respect to critical vulnerable groups such as the Child Care, Protection and Justice Act, the Gender Equality Act, the Trafficking in Persons Act, the Employment Act, and the Labour Relations Act to highlight a few. Beyond the Constitution and related domestic legislation, Malawi is a party to all major international human rights instruments of the African Union and the United Nations. Additionally, there are several institutions that have been charged with the role of monitoring and enforcement of these laws. Such institutions include the Human Rights Commission, the Office of the Ombudsman, Government Ministries, the Victim Support Unit under the Malawi Police Service, and the Judiciary. A totality of these instruments and enforcement institutions makes for a progressive and comprehensive framework for the promotion and protection of human rights in Malawi.

Apart from the human rights legal framework and other domestic laws, JTILM is also subject to the Competition and Fair Trading Act, the Consumer Protection Act, the Environmental Management Act and the Occupational Safety, Health and Welfare Act and the Non-Governmental Organization (NGO) Act to mention a few.

Trafficking for the purposes of forced labour, worst forms of child labour, and unjust working conditions (page 2)

The following local laws prohibit human and child trafficking for any purpose: the Constitution, the Trafficking in Persons Act, Child Care, Protection and Justice Act, and Penal Code. JTILM abides by these local laws and adheres to business policies in place to address these issues.

The business Human Rights Policy states that the JT Group *"is committed to respecting human rights across our global operations as expressed in the International Bill of Human Rights and the principles concerning fundamental rights in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work."* This commitment is implemented in JTILM through policies and standards that promote responsible labour practices and working conditions. Additionally, the business tracks the effectiveness of its actions to identify and address impacts and publish an annual report on the same.

The JTI Code of Conduct states that *"all business partners are expected to adopt and maintain standards of labour practices and working conditions that comply with all applicable local laws and international conventions"*. Furthermore, all employees are provided with clear information on human rights, and additionally JTILM conduct impact assessments to identify and mitigate potential human rights issues. We also collaborate with international organizations and private companies to improve situations where human rights may be at risk (e.g. Public Private Partnership with the ILO until 2018; Participation in OECD/FAO Pilot Project on the Implementation of the OECD-FAO Guidance for responsible Agricultural Supply Chains).

The JTI ALP standard which applies to both JTILM contracted growers and third-party leaf suppliers, prescribe growers to ensure that the people who work for them do so under fair and safe conditions

and are able to exercise their rights in accordance with local legislation and its requirements as defined in the ALP.

JTILM enters into formal contracts with its growers known as the Single Year Burley Tobacco Grower Sales Contract. Within the contract is an employment agreement template, which the grower is guided to use when recruiting farm workers. Clause 3.1 of the employment agreement states that *"the Grower shall not take any cash deposit from the Farm Worker nor retain his identity documents. The Grower shall ensure that the recruitment process is not exploitative and is not done through deception, abuse, or threat of abuse. The Grower undertakes that the Farm Worker has a right to withdraw his labour and terminate the contract."* Clause 3.3 d. further states that *"the Grower shall not restrict the movement of the Farm Worker outside of working hours."*

Indicators of debt bondage in the relationship between tenant farmers and their families and contract farmers, and of trafficking for purposes of forced labour (page 4)

The Government of Malawi abolished tenancy labour through the Employment (Amendment) Act, 2021. Further, the Constitution and Penal Code prohibit tied labour that amounts to servitude and unlawful compulsory labour.

The JTI ALP standard prescribes that *"the grower shall remunerate workers in accordance with applicable local legislation. Remuneration shall, at minimum, meet basic needs of workers and their dependents."* The program further prohibits growers from using forced or bonded labour and state that the grower should not force workers to work against their will.

Clause 3.2 of the contract between the grower and his farm workers states that *"the Grower shall pay the Farm Worker agreed wages above the prescribed minimum wage at a weekly, fortnightly or monthly interval and shall not delay or defer wages to bind the Farm Worker"*.

Child labour, including its worst forms (page 5)

Child labour is prohibited in the Constitution, the Employment Act and the Child Care, Protection and Justice Act. JTILM adheres to these laws and abides by the JT Group Human Rights Policy and Code of Conduct which prohibits the use of child labour in tobacco production.

Clause 5 of the contract between the grower and his farm workers states that *"the Grower and Farm Worker undertake to ensure that there is no use of child labour in the production of the Tobacco and that children of the Farm Worker of school age are attending school. The Grower shall not link the employment of the Farm Worker with the availability of children in his family"*.

Discrimination against women (page 7)

The local laws prohibit gender discrimination in the following legislation: the Constitution, the Gender Equality Act, and the Employment Act. In compliance with the laws and the business' policies, JTILM does not discriminate or tolerate discrimination linked to gender or any other characteristic protected by law.

Obligations of due diligence: tobacco companies operating in Malawi or sourcing tobacco leaves from Malawi (page 8)

Implementation of the Supply Chain Due Diligence process as well as contractual obligations with third-party leaf suppliers have been provided within the main body of the response.

Access to effective remedies (page 8)

The local laws provide various avenues for effective remedy as stipulated in the following: the Constitution, the Labour Relations Act, the Human Rights Commission Act, and the Victim Support Unit under the Malawi Police Service to name a few.

JTI has established a global grievance channel called Your Voice to address potential concerns from its employees. In addition, Clause 10 of the local contracts between growers and their farm workers states: *"Grievance Reporting Mechanism: Any act, omission or occurrence arising out of the relationship between the Grower and the Farm Worker/spouse (including but not limited to any condition relating to: compensation, working hours, working conditions, sexual abuse/ exploitation, the interpretation of any law, regulation or disagreement) which the Farm Worker/spouse feels constitutes an injustice and can be established on factual information may be anonymously reported to Deloitte Tip-Offs Anonymous on the following hotline - 847"*.

The rights of human rights defenders (page 9)

The Malawi Non-Governmental Organization (NGO) Act provides the framework for NGOs to operate in Malawi provided they have registered with the NGO Board indicating the activities to be undertaken. So long as the NGOs are lawfully registered, they may access growers' private property upon the growers providing consent.

Mandatory loan system (page 4)

It is alleged that leaf buyers impose a loan system on their contracted growers. However, funded contracts are not mandatory as stipulated in the Tobacco Industry Act. The same Act further recognizes the role of Grower Associations to bargain and negotiate on behalf of growers in terms of tobacco production and marketing and mandates the Tobacco Commission to prescribe minimum terms and conditions for every contract. Furthermore, in the event of a disagreement between a grower and a buyer regarding the grade of tobacco, the Tobacco Industry Act states that the Tobacco Commission will arbitrate over that disagreement. Regarding provision of agricultural inputs, in the case of funded contract farming, section 45 (3) of the Tobacco Industry Act forbids buyers from providing inputs for alternative crops to growers. So, currently, JTILM does not provide loan inputs (i.e. agricultural inputs) for alternative crops to growers.

Anti-competition (page 8)

It is further alleged that *"the tobacco industry in Malawi is structured and operates in an unusually opaque and anti-competitive manner"*. However, the tobacco industry like all other industries in Malawi, is regulated and monitored by the Competition and Fair Trading Commission, which is established under the Competition and Fair Trading Act. Overall, the Competition and Fair Trading Commission's role is to safeguard effective competition and prevent as well as punish anti-competitive behaviour. The Commission's specific role within the tobacco industry is to vet and clear grower contract templates which buyers enter with growers, prior to contracting to ensure the said contract templates comply with the law. Additionally, the Commission is empowered to carry out investigations when there is reasonable belief or suspicion that the Act is being / has been infringed. Therefore, the Commission provides the necessary checks and balances for all industry players to compete in a fair manner.

SCHEDULE 2 – ECLT / STP OVERVIEW

Eliminating Child Labor in Tobacco Growing (ECLT) Foundation

Founded as an independent Swiss foundation in 2000 to bring together key stakeholders against child labor in the tobacco growing supply chain, the ECLT Foundation is based in Geneva, Switzerland. The Foundation is a member of the UN Global Compact and holds special consultative status with the UN Economic and Social Council. Its establishment followed high profile exposés of child labor on tobacco farms in the late 1990s, notably in Malawi, and aligned with the adoption of International Labor Organization (ILO) Convention No.182 in June 1999 outlawing the worst forms of child labor.

ECLT advocates for strong policies, research best practices, and engages rural families so they can benefit from farming while ensuring that their children are safe, healthy, educated, and encouraged to reach their full potential. The JT Group have been part of the ECLT Board from its creation.

In Malawi, ECLT has over 13 years of intervention, running four projects in five different districts. Since 2020, a total of 7'451 children and 63'785 adults were supported by ECLT projects. An estimated of 2'066 children were withdrawn from child labor and enrolled in school by such projects.

From 2002 until 2018, the ECLT Foundation had a Public Private Partnership agreement with the International Labor Organization (*ILO*). The ILO acted as advisor to the Foundation's Board alongside Save the Children Switzerland. The first agreement between the ILO and ECLT covered the period 2002 to 2010 and aimed to fund research on child labor practices in Indonesia, the Dominican Republic and East Africa. The second agreement, covering the period between 2011 and 2015, focused on the elimination of child labor in Malawi. The third agreement from 2015 until June 2018 was aimed at reducing child labor practices in Malawi, Uganda and Tanzania, promoting dialogue among tobacco growers' organizations and developing advice on hazardous work.

As of June 2022, the ECLT Foundation is a member of the Child Labor Platform of the voluntary UN Global Compact Human Rights and Labor Working Group – for which the ILO provides the secretariat.

On July 13, 2022, ECLT participated in the work of National (Malawi) Technical Working Group on Child Labor, and a taskforce has been formed to:

- refine the flow of data for the proposed Child Labor Monitoring System (*CLMS*);
- propose a common set of indicators to be used by stakeholders as they take part in the CLMS; and
- define roles and responsibilities of stakeholders in the CLMS.

In 2021, the ECLT Foundation signed a Memorandum of Understanding (*MoU*) with the Tobacco Commission, the regulator of the tobacco industry in Malawi. Under the MoU, ECLT provide technical assistance and capacity-building to the Tobacco Commission to enhance coordination of the industry on child labor and collaborate with government, Tobacco Commission and industry players in providing child labor remediation at community level.

To advance the achievement of the objectives of the MoU, the following priorities were set for 2022:

- Building the Tobacco Commission's capacity to coordinate the tobacco industry's child labor efforts through the recruitment and capacity building of the ALP Officer.
- Enhancing child labor data collection, availability and accessibility by geo-tagging of non-contracted growers in a district with high child labor incidences and building a comprehensive database of tobacco farms for child labor interventions.
- Strengthening tobacco industry compliance to global labor standards by commissioning a baseline assessment of industry players' child labor policies and practices, as a basis for development of improvement plans, measurement and communication of progress.

By 31 July, 2022, the Tobacco Commission had recruited an ALP Officer, data on the number of registered uncontracted growers are obtained and the survey questionnaire sent for completion by industry players by 15 August 2022.

Sustainable Tobacco Program (STP)

JTI is one of the five global manufacturers on the Sustainable Tobacco Program (STP) Steering Committee. Since 2019, we have been working with third-party leaf merchants, external subject matter experts, and various organizations on STP development (reform of already existing STP program). As of June 2021, an external STP Secretariat has been appointed to support the STP Steering Committee in running the program.

STP is a risk-based program that covers a wide range of Environmental, Social and Governance themes, focusing on the farm level: Water, Climate Change, Human and Labor Rights, Livelihoods, Soil Health, Crop, Natural Habitat and Governance. For the second crop season in a row, suppliers submit online self-assessments against all eight themes. The structure of self-assessment questions follows the Supply Chain Due Diligence process steps – what issues and how they are identified, what are the priorities, how these are being addressed and measured. All third-party leaf suppliers sourcing leaf from Malawi are included in this process.

As a part of STP structure, detailed in-country pilot assessments started in 2022, focusing on areas of high risk identified not only via self-assessments but also via generic risk screening process (Maplecroft).

The STP is a unique program, gathering together global manufacturers and all third-party leaf suppliers of these manufacturers. It is a prime example of collaboration on non-competitive matters and exercising leverage against areas of concern.

STP is setting guidance documents and promoting a robust due diligence process (five step framework – identify, prioritize, respond, measure and report) globally. STP's aim is to:

- Improve environmental and social footprints.
- Contribute to the Sustainable Development Goals.
- Enable transparent communication of responsible practices across the supply chain.

By working within the framework of STP, we are seeking to build greater alignment with our peers in the (pre-competitive) expectations of our suppliers. This means that our suppliers are able to organise and deliver programs more efficiently, increasing the opportunities to deliver resources and impact on the ground.