



EXTERNAL ASSESSMENT PMFTC INC.

Flue Cured Virginia farmers in
Claveria and Bukidnon



Agricultural Labor Practices Program

September, 2018

Table of Content

Executive summary	3
Market and company background	6
1. Implementation of the ALP Program	8
1.1. Commitment to the ALP Program.....	9
1.2. Strategy and objectives.....	9
1.3. Internal capacity	10
1.4. Communication of the ALP Code requirements to farmers	13
1.5. Internal monitoring: data collection, accuracy, and addressing issues.....	16
1.6. Address systemic and/or widespread issues	18
2. Farm-level assessment of working conditions regarding the ALP Code Standards	20
2.1. ALP Code Principle 1: Child labor	21
2.2. ALP Code Principle 2: Income and work hours	22
2.3. ALP Code Principle 3: Fair treatment	24
2.4. ALP Code Principle 4: Forced labor.....	25
2.5. ALP Code Principle 5: Safe work environment.....	25
2.7. ALP Code Principle 7: Compliance with the law	29
3. ALP Program: feedback from farmers, workers, and other stakeholders	31
Appendices	33
Appendix I – PMFTC’s Action Plan	34
Appendix II – Scope and methodology	43
Appendix III – Legal information	47
Appendix IV – Communication materials.....	88
Appendix V – Glossary	92

EXECUTIVE SUMMARY



EXTERNAL ASSESSMENT
Flue Cured Virginia farmers in Claveria and Bukidnon

In September 2018, Philip Morris International (PMI) requested Control Union to conduct an external assessment of the Flue-Cured Virginia (FCV) tobacco growing operations of its affiliate PMFTC Inc. (PMFTC) in the Claveria and Bukidnon regions on the island of Mindanao, in the southern Philippines. The assessment evaluated the labor practices at PMFTC contracted tobacco farms, and whether these were meeting the standards of the Agricultural Labor Practices (ALP) Code¹. Control Union (CU) also evaluated PMFTC's internal structure and capacity to implement the ALP Program, the understanding of farm practices, and how issues were being identified, recorded and addressed.

As part of this assessment CU interviewed seven PMFTC management employees, eleven PMFTC field employees (including six leaf technicians), one PMI Regional employee, and two external stakeholders (NGOs) involved in the after-school program, support mechanism and farm workers' training. Over a two-week period, CU visited 21 farms² throughout the Claveria and Bukidnon regions, and interviewed 21 farmers, 10 family members and 33 workers. All farm visits were unannounced.

Information triangulation was adopted to evaluate farm practices. The three sources included interviews, documentation and observation, together with a "Five Whys" problem analysis. The "Plan, Do, Check, Act" cycle was used to analyze PMFTC's management approach.

PMFTC started the ALP Program in 2013 with an internal training provided by the ALP Coordinator at that time. The contracted farms in the assessment area were mainly small-scale, growing two hectares

of tobacco on average. Based on a CU assessment and associated action plan and risk assessment of a different region of the Philippines in 2014, PMFTC was monitoring all seven ALP Principles, but focused its actions and programs on Child Labor and Safe Work Environment. As a result of these efforts, both PMFTC employees and farmers had a good understanding of the minimum age requirements. However, their knowledge of Safe Work Environment, one of the prioritized topics, was found to be limited. This was also the case with regard to worker's rights and benefits.

Leaf technicians were trained regularly; group trainings were organized by the Social Responsibility Coordinators four times per year. As part of these trainings, leaf technicians had to take written tests on ALP that required a minimum score of 90%. Nevertheless, CU identified significant gaps in their understanding of the ALP Code, particularly with regard to Compliance with the Law (ALP Principle 7).

PMFTC communicated ALP-related topics to farmers mainly via group meetings and regular farm visits by the field team. In addition, the company had developed and distributed several communication materials on ALP, including flyers, posters and videos.

At the time of the assessment PMFTC was collecting three types of ALP-related data from the farms: socio-economic information (Farm Profiles); situations not meeting the standard (Monitoring); and Prompt Actions. Data for the Farm Profiles was collected at the beginning of the contracting period and was updated after every farm visit when needed. All data were collected using SmartFarm, the company's digital system.

1. The main goal of the ALP Code is to eliminate child labor and other labor abuses progressively where they are found, and to achieve safe and fair working conditions on all farms from which PMI sources tobacco. For more information on the background of the ALP Program see <https://www.pmi.com/sustainability/good-agricultural-practices/upholding-labor-rights-on-the-farms>.
2. The minimum sample size was 20 farms, which is calculated as the square root of the total number of farms within the scope (approximately 200 at the time of the assessment), assuming a minimum sample size of 20 to constitute a meaningful sample.

Farm practices were monitored three times per season per farmer, using different sets of questions that were crop stage specific. For two of the farms visited (9%) the monitoring data was not available. Furthermore, at four farms (19%) CU found situations not meeting the standard, which had not been captured by the leaf technicians.

At the time of the assessment PMFTC had reported 86 Prompt Actions for the current year (18 on Child Labor and 68 on Safe Work Environment). Improvement plans for individual farms were made only in case of Prompt Action situations, not for situations not meeting the standard. All leaf technicians interviewed were aware of the Prompt Action reporting procedure, except that there was some confusion about the deadline of the follow-up visit. Furthermore, only 17% of the Prompt Actions reports of 2018 included a root cause analysis. As a result, most action plans only addressed the current issues, rather than taking corrective actions to prevent issues from happening in the future.

Awareness of the ALP program was relatively high: 86% of farmers, 70% of family members and 47% of workers knew at least one of the principles of the ALP Code. The level of awareness was highest for Child Labor and Safe Work Environment, PMFTC's focus areas. However, significant knowledge gaps were identified regarding the other ALP Code Principles. In particular, farmers and workers were generally unaware of legal benefits and farmers' obligation to inform workers about their legal rights.

Based on their risk assessment and the Prompt Actions raised, PMFTC had launched several initiatives to address widespread and systemic issues. Two of these initiatives focused on addressing child labor, by offering after-school classes and organizing special trainings for children about child labor and hazardous work. The other initiatives were focused on increasing farm safety, by offering trainings to workers and providing farmers with Personal Protection Equipment (PPE) and storage lockers for Crop Protection Agents (CPA).

The main findings from CU's farm visits were related to the ALP code Principles of Income and Work Hours, Safe Work Environment, and Compliance with the Law. No evidence of child labor was found. With regard to workers' payment, CU found that most workers were paid below the legal minimum wage. Furthermore, CU observed a lack of awareness among farmers and workers about legal overtime rates and workers' legal benefits. Finally, with regard to Safe Work Environment, CU identified a high number of practices not meeting the standard. PMFTC's initiative to distribute PPE for harvesting and CPA application had not yet resulted in the desired change of behavior, and many farmers still had limited awareness and understanding of the need for safety measures.

Together with an NGO, PMFTC had set up a support mechanism for farmers and workers based on the traditional community peace councils (Barangays). However, most of the farmers and workers interviewed were not aware of this support mechanism. Moreover, as the council members were often farmers themselves (or their friends, relatives or neighbors), independency and anonymity could not be ensured.

According to the feedback received by CU from farmers, workers and family members, fewer children were involved in tobacco production since the start of the ALP Program. Interviewees also reported an improvement in farm work safety as more people were using PPE during work. Field staff received feedback from farmers during the farm visits and group meetings, and also during the STP Roadshow (which was held once per year).

The outcome of this assessment can be used as a tool to facilitate management with continuous improvement. CU acknowledges PMFTC's commitment to addressing the issues identified and defining areas of improvement through the implementation of an action plan (see Appendix I).

MARKET AND COMPANY BACKGROUND



EXTERNAL ASSESSMENT
Flue Cured Virginia farmers in Claveria and Bukidnon

In 2010, Philip Morris Philippines Manufacturing Inc. (PMPMI) and Fortune Tobacco Corporation (FTC) signed an agreement to combine their respective operations and selected assets and liabilities to form a new company named PMFTC Inc. In this new business combination, the owner of FTC became the chairman while Philip Morris International (PMI) became responsible for the day-to-day operations.

After the merger PMFTC started managing FTC's growing operations in Ilocos Sur (island of Luzon) and Occidental Mindoro (island of Mindoro). In 2012, PMFTC launched the Project Tabuk to expand its growing operations to Misamis Oriental (island of Mindanao) in the southern Philippines. Project Tabuk entered the pre-commercialization phase in 2014 with 781 tons of cured volume; 2015 marked the first year of commercialization with 1,416 tons of cured volume.

PMFTC's strategy for the new production region in Mindanao was to make use of the possibility to grow tobacco year-round, and to cure the leaves centrally using their own facilities. In contrast to the northern Philippines, where tobacco production is limited to the traditional seasons, the southern region has a climate that allows continuous production of fresh tobacco leaves. However, as tobacco is not traditionally grown in the region, PMFTC faced some challenges in introducing the new crop and achieving the planned volumes of tobacco in this region.

Chapter 1

IMPLEMENTATION OF THE ALP PROGRAM



EXTERNAL ASSESSMENT
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1.1. Commitment to the ALP Program

On their global website, PMI and its affiliate PMFTC committed publicly to improve labor practices and progressively eliminate child labor in tobacco production. In addition, PMFTC had local policy documents in place showing commitment to ALP through their Sustainable Tobacco Production (STP) policy, which covered elimination of child labor and other ALP-related topics such as observance of the legal minimum wage. Local policy documents for 2018 had been reviewed and signed by the Director Leaf and the Director Operations of PMFTC. The company's field and management personnel showed commitment to the ALP Program and acknowledged the relevance of the ALP Code requirements in terms of the importance of maintaining good working conditions at the farms contracted by PMFTC.

1.2. Strategy and objectives

At the time of the assessment, PMFTC focused its efforts on two ALP Code Principles: Child Labor and Safe Work Environment. For the 2018 crop year, the strategy and objectives for these principles, as defined in the 2018 Strategy Master Plan, included the following:

1. Address child labor incidences in tobacco and other relevant crops
 - Reduce the number of child labor cases
 - Analyze root causes
 - Reduce child labor-related PAs by 20%
 - Increase the number of farmers, schools and children covered by on-farm and off-farm STP initiatives
 - Third party assessment of the program
2. Improve safe working conditions
 - Provide all farmers (100%) with personal protection equipment (PPE) to reduce exposure to Crop Protection Agents (CPA) and Green Tobacco Sickness (GTS)

In addition, PMFTC had an action plan for the south region to realize the objectives set in the 2018

Strategy Master Plan, including the actions to be taken and the targets and deadlines to be met in Claveria and Bukidnon. However, behavioral change was not specifically targeted or measured. Furthermore, a clear and specific long-term strategy was lacking.

Each year, PMFTC conducted an internal risk assessment to rate the probability and severity of risks for each ALP Code measurable standard. The risk assessment covered the Farmer Training Program and farm monitoring process, as well as the risks of not meeting the ALP Code. However, CU found that PMFTC's risk assessment did not fully correspond with the situation observed at the farms visited during the assessment, as several serious issues were identified, particularly with regard to Income and Work Hours (ALP Code Principle 2; see Chapter 2.1). Additionally, it was found that PMFTC's risk assessment did not include a root cause analysis.

PMFTC's risk assessment identified the following measurable standards as involving a high risk of non-compliance:

- No employment or recruitment of child labor;
- No person below 18 is involved in any type of hazardous work;
- Overtime wages are paid at a premium as required by the country's laws or by any applicable collective agreement;
- All workers are provided with the benefits, holidays, and leave to which they are entitled by the country's laws;
- The farmer provides a safe and sanitary working environment, and takes all reasonable measures to prevent accidents, injury and exposure to health risks;
- No worker is permitted to use, handle, or apply crop protection agents (CPA) or other hazardous substances such as fertilizers, without having first received adequate training and without using the required personal protection equipment. Persons under the age of 18, pregnant women, and nursing mothers must not handle or apply CPA.

Based on these findings, PMFTC focused its strategy and objectives on two ALP Principles, namely Child Labor and Safe Work Environment. In line with this focus the company implemented several initiatives to address these two prioritized issues (see Chapter 1.6).

PMFCT’s risk assessment had not classified any of the measurable standards of Income and Work Hours as ‘high-risk’. However, in a 2018 survey among 19 farmers the company found that the average wage and overtime payment of workers were below the legal minimum rates (a finding which was confirmed in CU’s assessment; see Chapter 2.2). Based on the survey results, PMFTC was reinforcing its communication about the minimum wage. In addition, various remedial actions were formulated in terms of monitoring, communication, and collaboration with the Department of Labor and Employment (DOLE), local government units (LGUs) and the Tobacco Industry Tripartite Council in order to address pay rate issues.

PMFTC’s response:

“A more systematic risk assessment will be carried out to identify and estimate the risks involved and draw suitable action plans to mitigate associated with People Pillar in the production chain.”

1.3. Internal capacity

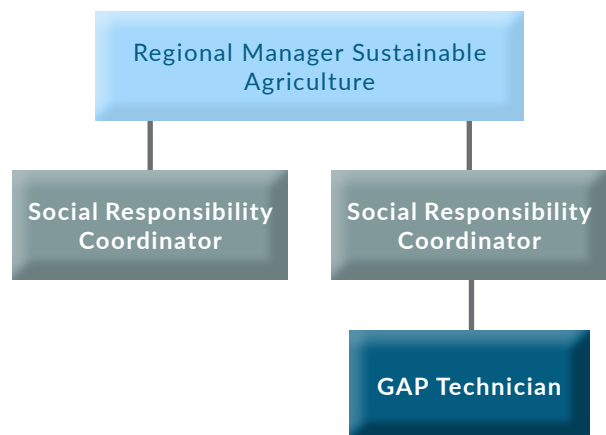
1.3.1. Dedicated organizational structure

PMFTC had a dedicated organizational structure for ALP program implementation, consisting of a Leaf ALP Management Team and a Social Responsibility Team (see charts below). The leaf technicians, who served as the link between the management and the farmers, were also part of the internal structure for implementing the ALP Program. PMFTC worked closely together with PMI Regional and received guidance on the implementation of the ALP Program.

Leaf ALP Management Team



Social Responsibility Team



The Social Responsibility Manager served as ALP Coordinator, and the Social Responsibility Coordinators were in charge of training the leaf technicians on ALP (see Chapter 1.3.2). To keep track of ALP implementation at the farm level, all farms were regularly visited by the leaf technicians. In addition, a subset of these farms were also visited by other ALP Team personnel to validate and complete the data collected by the leaf technicians. According to PMFTC, the average number of farmers per leaf technician in the assessment area was 21.

PMFTC's response:

"With emphasis on giving clarity about the specifics of ALP principles and implementation, PMFTC resolved that within the first quarter of 2019 100% of all LTs must undergo training:

- *Family and non-family children working age including its specific guidelines*
- *Frequency of payment, mode of payment, and legal overtime payment*
- *Direct payment of wages from farmers to workers*

Further, within the first quarter of 2019 PMFTC Management Team including Leaf, External Affairs and Legal must have a refresher training about the revised ALP to ensure internal alignment. Trainings will be verified through internal audit by PMFTC including pre- and post-training tests to evaluate knowledge improvement."

1.3.2. Roles and responsibilities

The upper management of the ALP Team were responsible for communicating ALP updates and projects to PMI, and approving and supporting local projects for ALP implementation. All members of the ALP Management Team and Social Responsibility Team had ALP-related roles and responsibilities defined in their job descriptions, including:

- "Develop and lead the implementation of regional social responsibility strategies and initiatives linked to the ALP Code, aligned with leaf global and regional targets"

- "Ensure the proper implementation of Sustainable Tobacco Production (STP) programs and initiatives to ensure farmers are compliant with all seven ALP principles"
- "Provide training to farmers about the Package of Technology, waste management and Agricultural Labor Practices (ALP)"

The leaf technicians and senior leaf technicians were responsible for collecting the farm data. This data was validated by the Social Responsibility Coordinators, who were also responsible for coordinating the work with the NGOs, training and evaluating the leaf technicians, and developing communication materials. Analysis of the validated data was the responsibility of the ALP Coordinator (Social Responsibility Manager).

The leaf technicians (with support of the senior leaf technicians and Social Responsibility Coordinators) were in charge of farmer trainings and responsible for visiting and monitoring the farms throughout the season. In addition to supporting farmers in all aspects related to growing tobacco, their task was to monitor the practices on the farms, and to report Prompt Actions and situations not meeting the standard.

The two senior leaf technicians were responsible for guiding the leaf technicians regarding tobacco production and the ALP Code, and for validating the data and reports submitted by the leaf technicians.

1.3.3. Training and knowledge of the ALP Program

The field team (leaf technicians and Social Responsibility Team) had received an internal ALP training from the former ALP Coordinator in 2013. Since then, no refresher trainings had been organized for the staff (except for the leaf technicians). In addition, no formal training was in place for the upper management. In general, the management staff had sufficient understanding of the main purpose and content of the ALP Program, but some knowledge gaps were observed with regard to in-kind payment and compliance with the law (ALP Principle 7).

The leaf technicians received quarterly STP trainings (which also covered ALP) from the Social Responsibility Coordinators. Their knowledge was tested through written tests, for which they had to score 90% or more in order to pass.

CU's assessment of the leaf technicians' knowledge of the ALP Code Principles showed the following results³:

1. **Child labor:** All leaf technicians were aware of the meaning of this ALP Code Principle. Four technicians (67%) were aware of the different types of work allowed for children over 13 and over 15 and the difference between family and non-family children, but two leaf technicians (33%) were not able to mention these points. All leaf technicians were aware that no hazardous work should be performed by persons below 18 years old. All leaf technicians mentioned CPA application as a hazardous activity, five (83%) mentioned handling or applying fertilizer and working with sharp tools, and four (67%) also mentioned topping and carrying heavy loads. Two leaf technicians (33%) did not mention harvesting as a hazardous activity.
2. **Income and work hours:** All leaf technicians mentioned the correct legal minimum wage, but two (33%) said that in-kind payment was allowed and that wages could be paid monthly, which is not in accordance with Philippine law (see Chapter 2.2). None mentioned overtime limits, and only two (33%) could mention the correct legal overtime pay rate. None of the leaf technicians were able to state all the benefits required by law (see Appendix III), and two (33%) believed that benefits were not applicable to farm workers.
3. **Fair treatment:** All leaf technicians understood that workers must be treated fairly. However, three (50%) did not mention that fair treatment also meant that there should be no sexual abuse or harassment, and none of them mentioned that farmers must be available to their workers to discuss potential grievances, or that workers should have access to an independent support mechanism.
4. **Forced labor:** All leaf technicians were able to explain this ALP Code Principle, mentioning that workers should be free to leave their employment. Five leaf technicians (83%) also mentioned that farmers were not allowed to withhold workers' identity documents or delay payments.
5. **Safe work environment:** With regard to this Principle, the leaf technicians all mentioned that the farm should be safe and sanitary (100%); five (83%) also mentioned that workers should wear PPE when performing farm activities, and four (67%) mentioned that accommodation, where provided, should be clean and safe, meet the basic needs of workers, and conform to the country's laws. Only one (16%) mentioned that persons handling green tobacco should be trained; two (33%) mentioned that persons handling CPA should be trained; two (33%) mentioned that farmers should observe a re-entry period after CPA application, and two (33%) mentioned that farmers should provide clean drinking and washing water to their workers.
6. **Freedom of association:** All leaf technicians had an adequate understanding of this ALP Code Principle. However, as there were no active labor unions in the region, the concept of unions and associations was a bit vague for them.
7. **Compliance with the law:** None of the leaf technicians explained this principle completely; they mostly understood it as the need to comply with local laws. Only two (33%) leaf technicians mentioned that farmers should inform workers of their legal rights and the conditions of employment when they start their job. Furthermore, two leaf technicians (33%)

3. For this assessment CU interviewed six leaf technicians.

mentioned that farmers should provide their workers with a written employment contract (which is not required by Philippine law).

1.3.4 Internal communication

The Leaf ALP Management Team held quarterly meetings, which included discussion of ALP-related topics. In addition, the Steering Committee held meetings three times per year. Informal communication among colleagues took place on a frequent basis.

The field team (leaf technicians and senior field technicians) collected the farm data and reported back to the ALP Coordinator, who was responsible for analyzing and sharing the farm data with the ALP Management Team. The ALP Coordinator produced weekly reports on the Prompt Actions, monthly reports on the monitoring, and annual reports on the Farm Profiles.

1.4 Communication of the ALP Code requirements to farmers

1.4.1 Communication strategy and tactics

PMFTC started communicating the ALP Code to farmers in 2013. Communication efforts focused on the principles of Child Labor and Safe Work Environment, as these were considered the most important areas for improvement according to the risk assessment performed by the company.

To communicate the ALP Program to farmers, family members and workers, PMFTC was using several methods:

- Leaf technician visits: PMFTC's leaf technicians conducted regular visits to the farms. On average, leaf technicians visited each farm twice per week for monitoring and support, including individual training of farmers and, occasionally, training of family members and workers.
 - Unannounced visits by senior Field Team staff: the senior leaf technicians and Social Responsibility Coordinators paid unannounced visits to a randomly selected subgroup of farmers.
 - STP Roadshow: once per year leaf technicians held group meetings with farmers, family members and workers to address ALP principles.
 - Purchase/sale contracts: PMFTC's contracts with farmers clearly stated the ALP principles and the required commitment of farmers to comply with these principles.
- Furthermore, PMFTC had developed a range of ALP-related communication materials in the local language (Bisaya) (see Appendix IV):
- **ALP leaflet:** this leaflet provided written and visual information about the seven ALP Principles.
 - **ALP videos:** these short videos – one for each ALP Principle – explained the measurable standards in the local language. Leaf technicians could show these videos on their tablets during farms visits.
 - **Child Labor leaflet:** this leaflet presented written and visual information on the rules about children working in tobacco production.
 - **Hazardous tasks leaflet:** this leaflet provided written and visual information on which activities were considered hazardous for children.
 - **GTS leaflet:** this leaflet provided written and visual information to explain green tobacco sickness (GTS), including symptoms, causes, and how to prevent and treat the sickness.
 - **PPE leaflet:** this leaflet provided written and visual instructions on how to use PPE correctly.
 - **CPA leaflet:** this leaflet provided written and visual information on the harmful effects of CPAs for humans.
 - **Farmer's booklet:** this STP booklet contained information about the crop pillar (field management, integrated pest management), environmental pillar and people pillar (including the ALP Principles), as well as farm financial management and emergency hotlines. The booklet also included a farm visit form (to record the leaf technicians' visits to the farms) and a training attendance form. CU found that the farm visit forms and training attendance forms were generally not being used.

The communication materials were all professionally made and contained clear visual information. In addition, CU found that the leaflets were present at most of the farms visited. However, a few gaps in the materials were noted:

- The farmer’s booklet did not mention in the text that boots should be worn during tobacco harvesting (although it was shown in the picture);
- The ALP video on Safe Work Environment did not mention that empty CPA containers should be punctured;
- The ALP video on Forced Labor did not mention prison labor;

PMFTC’s response:

“PMFTC resolved to distribute updated communication materials taking into account all corrections as suggested by the Control Union in the first quarter of 2019. These are as follows:

- *Pamphlet for STP projects with focus on People Pillar*
- *Video material tackling Force Labor and Human Trafficking*
- *Video material emphasizing hazards of not unpunctured empty CPA containers and the need for proper disposal of waste*
- *Video material with focus on overtime premium and printed material or guide on Income and Work Hours*
- *User friendly Farmers Booklet with complete information about Green Tobacco Sickness (GTS) prevention particularly the use of shoes when harvesting*

These materials will be written in the local language and will also be discussed with farmers during site orientations to ensure full understanding.”

The following table shows the level of awareness among the interviewed farmers, family members and external workers with regard to the ALP Code Principles. In line with PMFTC’s communication focus areas, the highest levels of awareness were found for the topics of Child Labor and Safe Work Environment. Awareness regarding the topics of Freedom of Association and Compliance with the Law was low to non-existent.

Level of awareness of ALP Code Principles*			
	Farmers (T=21)	Family members (T=10)	External workers (T=33)
Child labor	18 (86%)	7 (70%)	14 (42%)
Income and work hours	14 (67%)	3 (30%)	2 (6%)
Fair treatment	8 (38%)	3 (30%)	2 (6%)
Forced labor	9 (43%)	3 (30%)	2 (6%)
Safe work environment	15 (71%)	5 (50%)	12 (36%)
Freedom of association	2 (10%)	1 (10%)	1 (3%)
Compliance with the law	1 (5%)	0	0

* Note that this data only shows whether the interviewees remembered the principles, and not whether they fully understood their meaning

Interviewees who were aware of (at least some aspects of) the ALP code were also asked how they had learned about the Code. The results are shown in the following tables:

Means of communication through which ALP-related information was received by farmers*

Farmers (T=18 out of 21)	
During regular visits by the leaf technician	15 (83%)
Group meetings	17 (94%)
Flyer/Poster	14 (78%)
Video	1 (6%)

*Farmers could be informed in multiple ways.

Means of communication through which ALP-related information was received by family members and external workers*

	Family members (T=7 out of 10)	External workers (T=15 out of 33)
Verbally from the farmer	4 (57%)	2 (13%)
Verbally from the leaf technician	4 (57%)	11 (73%)
Radio	4 (57%)	0
Flyer/poster	4 (57%)	10 (67%)
Other	2 (29%)**	6 (40%)***

*External workers and family members could be informed in multiple ways.

**Family member other – one attended the STP Roadshow and one the GMPI training (see Chapter 1.6).

*** External workers other – three were trained by a former PMFTC employee, one attended the GMPI training and two were trained by the crew leader.

These results shown that PMFTC's communication strategies were all contributing towards informing the farmers about the ALP Code. Both verbal communication and printed materials (leaflets) were important for raising awareness among family members and workers.

1.4.2 Farmers' responsibilities

At the beginning of each crop year, farmers signed a new growing contract with PMFTC. These contracts included clear clauses on ALP. In addition, the company declared that in case a farmer repeatedly breached the ALP Code and the situation could not be solved, they ultimately would stop contracting this farmer. Farmers would receive a 30-day written notice in case PMFTC decided to terminate the contract. However, so far, no contracts had been terminated for ALP reasons.

1.5 Internal monitoring: data collection, accuracy, and addressing issues

At the time of the assessment, PMFTC was collecting three types of ALP-related data from the farms: socio-economic information (Farm Profiles); situations not meeting the standard; and Prompt Actions. PMFTC had a digital data collection system (called 'SmartFarm'), consisting of a desktop version for the office and a mobile (tablet) version for the leaf technicians. The leaf technicians visited the farmers twice per week on average.

1.5.1 Socio-economic data: Farm Profiles

The socio-economic information for Farm Profiles was collected at the beginning of each contracting period, and had to be updated after every visit by the leaf technicians. The leaf technicians could access the Farm Profiles through the SmartFarm system on their tablets.

CU verified whether the information in the Farm Profiles matched with the farm situation observed during the farm visits. For 19 (90%) of the farms visited by CU an updated Farm Profile was available; for the other two farms (10%), only the profile of the previous season was available.

When comparing the data reported in these profiles to actual farm situations, CU found that three (15%) profiles contained minor deviations, mostly with regard to general information, farmer information and farm description. In addition, three (15%) profiles were incomplete, missing information on the number of people on the farm, living conditions, farm tasks, and/or employment conditions.

PMFTC's response:

"PMFTC will ensure that data collection is initiated once transplantation commences beginning the first quarter of 2019. Data collection will be cross-verified against SmartFarm generated report by the Data & Reporting Coordinator in close coordination with Assessment Team to ensure all required data is collected timely and accurately. This is going to be a continuous process throughout the cropping season every year"

1.5.2 Systematic monitoring: situations not meeting the ALP Code standards

PMFTC's digital data collection system (SmartFarm) was also used for the systematic monitoring of situations not meeting the standard. The monitoring module contained different series of questions for three different crop stages, which had to be completed within a set time frame. The software did not allow for comments or explanations; the questions could only be answered with the options given by the system, or by filling in numbers (amounts) to answer questions on topics such as wage payments and working hours. The system did not allow to input improvement plans for addressing issues present at the farms. In addition, PMFTC had an internal assessment team that went periodically to the field and checked Safe Work Environment topics.

CU identified one type of data that PMFTC was not collecting but which would improve monitoring and hence reduce the risk of situations not meeting the standard: usage of gloves for fertilizer application.

Monitoring data was available for 19 (90%) of the farms visited by CU, but for 13 of these farms (68%) the data was incomplete. Among the 19 farms where monitoring data was available, the situation found at 15 farms (79%) did not fully match the recorded monitoring data; most of these discrepancies were related to safe work environment, such as PPE usage for handling green tobacco, CPA storage conditions, and GTS awareness. At four of these farms CU found situations not meeting the standard, which had not been captured by the leaf technicians.

PMFTC's response:

"Further strengthen communication and training to hone skills of LTs on all ALP measurable standards, and identify situations in farms that are not meeting the standards. Every quarter starting Q1 2019, a practical approach shall be designed by Social Responsibility Coordinator in training LTs which would include group discussion and role plays. Progress will be verified through individual farm improvement plans particularly in farms where ALP standards are not met."

PMFTC's response:

"Social Responsibility Manager shall have a "Severity Matrix" approved by Q1 2019. This will be used to classify Prompt Action issues with corresponding penalties. Further, a provision regarding recurrences of Prompt Actions shall be included in the growing contract which could lead to a termination of the growing contract in the current season or non-renewal of the contract for the next season."

1.5.3 Prompt Actions

Prompt Actions were reported based on a pre-defined list of the company, using the SmartFarm system. When a Prompt Action situation was observed, the procedure was to agree with the farmer on a corrective action. If no action plan could be agreed, the procedure was to arrange a new visit together with a superior to ensure that an agreement was reached. Next, the field team would conduct an unannounced follow-up visit within six weeks to check if the Prompt Action situation was solved. In case a farmer repeatedly breached the ALP Code, PMFTC had a procedure for contract termination (see Chapter 1.4.2).

At the time of CU's assessment, 86 Prompt Actions had been reported for the current season (2018). Eighteen of these were on the topic of Child Labor, and 68 on the topic of Safe Work Environment. According to PMFTC, only two of the 86 Prompt Actions were still on-going; the others were closed. Among the farmers visited by CU, three farmers had a reported Prompt Action in the system. All three of them were aware of the reported Prompt Action, and in none of these cases the reported incident was recurring at the time of the CU visit.

All leaf technicians interviewed by CU knew the Prompt Action reporting procedure, except for the deadline of the follow-up visit. The meaning of Prompt Actions was not well understood by five leaf technicians (83%), who explained it as any situation not meeting the ALP standard. Only one technician (17%) correctly explained it as a violation of the ALP Code requiring immediate action.

1.5.4 Data management and analysis

Leaf technicians were responsible for updating the Farm Profiles after every visit. In addition, they had to collect farm monitoring data using questionnaires that were crop stage specific (see Chapter 1.5.2). All field data was collected using the tablet version of the SmartFarm system. Once the technicians had uploaded the data, the office staff could process the data on their desktop system. One of the Social Responsibility Coordinators checked the data quality and compiled the data into monitoring reports. These reports were handed to the ALP Coordinator (Social Responsibility Manager) for further analysis.

1.5.5 Improvement plans for individual farms

PMFTC only made improvement plans for individual farms in case of Prompt Action situations, but not for situations not meeting the standard. Furthermore, most of these plans only addressed the issues of the moment rather than the underlying causes. Root causes were rarely identified. Only 11% of the Prompt Action reports on Child Labor analyzed the root causes of the incident reported. Similarly,

only 19% of the Prompt Action reports on Safe Work Environment had identified root causes (and incorrectly so in 15% of these cases).

PMFTC's response:

"5-why method root cause analysis training will also be organized during cropping season to further enhance capability of LTs to conduct root cause analysis to recommend more effective actions and improvement plans. Written test will be conducted to evaluate effectiveness of training. To properly investigate and identify root causes of prompt actions, LTs will be trained to use the 5-why method. Social Responsibility Manager will validate the root cause analysis submitted by LTs to ensure that each prompt action issue is given proper remedial action."

1.6 Address systemic and/or widespread issues

Based on the risks and issues identified (see Chapter 1.2), leaf tobacco suppliers are expected to address systemic and/or widespread issues through operational (STP) initiatives, community programs (possibly supported by PMI's Contributions) and engagement with key stakeholders.

At the time of CU's assessment, PMFTC had implemented the following operational initiatives:

- **Distribution of PPE for CPA application and harvesting:** To improve work safety, PMFTC distributed PPE for CPA application and harvesting. Farmers could indicate the number of sets needed, and the company paid part of the costs. The majority of farmers reported to find the PPE very useful as this equipment meant better protection for them and their workers.
- **Off-farm activities:** To reduce the risk of child labor, PMFTC worked together with an NGO to provide after-school programs for the children of tobacco farmers and workers. These programs consisted of educational, arts and sports classes which were offered after regular school hours and during school vacations in the peak tobacco harvest season. Among the farms visited by CU, 15 farms (71%) were located in an area where the after-school program was available; at nine of these farms (60%) children had actually attended the activities. All farmers with children who had participated found the after-school program useful and planned to have them participate again, as it reduced the risk of child labor.
- **STP Roadshow:** To raise awareness about Agricultural Labor Practices, PMFTC organized annual STP Roadshows (one-day events with lectures and games) for farmers, workers and family members. Among the farmers visited by CU, 20 (95%) lived in a barangay where the roadshow was held, and 17 of them (85%) had attended the event. These farmers all found the roadshow useful and planned to participate again; they mentioned that it had increased their awareness on child labor and PPE use. The three farmers who had not attended the roadshow despite it being held within their area (14%) stated that they were not aware of the initiative; two of them were interested to participate next time. Finally, one (5%) farmer could not attend the roadshow because it was not held in his barangay. Instead, his leaf technician had done a one-on-one ALP training session with him.
- **Kiddie Roadshow:** This initiative was implemented to raise awareness among children about their basic rights, hazardous work, and the importance of PPE use (so they could tell their parents). The Kiddie Roadshow had been held near 13 of the farms visited by CU (62%); among this group three farmers (23%) had children who had participated. These farmers all found the roadshow useful; they stated that it had improved their children's knowledge of the dangers related to tobacco work, and all planned to have their children participate again. Among the other farmers, eight (38%) stated that they were not aware that this initiative was offered in their area; three of them (14%) were interested to participate next time.

- **GMPI Training:** Tobacco was a relatively new crop in the area (Claveria and Bukidnon). Therefore, PMFTC worked together with an NGO⁴ to implement a training program for farm workers, covering ALP and technical skills related to tobacco growing, in practical field workshops. According to the company, 220 farm workers had been trained and assessed in this project. Among the farms visited by CU, seven farms (33%) had access to this initiative; farm workers from two of those farms (29%) had actually attended the training. These workers all found the training useful and stated that it had increased their awareness about work safety and worker's rights.
- **Distribution of CPA locker:** This initiative was implemented to improve CPA storage at the farms. Among the farms visited by CU, 20 farmers (95%) received the locker from the company and one farmer (5%) stated that he did not received it and was not aware of this initiative. Farmers that received it found the initiate useful and stated that it reduced children access to the chemicals.

4. Global Mindenaw Polytechnic INC (GMPI)

Chapter 2

FARM-LEVEL ASSESSMENT OF WORKING CONDITIONS REGARDING THE ALP CODE STANDARDS



EXTERNAL ASSESSMENT
Flue Cured Virginia farmers in Claveria and Bukidnon

This chapter describes CU's assessment of the working conditions on PMFTC contracted tobacco farms with regard to the ALP Code Principles and Measurable Standards. ALP Code Principles are short statements designed to guide farmers on specific practices, resulting in safe and fair working conditions. A Measurable Standard defines a good practice and over time can be objectively monitored to determine whether, and to what extent, the labor conditions and practices on a tobacco farm are in line with each ALP Code Principle.

2.1. ALP Code Principle 1: Child labor

There shall be no child labor.

Main findings and challenges

2.1.1. Children working and activities performed

At the farms visited by CU, no evidence was found of children younger than 15 years being employed nor of child family members younger than 13 helping with tobacco. Furthermore, no children younger than 18 were found to be involved in hazardous activities. In general, farmers and workers were aware of the age requirements.

PMFTC's response:

"Continue to create awareness among farming community about the importance of non-engagement of child labor through STP initiatives. Raising prompt actions and Farm by farm monitoring will continue to ensure non engagement of children in hazardous work in tobacco production. Social Responsibility Coordinator to conduct weekly STP Roadshows that will include training on light and hazardous farm work, not limited to tobacco growing, of at least two (2) farm workers nominated by contracted farmer to

create awareness on how each hazardous activity poses risk to health and possible ways to mitigate the risk. Currently, PMFTC conducts Off-Farm Activities wherein children are engaged in educational and recreational activities after school hours and during weekends. So by the time they reach home, all farm activities will be complete thus bringing down the risk of child labor. This initiative will be continued in all tobacco growing villages. In Q4 2018, skills training for children ages 15-17 and 14 below has also commenced. This is intended for children who have stopped going to school and who are at risk of being hired in tobacco farms. By Q3 2019, PMFTC will pilot "Farming Community Sustainability" in three (3) villages - a program that will establish farm workers group, leadership training for group officers, and livelihood programs in partnership with Department of Labor and Employment (DOLE)."

Analysis and priorities

In 2018 PMFTC had reported 18 Prompt Actions related to child labor. Elimination of child labor was one of the focus areas of PMFTC, and this ALP Principle had been monitored and addressed since the company started implementing the ALP Program in 2013. In addition, the company had two ongoing initiatives targeting the elimination of child labor (see Chapter 1.6). CU found no evidence of child labor at the time of the assessment, indicating that PMFTC's efforts were paying off. However, it remains important to keep farmers aware of age requirements.

2.2. ALP Code Principle 2: Income and work hours

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

Main findings and challenges

2.2.1. Payment of workers

Among the visited farms, 20 farms (95%) worked with hired workers, employed either on a seasonal or permanent basis. On 18 of these farms (90%) workers were not being paid at least the legal minimum wage.⁵

For the purpose of this assessment, workers' incomes were calculated as wage per hour. The table below shows the number of farms where workers received wages below (<38 PHP/hour) or above (\geq 38 PHP/hour) the legal minimum wage.⁶ According to this assessment, seasonal workers tended to receive lower wages than permanent workers.

In addition to their salary, workers at 19 farms (95%) received in-kind payment in the form of food (lunch and snacks), and at one other farm (5%) in the form of accommodation. It is common practice in the Philippines to provide food for workers during the working hours. However, in-kind payment is allowed only under special circumstances specified in regulations issued by the DOLE Secretary. For these exemptions the law does not provide a specific percentage of the salary which can be paid in kind, but it does state that the value of the facilities provided (such as meals, housing and transportation) can only be deducted from the salary if the employee has voluntarily accepted this in writing. Among the farms visited by CU, none of the farmers providing in-kind payment had such written agreements in place.

PMFTC's response:

"From Q1 2019, LTs will be instructed to report the payment made below minimum wages and the same will be captured in farm by farm monitoring sheet. This would give Social Responsibility Coordinator and Manager an idea which activity workers are being paid minimum wages and for which other activities they are not being paid, whether in cash or in-kind. For in-kind payments, farmers will be required to have a written agreement with workers. The process will be verified by a third party."

	Breakdown of salaries		Salary range	
	<38 PHP/hour	\geq 38 PHP/hour	Minimum (PHP/hour)	Maximum (PHP/hour)
Permanent*	8 (89%)	1 (11%)	25	40
Seasonal*	14 (93%)	1 (7%)	25	38

5. According to Philippine law, the minimum wage for agricultural workers in Region X (Cagayan de Oro, Bukidnon, Iligan) is PHP 304-326 (plantation and non-plantation) for an eight-hour workday.
6. Because not all workers worked eight hours per day, for this assessment the wages were calculated as wage per hour, and compared to the minimum wage of PHP 38/hour.

2.2.2 Payment schedule

In terms of payment frequency, no evidence was found of farmers not paying their workers in accordance with the law.⁷ Typically, workers were paid daily or weekly.

2.2.3 Work hours and overtime pay

No evidence was found of farmers disrespecting the legal work hours. Typically, workdays lasted eight hours or less.

However, at one farm (5%) the permanent worker did not always receive at least one resting day per week; according to the worker in question, he sometimes had to work on Sundays in order to finish the work during peak times.

PMFTC's response:

"Awareness to all farmers will be made through the STP roadshow activities starting Q2 2019. Starting Q2 2019 100% of contracted farmers will have written agreement with workers with regard to "rest day"."

Furthermore, it was found that overtime hours were usually not paid according to the legal overtime rate. Overtime work occurred at 17 of the farms with hired labor (85%), and the legal overtime rate was not being paid at 14 of these (82%). In these cases, at two farms (14%) the overtime was not being paid with an additional fee and at 12 farms (86%) the farmers paid an additional fee for overtime hours but it was below the fee defined by Philippine law. CU found that both farmers and workers were generally unaware of the correct legal overtime rates.

2.2.4 Legal benefits

None of the farmers provided workers with all the benefits required by law (see Appendix III). Farmers and workers lacked awareness about workers' legal benefits.

PMFTC's response:

"Weekly beginning Q2 2019, distribute IEC materials to farmers create awareness on legal benefits of workers during STP Roadshows and DOLE sessions. IEC material will include a list of benefits that farmers should legally provide to workers. Social Responsibility Coordinator and the Manager will take responsibility of training and preparing IEC materials. LTs who train farmers will be assessed by supervisors and area agronomy managers. These interventions are expected to result in enhanced awareness of farmers on income, work hours, and "Legal benefit"."

Underlying factors that increase risk

The risk of payment below legal minimum wage was highest for temporary workers. Although farmers were generally aware of the legal minimum wage, they said they could not afford to pay it. Furthermore, awareness among farmers and workers regarding overtime rates and legal benefits was low.

Analysis and priorities

The ALP Code Principle of Income and Work Hours was not a focus area for PMFTC. Nonetheless, the company had conducted a survey on this topic in 2018 (see Chapter 1.2), and had reinforced its communication about the minimum wage. Despite these efforts, payment below the legal minimum wage was found to be a widespread issue, especially among temporary workers. Both farmers and workers were generally unaware of the relevant legal aspects, which is in line with the knowledge gaps observed among the leaf technicians (see Chapter 1.3.3), and indicates the need to pay more attention to this topic.

7. Philippines law states that wages should be paid at least once every two weeks or twice a month at intervals not exceeding 16 days.

2.3. ALP Code Principle 3: Fair treatment

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

Main findings and challenges

2.3.1. Treatment of workers

No evidence was found of verbal, sexual, or physical abuse on the farms.⁸ In addition, CU did not identify any discriminatory practices. Since the region had a shortage of labor, workers would leave their farmer in case of unfair treatment.

2.3.2 Support mechanism

Support mechanisms facilitate workers' access to information, assist workers in difficult situations, and mediate disputes between farmers and workers. PMI's leaf tobacco suppliers are expected to ensure that farmers and workers have access to such a mechanism.

At the time of CU's assessment PMFTC had a locally adopted grievance mechanism for farm workers, built with NGO support and based on the traditional structure of community committees (Barangays). The NGO was responsible for training the barangay peace councils and workers on the function of the support mechanism and ALP principles. According to the NGO, 13 barangays and 577 workers had been trained in 2017. The mechanism provided an instrument for farmers and workers to address and solve issues with the help of the peace council.

Fifteen of the farmers visited by CU (71%) lived in a barangay where the support mechanism was in place (nine barangays in total). Of these farmers, only one (7%) was aware of the support mechanism and understood correctly what it was for. Five other

farmers (33%) had heard about the mechanism but confused it with the emergency numbers in the farmers' booklet; the remaining nine (60%) stated they were not aware of the mechanism's existence. Among the workers interviewed, none were aware of the support mechanism. This lack of awareness may be partly due to the fact that the trainings had not been provided in all barangays. Furthermore, CU had the impression that council members were generally not keen to take on the extra responsibility of running the support mechanism.

More importantly, CU found that the support mechanism could not be considered anonymous or independent, as required by the ALP code, even though CU recognizes the importance of building on existing community structures and cultural traditions to gain acceptance within local villages and enable support in case of disputes.

In addition to a formal support mechanism, the ALP Code requires that farmers should make themselves available to their workers to discuss potential grievances before they escalate. No cases were identified where farmers were unavailable to their workers.

PMFTC's response:

"Through an NGO, PMFTC will help strengthen Barangay Peace Councils by providing communication tools and extensive capability building training. This intervention will equip village peace councils resolve grievances raised and settled but also enhance their documentation and reporting. STP Roadshow will also be utilized as main platform of communications to farmers and farm workers."

Analysis and priorities

This principle was not a focus area of PMFTC, and CU's findings show that the risk of unfair treatment was low. However, a greater awareness on the existence of the support mechanism is needed. In addition, the independency and anonymity of the support mechanism needs to be better ensured.

8. See Appendix III for legal details on fair treatment.

2.4. ALP Code Principle 4: Forced labor

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

Main findings and challenges

2.4.1. Involuntary labor

No evidence was found of workers being unable to leave their employment or working against their will, or of contracted prison labor. Also, no evidence was found of workers being obliged to hand over their original identity documents or pay financial deposits.

2.4.2 Direct payment

At two farms (10%) CU found evidence of indirect payment. Here, a total of eight workers were contracted and paid through crew leaders. According to the interviewees, the crew leaders did not receive any fees or extra payment for performing this work, unless they had more tasks than the other workers. Workers said they were paid the amount agreed with their crew leader and farmer. At one farm (5%) one of the workers did not know the amount agreed.

PMFTC's response:

"PMFTC will train and educate all farmers to ensure workers get direct payment. This will be done through group trainings and provision of monitoring sheet to farmers who still decide to pay workers through crew leaders. These farmers will be required to return the monitoring sheets with signature of workers who are paid through crew leaders. FTs will verify these monitoring sheets to ensure that all workers are paid the full amount as agreed with farmers."

Analysis and priorities

CU did not find evidence for widespread issues related to this ALP Code Principle. However, some cases of indirect payment were found, while this issue had not been identified in PMFTC's risk assessment.

2.5. ALP Code Principle 5: Safe work environment

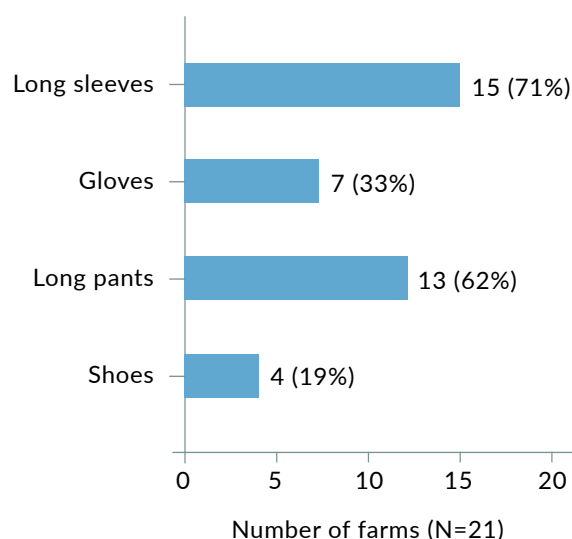
Farmers shall provide a safe work environment to prevent accidents and injury and to minimize health risks. Accommodation, where provided, shall be clean, safe and meet the basic needs of the workers.

Main findings and challenges

2.5.1. Training and awareness of GTS

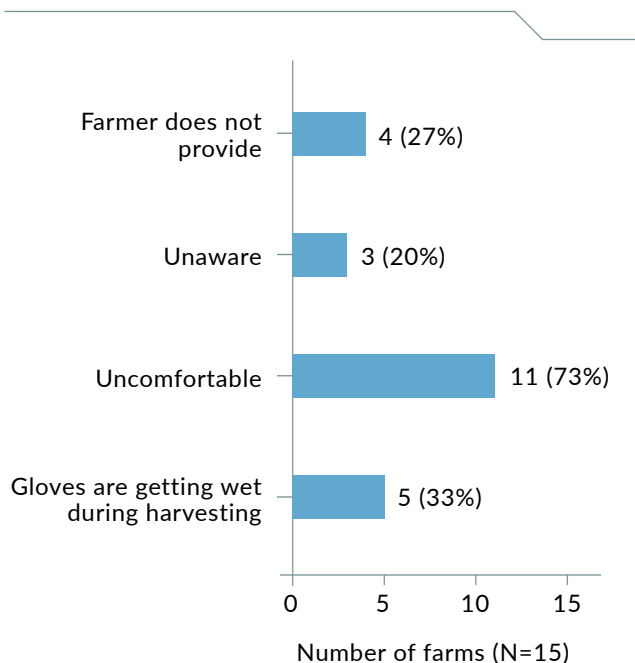
At 14 farms (70%) not all persons handling green tobacco were trained, and at five farms (24%) not all persons handling green tobacco were aware of the existence and avoidance of GTS. At three farms (14%) the farmers did not fully understand what GTS was and/or how to avoid it. Consequently, the protective clothing used was often inadequate: at 15 farms (71%) not all persons handling green tobacco were wearing the full set of required harvesting clothes. Gloves and shoes were missing most often, as shown in the table below:

Protective harvesting clothing used



The various reasons given for not using the complete set of PPE are shown in the table below:

Reasons for not wearing PPE when handling green tobacco



PMFTC's response:

"Through year-round STP Roadshow, in order to increase awareness of farmers and farm workers on GTS, engage health professionals in explaining the risks associated with handling green tobacco. Starting Q1 2019, Social responsibility coordinator will ensure that all farmers are provided with sufficient PPE. LTs will also need to strengthen the monitoring on the availability of PPE at the early stage of the season and verify its usage towards the end of the crop. Social Responsibility and Assessment Team will validate conformance in farms. Prompt action issues related to GTS exposure will be subject to "Prompt action consequence". Lastly, starting Q3 2019 communications on GTS prevention and overall farm safety will be extended to off-farm activities in schools to educate children so they can be safely stewards to their parents."

According to the interviewees, at nine farms (43%) not all persons applying fertilizer were wearing gloves.

PMFTC's response:

"Project management guarantees that there is enough inventory way before the beginning of the season, LT makes sure the farmer has enough for all his workers before the said activity. At the beginning of crop season, LTs to verify enough gloves are in the inventory for immediate distribution. Increase awareness and ensure usage of gloves by farmers during fertilizer application as well through group training, communication materials and posters. Social Responsibility Coordinator will take care of training material and printing of pamphlet and posters, while LTs conduct trainings to farmers to create awareness on usage of gloves while applying fertilizers. Assessment Team to cross check to ensure planned activities are being carried out accordingly. Farm by farm monitoring by LTs and unannounced visits by area agronomy managers will further strengthen the process. This is an ongoing process and will be conducted starting Q1 2019. This is expected to increase awareness amongst famers and workers and increase usage of gloves while applying fertilizers."

2.5.2 Training and handling of CPA

At twelve farms (57%) not all persons handling and/or applying CPA were trained. Furthermore, at two farms (10%) people responsible for CPA application did not use the complete set of PPE: at one farm, persons only used gloves and goggles, and at the other farm, persons did not use any PPE – only long sleeves and long pants. The reason for not wearing PPE, according to workers and family members, was either that PPE sets were not available at the farm or that workers forgot to use the complete set of PPE. No evidence was found of pregnant and/or nursing women involved in CPA application.

PMFTC's response:

"PMFTC will survey root causes of not utilizing PPE during CPA handling. Improve awareness on ill effects of non-usage of PPE while handling CPAs through STP roadshows which will be conducted Q1-Q4. The team will look into engaging health professionals to help explain to farmers and workers the risks associated with handling CPA without proper PPE. Starting Q1 2019, Social responsibility coordinator will ensure that all farmers are provided with sufficient PPE to ensure access to people who handle CPA. LTs will also need to strengthen the monitoring on the availability of PPE at the early stage of the season and verify its usage towards the end of the crop. Social Responsibility and Assessment Team will validate conformance through unannounced visits. Prompt action issues related to CPA exposure will be subject to "Prompt action consequence". PMFTC will also study the feasibility of assigning a third party spraying team to service a group of farmers to ensure conformance to PPE usage. Lastly, the communications on exposure to CPA and overall farm safety will be extended to off-farm activities in schools to educate children starting Q3 2019."

Regarding CPA re-entry periods, CU found two farms (10%) where the farmer was not aware of the specific re-entry period for CPA. In addition, three farmers (14%) did not use a warning sign to ensure that no one entered the field after recent CPA application.

PMFTC's response:

"Beginning Q1 2019, PMFTC will create awareness and educate farmers and family members on the importance of re-entry flags. This will be done through one-on-one training of LTs to farmers and workers with emphasis on the standard 24-hour period for all CPA to simplify the message. The same message will be reiterated in STP starting Q1 of 2019. Effectiveness of the communication and

level of farmer understanding will be verified through validation exercises to be conducted by Social Responsibility and Assessment teams. This results in increased awareness of all the villagers resulting in safe re-entry after CPA application."

In terms of CPA storage, CU identified ten farms (48%) where CPAs were not stored in a safe and locked storage:

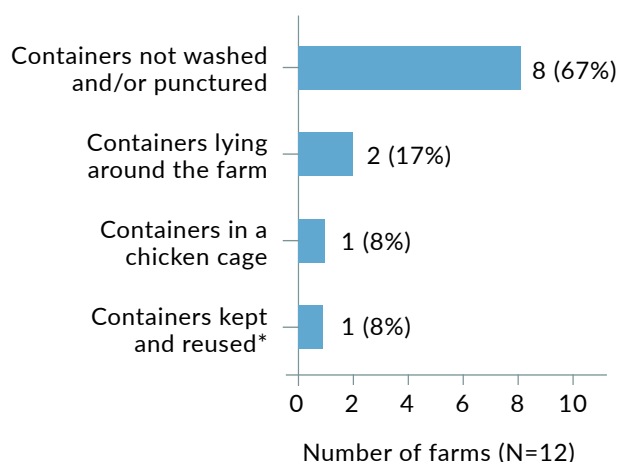
- At three farms (30%), the CPA locker was not locked;
- At one farm (10%), the CPA locker was not locked; in addition, it was located in the kitchen;
- At six farms (60%), CPA containers were not stored inside the locker, but lying around the house and/or farm.

PMFTC's response:

"From Q1-Q4 2019, LTs to conduct one-on-one training of farmers and farm workers on proper handling and storage of CPAs. Availability of CPA storage will be monitored by LTs at the beginning of crop season. Apart from LTs, Social Responsibility and Assessment Team will also validate conformance in farms. From Q3-Q4, communication materials on safety will be distributed to children during Off-Farm Activities to remind their parents about proper handling of CPA."

Furthermore, CU found that empty CPA containers were incorrectly disposed at 12 (71%) of the 17 farms where this was verified (see table below). Only five farmers (29%) safely disposed the containers by returning the washed and punctured containers to their leaf technician.

Incorrect disposal of empty CPA containers



*In this case the container was reused for household purposes including for water storage.

PMFTC's response:

"PMFTC will conduct group trainings on safe disposal of empty and punctured CPA containers and information through training material and pasting of posters on strategic location in villages. Social Responsibility Coordinator will develop and produce training material in the form of pamphlet and posters. LTs will conduct retrieval of empty and punctured CPA containers on a regular basis and leverage group meetings such as STP roadshows and Farmers' days for farmers to bring their empty CPA containers. Supervisors and Area Managers cross check to ensure planned activities are being carried out accordingly. Farm by farm monitoring by LTs and unannounced visits by Area Agronomy Managers will further strengthen the process including retrieval of empty and punctured CPA container on a regular basis. Social Responsibility and Assessment Team to validate 100% retrieval rate of empty containers through "Empty CPA container retrieval report."

2.5.3 Workers' accommodation

Among the farmers visited by CU, only two farmers provided workers' accommodation. In both cases no evidence was found of the workers' accommodation not being clean and safe, or not meeting the basic needs of workers.

2.5.4 Clean drinking and washing water

At three farms (14%), farmers did not provide clean drinking or washing water to their workers. At one of these farms (33%) the drinking water was stored in an empty CPA bottle; at the other two farms (67%) no soap and washing water were available. In addition, nine (45%) farmers did not have sanitary facilities close to their fields.

PMFTC's response:

"Conduct information dissemination on the importance of clean water through STP Roadshow during farm by farm visits. Prior to contracting a farmer, verify the other party's capability to provide clean drinking water and washing water. Ensure availability of safe drinking water to villagers prior to contracting a farmer and also identify villages which do not have access to drinking water. Once the villages identified, budget provision from the Tobacco Excise Tax of the Municipal government will be requested in consultation with External Affairs for subsequent implementation. This leads to provision of drinking water to all villages which will be reflected in the LGU's excise tax utilization report. Through an NGO, PMFTC will study the feasibility of providing sanitary facilities at farms which will include surveying various models of sanitary facility suitable to growing area. Social Responsibility Manager will work with External Affairs to secure allocation from municipal excise tax for the construction of sanitary facilities. Findings and recommendations must have the concurrence of local stakeholders."

2.5.5 General safety measures

Most farmers did not have basic safety measures in place: none had access to a first-aid kit or had received first-aid training. Besides, none of the farmers had resources to act in case of fire. Seven (33%) farmers were able to provide transport to a medical facility, and all farmers had the phone numbers of local health providers in case of an emergency.

PMFTC's response:

"Social Responsibility Manager to consult third party and PMFTC Environment, Health and Safety (EHS) Department to develop a module on farm safety training during Q3 2019. This will include provision of first aid kits and farmers awareness on availability of resources during emergency. Unannounced visits will be conducted to check the knowledge of farmers on first aid by including a question on first aid in the unannounced questionnaire. This will enhance all farmers to have access to resources in case of emergency."

Analysis and priorities

CU identified a high number of practices not meeting the standard for this ALP Code Principle. Although PMFTC had distributed PPE for harvesting and CPA application, CU found that this PPE was often not used and that many farmers still had limited awareness and understanding of the need for safety measures. Although Safe Work Environment was one of the ALP Code Principles focused on by PMFTC, the initiatives in place had not yet resulted in the desired change of behavior. To improve farm work safety, it is important to understand the reasons behind unsafe practices and set targets referring to actual change of behavior.

2.6. ALP Code Principle 6: Freedom of association

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

Main findings and challenges

2.6.1. Workers' right to freedom of association

No evidence was found of farmers disrespecting the workers' right to freedom of association. Labor

unions for the agricultural sector were not active in the region (see Appendix III).

Analysis and priorities

This ALP Code Principle was not a focus area for PMFTC. This seems justified given the limited risk of violation of workers' right to freedom of association and the lack of active unions for tobacco workers in the region.

2.7. ALP Code Principle 7: Compliance with the law

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

Main findings and challenges

2.7.1. Information on legal rights and working conditions

At 15 of the 20 farms with hired labor (75%), farmers did not fully inform their workers about their legal rights. However, most workers were informed about their employment conditions, such as work hours, wages, and tasks to be performed. At one farm (5%) one worker had not been informed about the wage.

In general, it was found that farmers lacked the legal knowledge to inform their workers properly. In addition, farmers did not know that it was their duty to inform their workers about legal rights, especially for temporary workers, and in some cases farmers did not consider themselves as formal employers.

PMFTC's response:

"Create awareness amongst farmers on legal rights of workers and educate them to impart awareness to the workers by organizing a community-based farm workers dialogue in partnership with DOLE and ITC by Q1 2019. PMFTC to include farmer and farm workers legal rights in the farm workers contract beginning Q3. LTs conduct trainings to farmers to create required awareness on legal rights of workers"

according to the Labor Code of the Philippines while supervisors and area managers cross check to ensure planned activities are being carried out accordingly. This will be carried out during Q3-Q4 every year. This results in creating awareness on legal rights of workers to farmers and workers as well. Degree of awareness and effectiveness of training will be verified through unannounced visits by area agronomy managers and farm by farm monitoring by LTs.”

Analysis and priorities

In line with the limited understanding among leaf technicians of this topic (see Chapter 1.3.3), farmers were generally unaware of the legal rights of workers. They also did not understand that it was their responsibility to inform workers about their legal rights. Clearly, the knowledge of leaf technicians and farmers on this ALP Code Principle could be improved. In particular, more attention should be paid to the farmer’s obligation to inform workers of their legal rights.

Chapter 3

ALP PROGRAM: FEEDBACK FROM FARMERS, WORKERS, AND OTHER STAKEHOLDERS



EXTERNAL ASSESSMENT
Flue Cured Virginia farmers in Claveria and Bukidnon

As part of the assessment, CU asked farmers, family members and external workers what had changed at the farms since the start of the ALP Program. Thirteen farmers (62%) reported that involvement of children in tobacco production had been reduced since the beginning of the ALP program, and four farmers (19%) declared that the safety on the farms had improved as PPE usage was higher. Three farmers (14%) reported that workers' treatment had improved, and two farmers (10%) mentioned that workers' incomes were better since the ALP program started.

Of the ten family members interviewed, seven (70%) had heard of the ALP Code. Among this group, five (71%) mentioned that the ALP Program had reduced the involvement of children in tobacco growing, two (29%) mentioned an improvement in PPE usage, and one (14%) mentioned that the ALP Program had made no difference.

Of the 33 external workers interviewed, 15 (45%) had heard of the ALP Code. Among this group, nine (60%) mentioned that the ALP Program had

reduced the involvement of children in tobacco growing; four (27%) mentioned that PPE usage had increased; one (7%) mentioned that overall farm safety had increased; and one (7%) mentioned that wages had increased.

Three farmers (18%) declared they had provided feedback to PMFTC: two of them had given feedback about the tobacco price, and one had reported the difficulty of finding farm workers. In the latter case the farmer felt that PMFTC had not listened to or acted upon his feedback; after reporting the difficulty of finding workers to the leaf technician, the farmer in question had not received any feedback from the supplier so far.

During their farm visits, the leaf technicians communicated with farmers, as well as with workers and family members. Furthermore, during the STP Roadshow farmers could give feedback to PMFTC. The leaf technicians discussed the received feedback during meetings with the Social Responsibility Coordinators.

Chapter 4

APPENDICES



EXTERNAL ASSESSMENT Flue Cured Virginia farmers in Claveria and Bukidnon

Appendix I – PMFTC’s Action Plan

PMFTC welcomes Control Union’s (CU) assessment of Agricultural Labor Practices (ALP) program implementation among its contracted Flue-cured Virginia (FCV) farmers in the municipality of Claveria in Misamis Oriental. Findings and understandings from the assessment will help PMFTC further improve and strengthen the implementation of ALP program.

PMFTC appreciates CU’s recognition of the Company’s extensive efforts in planning and implementing the ALP program, but acknowledges that there remain opportunities for improvement. The Company is committed to tackling these challenges by identifying the root causes at farm level and implementing solutions that achieve measurable results over time. Recognizing that the development of solutions to many of these root causes involves stakeholder collaboration, PMFTC looks forward to continued collaboration and engagement with local communities, NGOs, government bodies and other stakeholders as we strive to enhance safe working practices and progressively eliminate labor abuses from contracted tobacco farms in the Philippines.

PMFTC’s objective is to achieve long-term sustainability of tobacco production while ensuring that all contracted farmers demonstrate Good Agricultural Practices (GAP) and continuous improvement toward meeting ALP program expectations.

Considering the dynamic nature of tobacco farms, PMFTC continuously reviews toolbox materials to ensure it meets the current needs of the farmers and their communities. Issues identified by CU must be addressed within the context of the socio-economic and cultural conditions present in tobacco-growing communities in the Philippines and Claveria specifically. The following action plan is specific to addressing concerns raised by CU among contracted Flue-cured Virginia farmers in Claveria.

1. Implementation of the ALP Program

Internal Capacity

Training, knowledge on ALP

Audit observation: Control Union had very positive appreciation of the current processes in place and the level of commitment of the team involved with the program. However, in terms of PMFTC internal capacity, Control Union did find that Leaf Technicians (LTs) lacked a comprehensive understanding of Child Labor, Income and Work Hours, and Force Labor principles. Control Union also noted the need to improve awareness of PMFTC Management about revised ALP and its principles.

Action plan: With emphasis on giving clarity about the specifics of ALP principles and implementation, PMFTC resolved that within the first quarter of 2019 100% of all LTs must undergo training:

- Family and non-family children working age including its specific guidelines
- Frequency of payment, mode of payment, and legal overtime payment
- Direct payment of wages from farmers to workers

Further, within the first quarter of 2019 PMFTC Management Team including Leaf, External Affairs and Legal must have a refresher training about the revised ALP to ensure internal alignment. Trainings will be verified through internal audit by PMFTC including pre- and post-training tests to evaluate knowledge improvement.

Communication of the ALP Code requirements to farmers

Strategy, tactics & communication materials

Audit observation: To communicate the policies and practices, PMFTC used several communication methods and professionally designed materials. However, Control Union noted that not all farmers were aware of STP programs. Moreover, communication materials lacked information on legal matters leading to farmers' unawareness on certain labor issues, as they received limited legal information from PMFTC.

Action plan: Control Union noted the one-on-one education PMFTC provides to its contracted farmers during farm visits by LTs. On average, LTs visit each contracted farmer 15-17 times per season, providing farmers with ongoing ALP education and monitoring them for compliance with the program. To make these farm visits more meaningful, PMFTC resolved to distribute updated communication materials taking into account all corrections as suggested by the Control Union in the first quarter of 2019. These are as follows:

- Pamphlet for STP projects with focus on People Pillar
- Video material tackling Force Labor and Human Trafficking
- Video material emphasizing hazards of not unpunctured empty CPA containers and the need for proper disposal of waste
- Video material with focus on overtime premium and printed material or guide on Income and Work Hours
- User friendly Farmers Booklet with complete information about Green Tobacco Sickness (GTS) prevention particularly the use of shoes when harvesting

These materials will be written in the local language and will also be discussed with farmers during site orientations to ensure full understanding.

Internal monitoring: data collection, accuracy, and addressing issues

Socio-economic data: farm profiles

Audit observation: Accuracy and quality of socio-economic and farm profiles

Action plan: PMFTC will ensure that data collection is initiated once transplantation commences beginning the first quarter of 2019. Data collection will be cross-verified against SmartFarm generated report by the Data & Reporting Coordinator in close coordination with Assessment Team to ensure all required data is collected timely and accurately. This is going to be a continuous process throughout the cropping season every year.

Farm Monitoring

Audit observation: Due to incorrect formulation of question used in farm-to-farm monitoring, it was unclear whether there are workers being unable to leave their employment or working against their will, or of contracted prison labor.

Action plan: Ensure that IS updates the farm monitoring question in particular to reflect, “does the farmer use/employ compulsory or prison labor?”

Systematic monitoring: situations not meeting ALP Code standards

Audit observation: All LTs had been trained and found the trainings useful and informative. However, interviews by CU revealed that many of the LTs, though able to recite the ALP code by heart, were lacking practical examples of how to apply the code. Moreover, issues not meeting standards are not reported. It is important that PMFTC addresses this gap, because practical understanding is essential for monitoring risks and identifying situations not meeting the standard in the field.

Action plan: Further strengthen communication and training to hone skills of LTs on all ALP measurable standards, and identify situations in farms that are not meeting the standards. Every quarter starting Q1 2019, a practical approach shall be designed by Social Responsibility Coordinator in training LTs which would include group discussion and role plays. Progress will be verified through individual farm improvement plans particularly in farms where ALP standards are not met.

Root causes of Prompt Actions

Audit observation: No clear set of principles is followed in determining root causes of prompt actions.

Action plan: 5-why method root cause analysis training will also be organized during cropping season to further enhance capability of LTs to conduct root cause analysis to recommend more effective actions and improvement plans. Written test will be conducted to evaluate effectiveness of training. To properly investigate and identify root causes of prompt actions, LTs will be trained to use the 5-why method. Social Responsibility Manager will validate the root cause analysis submitted by LTs to ensure that each prompt action issue is given proper remedial action.

Prompt Action consequence

Audit observation: At the beginning of each crop season, farmers sign a growing contract with PMFTC which includes all seven ALP Code Principles, which contains specific clauses on child labor and safety aspects on the farm. LTs read the contracts to illiterate farmers and explains the contents if needed. However, CU noted that the current growing contract lacks provision on contract termination in case a farmer is found not strictly implementing ALP.

Action plan: Social Responsibility Manager shall have a “Severity Matrix” approved by Q1 2019. This will be used to classify Prompt Action issues with corresponding penalties. Further, a provision regarding recurrences of Prompt Actions shall be included in the growing contract which could lead to a termination of the growing contract in the current season or non-renewal of the contract for the next season.

Risk Assessment

Audit observation: Risk assessment not aligned with CU findings

Action plan: A more systematic risk assessment will be carried out to identify and estimate the risks involved and draw suitable action plans to mitigate associated with People Pillar in the production chain

Address systemic and/or widespread issues

N/A

2. Farm level assessment of working conditions regarding the ALP Code Standards

Farm practices that affected several ALP Code Principles

No immediate issues found with regards to share cropping, crew leaders, exchange of labor.

Child Labor

Children working and activities performed

Audit observation: All LTs were aware of the meaning of ALP Code Principles and had an overall understanding of child labor, hazardous work and could provide several examples. Farm workers had an incomplete description of hazardous work, with most of them failing to mention tobacco stitching/usage of sharp tools, or fertilizer application. No child labor was observed in tobacco farms but CU noted from interviews there are incidences in corn plantations.

Action plan: Continue to create awareness among farming community about the importance of non-engagement of child labor through STP initiatives. Raising prompt actions and Farm by farm monitoring will continue to ensure non engagement of children in hazardous work in tobacco production. Social Responsibility Coordinator to conduct weekly STP Roadshows that will include training on light and hazardous farm work, not limited to tobacco growing, of at least two (2) farm workers nominated by contracted farmer to create awareness on how each hazardous activity poses risk to health and possible ways to mitigate the risk. Currently, PMFTC conducts Off-Farm Activities

wherein children are engaged in educational and recreational activities after school hours and during weekends. So by the time they reach home, all farm activities will be complete thus bringing down the risk of child labor. This initiative will be continued in all tobacco growing villages. In Q4 2018, skills training for children ages 15-17 and 14 below has also commenced. This is intended for children who have stopped going to school and who are at risk of being hired in tobacco farms. By Q3 2019, PMFTC will pilot “Farming Community Sustainability” in three (3) villages – a program that will establish farm workers group, leadership training for group officers, and livelihood programs in partnership with Department of Labor and Employment (DOLE).

Income and work hours

Payment of workers

Audit observation: Monitoring data was available for all the farms visited by CU. However, it was found that monitoring was not accurate for all Principles, in particular farmers were found to pay below minimum wage and in some instances legal overtime rate for work rendered is not followed.

Action plan: From Q1 2019, LTs will be instructed to report the payment made below minimum wages and the same will be captured in farm by farm monitoring sheet. This would give Social Responsibility Coordinator and Manager an idea which activity workers are being paid minimum wages and for which other activities they are not being paid, whether in cash or in-kind. For in-kind payments, farmers will be required to have a written agreement with workers. The process will be verified by a third party.

Legal benefits

Audit observation: CU found that farmers are unaware of legal requirements for benefits

Action plan: Weekly beginning Q2 2019, distribute IEC materials to farmers create awareness on legal benefits of workers during STP Roadshows and DOLE sessions. IEC material will include a list of benefits that farmers should legally provide to workers. Social Responsibility Coordinator and the Manager will take responsibility of training and preparing IEC materials. LTs who train farmers will be assessed by supervisors and area agronomy managers. These interventions are expected to result in enhanced awareness of farmers on income, work hours, and “Legal benefit”.

Others

Audit observation: One farm worker found to have no rest day

Action plan: Awareness to all farmers will be made through the STP roadshow activities starting Q2 2019. Starting Q2 2019 100% of contracted farmers will have written agreement with workers with regard to “rest day”.

Fair treatment

Support mechanism

Audit observation: Support mechanisms facilitate workers’ access to information, assist workers in difficult situations, and mediate disputes between farmers and workers. However, CU noted that the platform is not available in all tobacco-growing villages in Claveria and grievance cases are raised and settled at the village-level without knowledge of PMFTC or NGO.

Action plan: Through an NGO, PMFTC will help strengthen Barangay Peace Councils by providing communication tools and extensive capability building training. This intervention will equip village peace councils resolve grievances raised and settled but also enhance their documentation and reporting. STP Roadshow will also be utilized as main platform of communications to farmers and farm workers.

Forced labor

Indirect payment

Audit observation: Evidence of indirect payment was found

Action plan: PMFTC will train and educate all farmers to ensure workers get direct payment. This will be done through group trainings and provision of monitoring sheet to farmers who still decide to pay workers through crew leaders. These farmers will be required to return the monitoring sheets with signature of workers who are paid through crew leaders. FTs will verify these monitoring sheets to ensure that all workers are paid the full amount as agreed with farmers.

Safe work environment

Training and awareness of GTS

Audit observation: Not all workers are aware of existence and avoidance of GTS

Action plan: Through year-round STP Roadshow, in order to increase awareness of farmers and farm workers on GTS, engage health professionals in explaining the risks associated with handling green tobacco. Starting Q1 2019, Social responsibility coordinator will ensure that all farmers are provided with sufficient PPE. LTs will also need to strengthen the monitoring on the availability of PPE at the early stage of the season and verify its usage towards the end of the crop. Social Responsibility and Assessment Team will validate conformance in farms. Prompt action issues related to GTS exposure will be subject to "Prompt action consequence". Lastly, starting Q3 2019 communications on GTS prevention and overall farm safety will be extended to off-farm activities in schools to educate children so they can be safely stewards to their parents.

Training and handling of CPA

Audit observation: CPA not stored in safe and locked storage

Action plan: From Q1-Q4 2019, LTs to conduct one-on-one training of farmers and farm workers on proper handling and storage of CPAs. Availability of CPA storage will be monitored by LTs at the beginning of crop season. Apart from LTs, Social Responsibility and Assessment Team will also validate conformance in farms. From Q3-Q4, communication materials on safety will be distributed to children during Off-Farm Activities to remind their parents about proper handling of CPA.

Audit observation: Empty CPA containers not discharged correctly

Action plan: PMFTC will conduct group trainings on safe disposal of empty and punctured CPA containers and information through training material and pasting of posters on strategic location in villages. Social Responsibility Coordinator will develop and produce training material in the form of pamphlet and posters. LTs will conduct retrieval of empty and punctured CPA containers on a

regular basis and leverage group meetings such as STP roadshows and Farmers' days for farmers to bring their empty CPA containers. Supervisors and Area Managers cross check to ensure planned activities are being carried out accordingly. Farm by farm monitoring by LTs and unannounced visits by Area Agronomy Managers will further strengthen the process including retrieval of empty and punctured CPA container on a regular basis. Social Responsibility and Assessment Team to validate 100% retrieval rate of empty containers through "Empty CPA container retrieval report".

Audit observation: Not all those who handle CPA had been trained or are using required PPEs

Action plan: PMFTC will survey root causes of not utilizing PPE during CPA handling. Improve awareness on ill effects of non-usage of PPE while handling CPAs through STP roadshows which will be conducted Q1-Q4. The team will look into engaging health professionals to help explain to farmers and workers the risks associated with handling CPA without proper PPE. Starting Q1 2019, Social responsibility coordinator will ensure that all farmers are provided with sufficient PPE to ensure access to people who handle CPA. LTs will also need to strengthen the monitoring on the availability of PPE at the early stage of the season and verify its usage towards the end of the crop. Social Responsibility and Assessment Team will validate conformance through unannounced visits. Prompt action issues related to CPA exposure will be subject to "Prompt action consequence". PMFTC will also study the feasibility of assigning a third party spraying team to service a group of farmers to ensure conformance to PPE usage. Lastly, the communications on exposure to CPA and overall farm safety will be extended to off-farm activities in schools to educate children starting Q3 2019.

Clean drinking water and washing water

Audit observation: Farmer does not have clean drinking and washing water

Action plan: Conduct information dissemination on the importance of clean water through STP Roadshow during farm by farm visits. Prior to contracting a farmer, verify the other party's capability to provide clean drinking water and washing water. Ensure availability of safe drinking water to villagers prior to contracting a farmer and also identify villages which do not have access to drinking water. Once the villages identified, budget provision from the Tobacco Excise Tax of the Municipal government will be requested in consultation with External Affairs for subsequent implementation. This leads to provision of drinking water to all villages which will be reflected in the LGU's excise tax utilization report.

Sanitary facilities

Audit observation: Proximity of farms to sanitary facilities

Action plan: Through an NGO, PMFTC will study the feasibility of providing sanitary facilities at farms which will include surveying various models of sanitary facility suitable to growing area. Social Responsibility Manager will work with External Affairs to secure allocation from municipal excise tax for the construction of sanitary facilities. Findings and recommendations must have the concurrence of local stakeholders.

General safety measures

Audit observation: First aid kit and training, farming tools and safekeeping

Action plan: Social Responsibility Manager to consult third party and PMFTC Environment, Health and Safety (EHS) Department to develop a module on farm safety training during Q3 2019. This will include provision of first aid kits and farmers awareness on availability of resources during emergency. Unannounced visits will be conducted to check the knowledge of farmers on first aid by including a question on first aid in the unannounced questionnaire. This will enhance all farmers to have access to resources in case of emergency.

Others

Audit observation: Some farm persons applying fertilizer were not wearing gloves

Action plan: Project management guarantees that there is enough inventory way before the beginning of the season, LT makes sure the farmer has enough for all his workers before the said activity. At the beginning of crop season, LTs to verify enough gloves are in the inventory for immediate distribution. Increase awareness and ensure usage of gloves by farmers during fertilizer application as well through group training, communication materials and posters. Social Responsibility Coordinator will take care of training material and printing of pamphlet and posters, while LTs conduct trainings to farmers to create awareness on usage of gloves while applying fertilizers. Assessment Team to cross check to ensure planned activities are being carried out accordingly. Farm by farm monitoring by LTs and unannounced visits by area agronomy managers will further strengthen the process. This is an ongoing process and will be conducted starting Q1 2019. This is expected to increase awareness amongst farmers and workers and increase usage of gloves while applying fertilizers.

Audit observation: Farmers not aware about re-entry period for each CPA and some not using re-entry flag

Action plan: Beginning Q1 2019, PMFTC will create awareness and educate farmers and family members on the importance of re-entry flags. This will be done through one-on-one training of LTs to farmers and workers with emphasis on the standard 24-hour period for all CPA to simplify the message. The same message will be reiterated in STP starting Q1 of 2019. Effectiveness of the communication and level of farmer understanding will be verified through validation exercises to be conducted by Social Responsibility and Assessment teams. This results in increased awareness of all the villagers resulting in safe re-entry after CPA application.

Freedom of association

Compliance with the law

Information on legal rights

Audit observation: None of the farmers fully informed their workers about their legal rights.

Action plan: Create awareness amongst farmers on legal rights of workers and educate them to impart awareness to the workers by organizing a community-based farm workers dialogue in partnership with DOLE and ITC by Q1 2019. PMFTC to include farmer and farm workers legal rights in the farm

workers contract beginning Q3. LTs conduct trainings to farmers to create required awareness on legal rights of workers according to the Labor Code of the Philippines while supervisors and area managers cross check to ensure planned activities are being carried out accordingly. This will be carried out during Q3-Q4 every year. This results in creating awareness on legal rights of workers to farmers and workers as well. Degree of awareness and effectiveness of training will be verified through unannounced visits by area agronomy managers and farm by farm monitoring by LTs.

Appendix II – Scope and methodology

Assessment team

The team responsible for conducting this assessment consisted of two auditors from the Philippines, one coordinator from Brazil and one coordinator from the Netherlands. The auditors conducted farm assessments and interviewed the leaf technicians, and were accompanied by one of the coordinators during the entire assessment. The two coordinators interviewed PMFTC management and the field team. The auditors as well as the coordinators had been trained by Verité and CU before the assessment. This qualification process consisted of the following stages:

- Selection of candidates by CU;
- Webinars organized by CU to verify suitability of candidates;
- Completion of online training provided by Verité;
- Full week classroom training conducted by Verité with CU; and
- Two-day preparation training by CU directly prior to starting the field visits.

Desk review

Prior to this assessment PMFTC was requested to send documentation to CU to give the assessment team a better idea about the market characteristics and the management systems that were in place. PMFTC provided the legal information that was relevant to the ALP Code (see Appendix III for more detailed legal information). This was important to ensure a thorough preparation of the assessment.

Opening meeting

On 11 September 2018, CU started the assessment with an opening meeting at PMFTC's head office in Manila, Philippines. This meeting was attended by PMFTC's Leaf ALP Management Team including the Manager Social Responsibility (ALP Coordinator), Director Leaf, Manager Sustainable Agriculture,

Director External Affairs, Manager Contributions and Sustainability, Counsel, Regional Manager Sustainable Agriculture, and Director Leaf Asia. Furthermore, the meeting was attended by a representative from PMI Regional. CU presented the objectives and approach of the assessment, while PMFTC provided a brief overview of the market and company background.

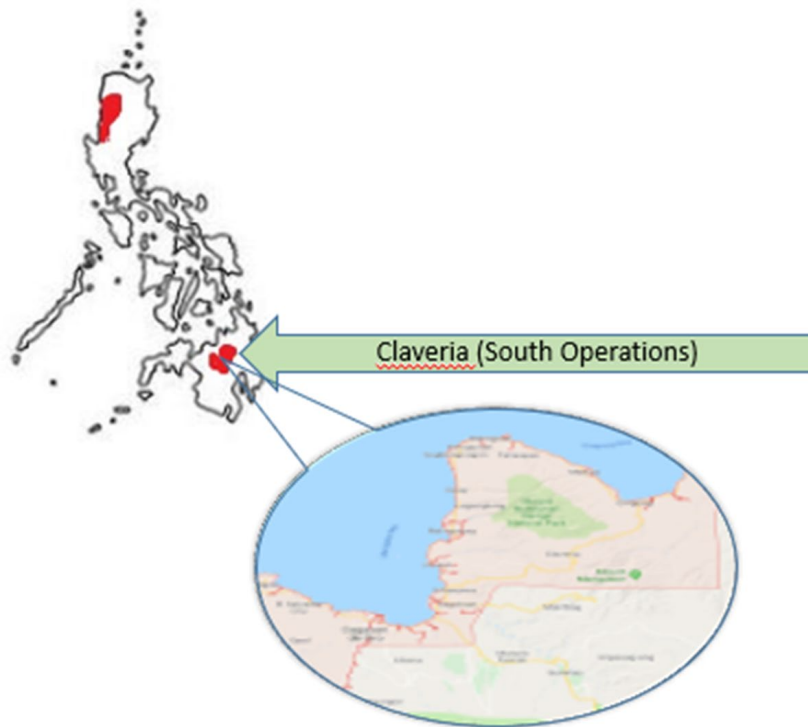
Methodology for ALP implementation system review

The methodology used for the evaluation of PMFTC's implementation of the ALP Program was based on the widely used PDCA⁹ cycle. This cycle is a management method for the continuous improvement of processes and products. CU spent one and a half days (11 and 12 September 2018) at PMFTC's head office to interview management staff, analyze documentation and evaluate PMFTC's systems to better understand how the implementation of the ALP Program was organized. In total, CU interviewed seven management personnel, eleven field personnel (six leaf technicians and five senior field staff), two NGO representatives, and one representative of PMI Regional.

Scope and farm sampling

This assessment focused on the FCV farmers located in the Bukidnon and Claveria regions (see graph below). The two regions were considered homogenous and comparable based on farm size, geographical spread, language spoken and cultural aspects, and were therefore assessed together within the same scope.

9. Plan, Do, Check, Act



Scope of assessment: FCV farmers in South Philippines.

Source: PMFTC. Note: PMFTC uses "Claveria" for the Bukidnon and Claveria regions together.

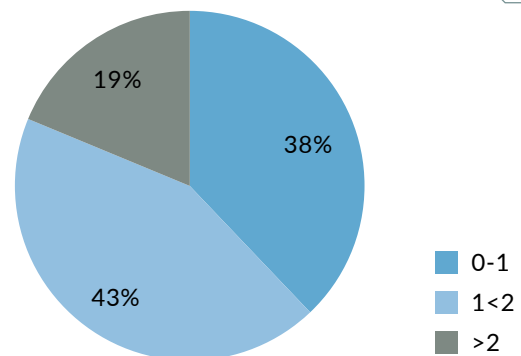
In the two regions assessed, the majority of the farmers grew an average area of two hectares of tobacco contracted by PMFTC (see graph below). The majority of the farmers owned the land they farmed.

In the assessment area, PMFTC had contracts with approximately 200 FCV farmers. To constitute a meaningful sample CU needed to visit at least 20 farms, which is calculated as the square root of the total number of farms within the scope, with a minimum sample size of 20. In total, CU visited 21 farmers, which were either sampled randomly or selected based on the following criteria:

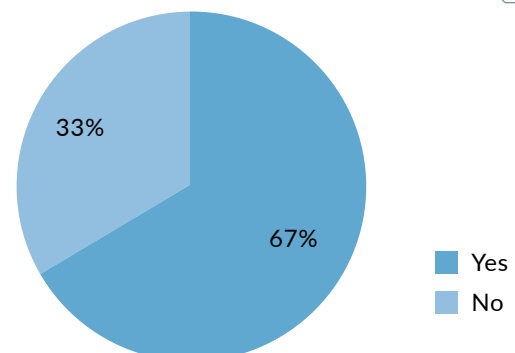
- Geographic spread; and
- Farm size: different farm sizes selected to ensure diversity, but focus on the larger farms to ensure labor practices could be assessed.

Over a period of two weeks, CU visited an average of six farms per day, with a reporting day after each field day. The graphs below provide demographic information about the selected farms.

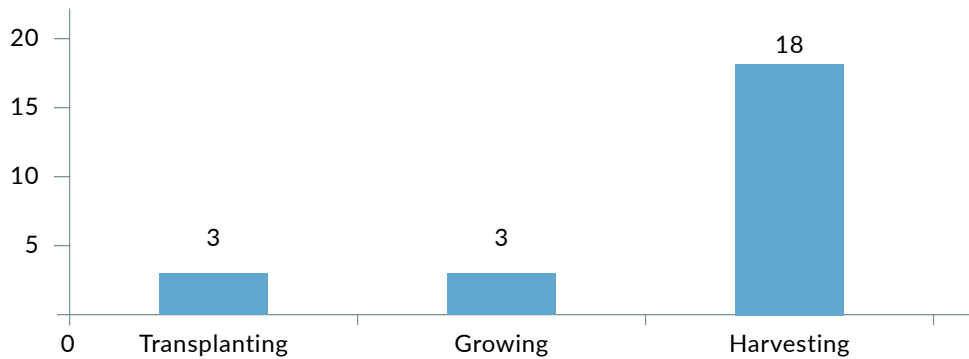
Farm size (ha contracted by PMFTC)



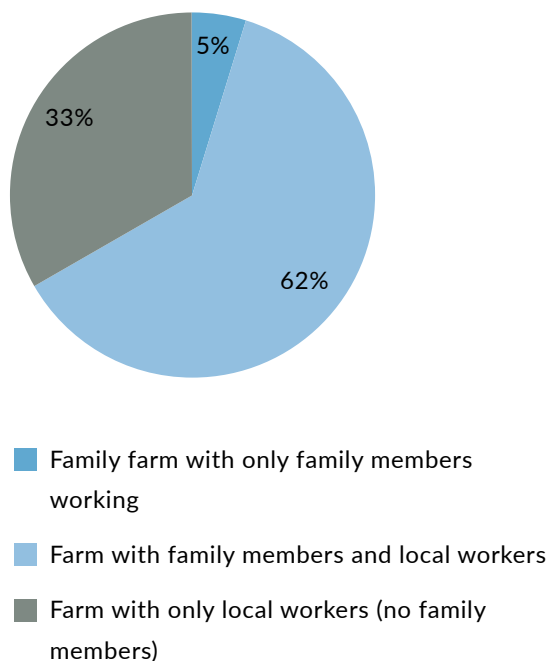
Previously contracted by PMFTC



Stage of tobacco production



Type of farm



were instructed to seek at least two, preferably three, sources of information. They used their findings to draw conclusions about whether farm practices were meeting the standard of the ALP Code. These sources could be interviews with farmers, family members, workers and or crew leaders. Sources could also include documentation and visual observation of the farm area, field, storage facility, and curing barns. This methodology was also used to investigate the underlying factors that increase the risk of not meeting the standard. In addition to information triangulation CU also used the “Five Whys” methodology, a commonly used technique to obtain an understanding of problems, to investigate the reasons behind certain issues. Before every interview CU explained the objective of the assessment and assured interviewees that all information would be kept completely anonymous. Next to assessing labor practices, CU also verified the impact of PMFTC’s management systems at the farms, to assess how these were perceived by the leaf technicians, farmers, family members, and other people working at the farms.

Due to the openness and collaboration of PMFTC, CU managed to conduct all the visits unannounced. This meant that the farmers had not been informed about the visit and its objectives prior to CU’s arrival. CU informed PMFTC about the names of the selected leaf technicians and selected farmers the same day the visit would take place. The reason for this was that CU wanted to obtain a realistic picture of the farm practices, which was most likely to be seen when arriving unannounced.

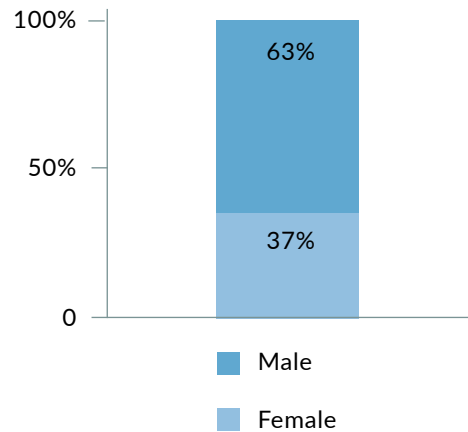
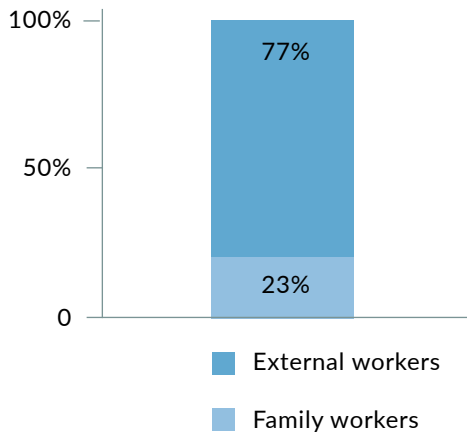
People interviewed

Wherever possible, interviews with family members and workers were conducted individually and without the presence of the farmer, to avoid undue bias. For the same reason, all interviews with farmers were conducted without the presence of the leaf technicians. In total, CU interviewed 21 farmers, ten family members and 33 workers.

Methodology for ALP farm practices review

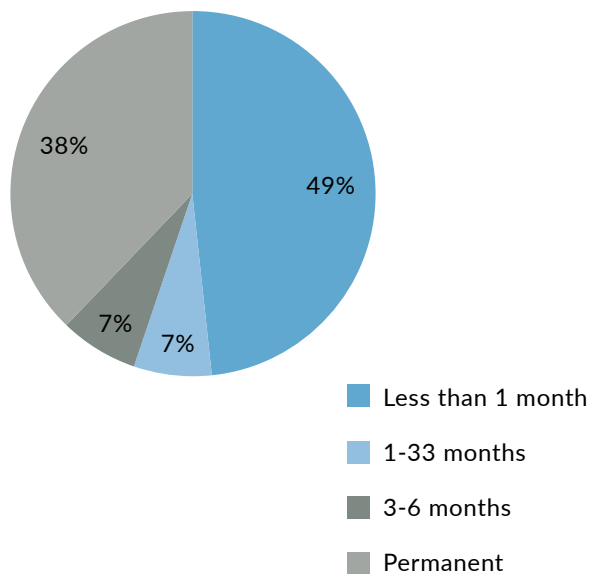
The methodology used during the farm visits was based on triangulation of information. Auditors

Demographic information on the family members and external workers interviewed



Duration of employment of hired workers (33 workers interviewed in total).

Duration of employment



Contributions and Sustainability, Counsel, Regional Manager Sustainable Agriculture, and Director Leaf Asia. Furthermore, the conference call was joined by a representative from PMI Regional and a Verité consultant.

CU presented the initial findings and PMFTC requested clarification of certain items. A constructive discussion took place on several topics. Overall, CU's findings were considered a useful base for taking action to improve the implementation of the ALP Program.

Reporting procedure

During the assessment, auditors reported after each field day to the coordinator. This person monitored the auditors' findings, and provided feedback whenever necessary. The coordinator compiled all findings and combined these with the findings from the management assessment. Public release of CU's assessment report demonstrates PMI's commitment to transparency, which is an important component of the ALP Program. CU authored the final report, which was evaluated by Verité. PMI reviewed the report to ensure consistency of the presentation of CU's findings worldwide. Finally, PMFTC reviewed the report to verify that all the information was correct, and to finalize their action plan that was based on this report.¹⁰

Closing meeting

On 29 October 2018 a closing meeting took place via conference call. As with the opening meeting, the closing meeting was attended by PMFTC's Leaf ALP Management Team including the Manager Social Responsibility, Director Leaf, Manager Sustainable Agriculture, Director External Affairs, Manager

10. Leaf tobacco suppliers can start drafting their action plans after the closing meeting, as initial findings usually do not differ much from the final report.

Appendix III – Legal information

Principle 1 – Child Labor

Summary

ALP MEASURABLE STANDARDS	MARKET LEGAL STANDARDS			COMMENTS
	MATCHES	EXCEEDS	OPPOSES	
Minimum age for admission to work is not less than age for completion of mandatory schooling	Children below 15 years of age may be allowed provided the child is given by the parent/ legal guardian with the prescribed primary and/ or secondary education			Additional conditions: (i) child works directly under the sole responsibility of his/her parents or legal guardian and where only members of his/her family are employed, (ii) the employment neither endangers his/her life, safety, health, and morals, nor impairs his/her normal development
In any case, minimum age for admission to work is not less than 15 years OR the minimum age provided by law, whichever offers greater protection	Children below 15 years of age shall not be employed			Children below 15 years of age may be allowed to work within a limited working hours subject to the above conditions
No person under 18 involved in hazardous work	Exposing children to hazardous work is considered as one of the worst forms of child labor			
A child may only help on the family farm if it is light work AND if the child is between 13-15 years OR above the minimum age for light work defined by law, which ever affords greater protection	Subject to the above conditions, a child below 15 years of age may be allowed to work for not more than 20 hours a week provided the work shall not be more than 4 hours at any given day			Work shall not be allowed between 8:00 p.m. to 6:00 a.m. for a child below 15 years of age

Applicable laws

- Presidential Decree No. 442 known as “The Labor Code of the Philippines”, as amended from time to time
- Presidential Decree No. 603 known as “The Child and Youth Welfare Code”
- Republic Act No. 7610 entitled “Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act” (“Child Protection Act”)
- Republic Act No. 9231 entitled “An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child” (“Child Labor Act”)
- http://bwc.dole.gov.ph/images/Handbook/2016_Handbook_as_of_5302016.pdf

- Department of Labor and Employment Department Order No. 149 dated 12 January 2016 entitled “Guidelines in Assessing and Determining Hazardous Work in the Employment of Persons Below 18 years of Age, (DOLE DO 149-16)
- Department of Labor and Employment Department Order No. 149-A dated 16 January 2017 entitled “Amending Department Order No. 149 Series of 2016 on the Guidelines in Assessing and Determining Hazardous Work in the Employment of Persons Below 18 years of Age, (DOLE DO 149-A-2017)

Your Answer

Minimum age for employment (in tobacco)

- The minimum age for working is 15 years old.¹¹ This is generally required under the Labor Code for all industries not just tobacco farming.

Age (or ages) limits for compulsory schooling

- For children ages 13 to below 15 years, a parent or guardian shall provide him/her with the prescribed elementary and/or high school education.¹² Under Section 4 of Republic Act No. 9231, no child shall be deprived of formal or non-formal education. In all cases of employment allowed under the law, the employer shall provide a working child with access to at least primary and secondary education.
- As defined under the law, children refers to person below eighteen (18) years of age or those over but are unable to fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of a physical or mental disability or condition.

Definitions of hazardous work (incl. agricultural activities that constitute hazardous work) as well as any tasks that workers under 18 are specifically prohibited from participating in by law

- Exposing children to hazardous work is considered as one of the worst forms of child labor; and is described as work which, by nature or the circumstances in which it is carried out, is hazardous or is likely to be harmful to the health, safety or morals of children, such that it:¹³
- Debases, degrades or demeans the intrinsic worth and dignity of a child as a human being;
- Exposes the child to physical, emotional or sexual abuse, or is found to be highly stressful psychologically or may prejudice morals;
- Is performed underground, underwater or at dangerous heights;
- Involves the use of dangerous machinery, equipment and tools such as power-driven or explosive power-actuated tools;
- Exposes the child to physical danger such as, but not limited to the dangerous feats of balancing, physical strength or contortion, or which requires the manual transport of heavy loads;

11. The Labor Code of the Philippines, Presidential Decree No. 442, as amended (“Labor Code”), Article 139; Implementing Rules and Regulations Implementing Presidential Decree No. 442, as amended (“Labor Code IRR”), Book III, Rule XII, Section 3(2)

12. The Labor Code, Article 139

13. Child Protection Act, Section 12-D(4), as amended by the Child Labor Act, Section 3

- Is performed in an unhealthy environment exposing the child to hazardous working conditions, elements, substances, co-agents or processes involving ionizing, radiation, fire, flammable substances, noxious components and the like, or to extreme temperatures, noise levels, or vibrations;
- Is performed under particularly difficult conditions;
- Exposes the child to biological agents such as bacteria, fungi, viruses, protozoans, nematodes and other parasites;
- Involves the manufacture or handling of explosives and other pyrotechnic products.

Requirements applying to farmers' own children or other family members such as nieces and nephews helping on the farmers

- A child 13 to below 15 years of age may only help out in his/her own family's farm provided the following conditions are complied with:¹⁴
 - Works directly under the sole responsibility of his parents or guardian where only members of his/her family are employed;
 - Work shall be light work only and non-hazardous (samples of hazardous work are those done in extreme heat/cold, long hours, at night, with dangerous equipment, and toxic substances);
 - Parent or guardian shall provide him/her with the prescribed elementary and/or high school education;
 - Work shall not be more than twenty (20) hours a week, provided that it shall not be more than four (4) hours at any given day; and
 - Work shall not be allowed between 8:00 p.m. to 6:00 a.m.
- Hazardous work has also been defined in general as *"work operations or practices performed by a worker in the establishment or workplace in conjunction with or as an incident to such operations or practices and which expose the employee to hazards likely to cause any disabling injury, illness, death or physical or psychological harm."*¹⁵
- Conversely, non-hazardous work is defined as *"any work or activity in which the employee is not exposed to any risk which constitutes an imminent danger to his safety and health."*¹⁶
- The Department of Labor and Employment ("DOLE") has specifically identified the kinds of work which may be considered as hazardous for workers below 18 years of age:¹⁷
 - Farmers and Other Plant Growers
 - Preparatory and planting activities that involve clearing of land, plowing, harrowing, irrigating, constructing paddy dike and cutting;
 - Plant propagation activating that involve grafting, budding and marcotting;

14. The Labor Code, Article 139; Labor Code IRR, Book III, Rule XII, Section 3 [2]; Child Protection Act, Section 12-A (as amended by the Child Labor Act), Section 3; Child Protection Act, Section 13 (as amended by An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child, Republic Act No. 9231) ("Child Labor Act"), Section 4

15. Technical Guidelines for Classifying Hazardous and Non-Hazardous Establishments, Workplaces and Work Processes, Department of Labor and Employment Memorandum Circular No. 02, Series of 1998, Section 2(e)

16. Labor Code IRR, Book III, Rule XII, Section 3 (2)

17. DOLE 149-16 and DOLE 149-A-2017, Section 6

- Tending activities that involve weeding, handling, spraying and application of harmful fertilizers, pesticides, herbicides, and other toxic chemicals and the loading and carrying of heavy loads
- Harvesting activities such as cutting and picking, spreading for drying, hauling, topping, tumbling, tuxying, stripping, burning of field, sticking and classifying, threshing, loading and carting of produce
- Post-harvesting activities such as de-husking, scooping, sacking of products, charcoal making, hauling of products as led by animal guide, loading and unloading of packed farm products, coconut kilning and de-meating of crops from shell or core, sealing and carting of produce for warehousing and transport to market and all ancillary work such as clearing, cleaning, and recycling of farm waste in preparation as animal food and other related processes

Other restrictions or requirements on the employment of workers under 18 years (e.g. limit on work hours, work permits, etc.)

For children 15 to below 18 years of age, they may be employed provided that the following are complied with:¹⁸

- Work shall be non-hazardous (samples of hazardous work are those done in extreme heat/cold, long hours, at night, with dangerous equipment, and toxic substances);
 - Grower shall provide him/her with access to at least elementary or high school education, including alternative learning systems;
 - Work shall not be more than forty (40) hours a week, provided that it shall not be more than eight (8) hours at any given day;
 - Work shall not be allowed between 10:00 p.m. to 6:00 a.m.;
 - Grower shall submit to the Department of Labor and Employment (DOLE) a report of all children employed by him; and
 - Grower shall keep: (a) a register of all children employed by him indicating the date of their births; (b) a separate file of the written consent to their employment given by their parents or guardians; and (c) a separate file for their educational and medical certificates.
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18. Child Protection Act, Section 12-A (as amended by Child Labor Act, Section 3)/ Child Protection Act, Section 13 (as amended by An Act Providing for the Elimination of the Worst Forms of Child Labor and Affording Stronger Protection for the Working Child), Republic Act No. 9231 ("Child Labor Act"), Section 4; see also Employment of Youth Aged 15 to less than 18 Years, DOLE Advisory No. 01-08 / Child Protection Act, Section 15/ The Child and Youth Welfare Code, Presidential Decree No. 603 ("PD 603"), Article 108 & 109

Principle 2 – INCOME AND WORK HOURS

Summary

ALP MEASURABLE STANDARDS	MARKET LEGAL STANDARDS			COMMENTS
	MATCHES	EXCEEDS	OPPOSES	
Wages of all workers meet, at a minimum, national legal standards or agricultural benchmark standards.	The minimum wage rates for agricultural and non-agricultural employees and workers in each and every region of the country shall be those prescribed by the Regional Tripartite Wages and Productivity Boards			<p>Minimum wage rates for the following regions are as follows:</p> <p>I (La Union, Ilocos Sur, Ilocos Norte) – Php265 (Plantation); Php256 (Non-plantation);</p> <p>II (Isabela, Nueva Vizcaya, Quirino, Cagayan) – Php320 (plantation and non-plantation)</p> <p>Region X (Cagayan de Oro, Bukidnon, Iligan) – Php304-326 (plantation and non-plantation)</p> <p>For more details, DOLE publishes the minimum wage rates applicable for all regions in its site: http://www.nwpc.dole.gov.ph/pages/statistics/stat_current_regional.html</p> <p>The minimum wage rates are the prescribed pay rates for eight-hour work in a day.;</p>
Wages of all workers are paid regularly, at a minimum, in accordance with the country's laws.	Wages shall be paid at least once every 2 weeks or twice a month at intervals not exceeding 16 days			
Work hours are in compliance with the country's laws.	The normal hours of work of any employee shall not exceed eight (8) hours a day			This minimum condition need not be in writing. The same is considered part of the terms and conditions of employment regardless of the existence of a written contract. Even in the absence of a written employment contract, the employer has to comply with the minimum standards under the Labor Code, one of which is the normal working hours.
Excluding overtime, work hours do not exceed, on a regular basis, 48 hours per week.	Rest period of not less than 24 consecutive hours after every 6 consecutive normal work days			The normal work hours in a week is 48 hours computed based on a 6-day work week with an 8-hour work per day.

<p>Overtime work hours are voluntary.</p>	<p>As a general rule, overtime work is voluntary but an employee may be required by the employer to perform overtime work under certain urgent circumstances</p>			<p>Similar to the rule on normal work hours, this condition need not appear in writing. There are also instances when the employer can require an employee to work overtime as enumerated under the Labor Code. The corresponding premium or extra remuneration for overtime work is likewise provided under the Labor Code. Thus, the employer is required to pay the same with or without a written contract to that effect.</p>
<p>Overtime wages are paid at a premium as required by the country's laws or by any applicable collective agreement.</p>	<p>Overtime work beyond 8 hours a day is allowed provided that the employee is paid for the overtime work</p>			
<p>All workers are provided with the benefits, holidays, and leave to which they are entitled by the country's laws.</p>	<p>The provisions of the Labor Code on Working Conditions and Rest Periods shall apply to employees in all establishments and undertakings whether for profit or not</p>			<p>These provisions do not apply to government employees, managerial employees, field personnel, members of the family of the employer who are dependent on him for support, domestic helpers, persons in the personal service of another, and workers who are paid by results as determined by the Secretary of Labor in appropriate regulations.</p> <p>As defined under the Labor Code, "Field personnel" refers to non-agricultural employees who regularly perform their duties away from the principal place of business or branch office of the employer and whose actual hours of work in the field cannot be determined with reasonable certainty.</p> <p>Field personnel are generally entitled to minimum standards/benefits under the Labor Code except for time-based related benefits and premium such as overtime pay, night shift differential for night work, holiday, etc. This has to be so since the employer cannot establish the actual hours of work of the employee in the field (outside employer's premises) with reasonable certainty. Example would be sales personnel who are usually compensated through commissions.</p>

Applicable laws

- The Labor Code and its implementing rules and regulations (IRR)

Your Answer

Laws on regular and overtime wages including laws on in kind payment (e.g. minimum wages, minimum wages agreed with unions, agricultural wage benchmark standards). If a minimum monthly wage is referenced, please indicate how many hours this wage represents

- The minimum wage rates for agricultural and non-agricultural employees and workers in each and every region of the country shall be those prescribed by the Regional Tripartite Wages and Productivity Boards.¹⁹
- In kind payment is allowed only under special circumstances specified in regulations to be issued by the DOLE Secretary.
- Pursuant to Article 121 of the Labor Code, as amended, however, the DOLE has issued the Revised Guidelines on the Conduct of Facility Evaluation that governs the conduct of evaluation by the Regional Tripartite Wages and Productivity Boards of facilities provided by the employer to his employees. "Facilities" refer to articles or services provided by the employer for the benefit of the employee or his/her family but shall not include tools of the trade of articles or services primarily for the benefit of the employer or necessary to the conduct of the employer's business. (Section 5, Rule VII, Implementing Rules of Book III, Labor code). The term shall include:²⁰
 - 1) Meals;
 - 2) Housing for dwelling purposes;
 - 3) Fuel including electricity, water, gas furnished for the non-commercial personal use of the employee;
 - 4) Transportation furnished to the employee between his home and work where the travel time does not constitute hours worked compensable under the Labor Code and other laws;
 - 5) School, recreation and sanitation when operated exclusively for the benefit of the worker or his family;
 - 6) Medical and dental services rendered to the non-industrial cases; and
 - 7) Other articles and services given primarily for the benefit of the worker or his family.
- In order that the fair and reasonable value of the facilities may be deducted from the wages of employees, the following requisites must concur:²¹
 - a. Facilities subject of valuation are customarily furnished by the employer;
 - b. Deductibility of the value of the facilities must have been voluntarily accepted in writing by the employee; and
 - c. Facilities must be charged at a fair and reasonable value.

19. Labor Code, Article 99

20. Rule III, DOLE Department Order No. 126-13, Series of 2013

21. Section 1, Rule III, DOLE Department Order No. 126-13, Series of 2013

- For the value of meals to be deductible from the wages of employees, the meals provided must be nutritionally adequate. In determining the fair and reasonable value of meals, at least 30% of the actual cost shall be subsidized by the employer.²²
- Under the law, no employer shall pay the wages of an employee by means of promissory notes, vouchers, coupons, tokens, tickets, chits, or any object other than legal tender, even when expressly requested by the employee.
- Payment of wages by check or money order shall be allowed when such manner of payment is customary, or is necessary because of special circumstances as specified in appropriate regulations to be issued by the DOLE Secretary or as stipulated in a collective bargaining agreement.
- The DOLE Secretary regulates the payment of wages by results, including pakyao, piecework (or piece rate), and other non-time work, in order to ensure the payment of fair and reasonable wage rates, preferably through time and motion studies or in consultation with the representative of workers' and employers' organizations. The rate generated by the time and motion studies should not fall below the minimum wage rate for an 8 hour work in a given day.
- The relationship of the landowner and the tenant is not governed by the Labor Code, but by special laws as will be discussed in the succeeding comments.
- Overtime work beyond 8 hours a day is allowed provided that the employee is paid for the overtime work. Overtime pay is the employee's regular pay plus at least 25%. If the overtime work was performed during an employee's rest day or during a non-working (regular or special) holiday, the overtime pay shall be the employee's rest day/holiday pay plus at least 30% of the applicable pay.
- Based on the wage rates per region stated above, overtime pay or premium can be computed as follows: the hourly rate in Region II (Isabela) can be computed by dividing Php320 with 8 hours, which is Php40 per hour. 25% of Php40 is 10, so the hourly overtime rate is Php40 + Php10, which is equal to Php50. Such rate will now be used to multiply for the number of overtime hours worked.
- An employee may be required by the employer to perform overtime work in any of the following cases:²³
 - When the country is at war or when any other national or local emergency has been declared by the Philippine Congress or the President;
 - When it is necessary to prevent loss of life or property or in case of imminent danger to public safety due to an actual or impending emergency in the locality caused by serious accidents, fire, flood, typhoon, earthquake, epidemic, or other disaster or calamity;
 - When there is urgent work to be performed on machines, installations, or equipment, in order to avoid serious loss or damage to the employer or some other cause of similar nature;
 - When the work is necessary to prevent loss or damage to perishable²⁴ goods; and
 - Where the completion or continuation of the work started before the eighth hour is necessary to prevent serious obstruction or prejudice to the business of operations of the employer.

22. Section 2, Rule III, DOLE Department Order No. 126-13, Series of 2013

23. Labor Code, Article 87; Labor Code IRR, Book III, Rule I, Section 8, Labor Code, Article 90; Labor Code IRR, Book III, Rule III, Sections 1 to 8, Labor Code IRR, Book III, Rule IV, Section 5

24. The law does not enumerate or define what goods are considered perishable. In one case, however, the Supreme Court noted the US Supreme Court decision defining "perishable" property as goods which decay and lose their value if not speedily put to their intended use. Since tobacco is an agricultural product that is also subject to decay and has a limited useful life, then it can arguably be considered as perishable goods

- The instances enumerated above are exemptions to the Constitutional right against involuntary servitude. Thus, the employee may be disciplined for willful disobedience of a reasonable directive from the employer to render overtime under these circumstances.
- Philippine labor laws do not provide for a notice requirement for overtime work. The employer is only required to pay the mandated overtime rate for workers as provided above. There is no need for a prior written agreement. Verbal directive coming from the immediate superior or employer himself would be sufficient.
- Rest period of not less than 24 consecutive hours after every 6 consecutive normal work days.²⁵
- Premium pay, holiday pay.²⁶
 - Premium pay refers to the additional payment for work within 8 hours on rest days or special days
 - Plus 30% of the daily basic rate or a total of 130% for work performed on rest day or special day.
 - Plus 50% of the daily basic rate or a total of 150% for work performed on special day falling on the employee's rest day.
 - Plus 30% of the daily basic rate or a total of 260% for work performed on a regular holiday falling on the employee's rest day.
 - Holiday pay refers to payment of the regular daily wage for any unworked regular holiday
 - For any unworked regular holiday, 100% of the employee's daily wage rate.
 - For work performed on a regular holiday, plus 100% or a total of 200% of the employee's daily wage rate.
- Farm workers are usually paid by results such as “pakyaw”. For instance, farm workers are paid for a certain amount to harvest the entire tobacco in a one hectare land. The farmers will be paid without reference to the number of hours worked in a given day and the agreed amount is usually computed by the number of days the harvest will be completed. In this regard, the law requires that workers paid by result (such as pakyaw) should receive at least the prescribed pay rate (minimum wage) for a given work day. Therefore, if the work exceeds 8 hours in a given day, the agreed rate or compensation should also factor in the premium pay for overtime as well as the holiday premiums stated above, in case the work is done during holidays.
- For regular employees, the premium rates are simply applied based on their hourly or daily rate as computed earlier.
- For workers paid by results such as pakyaw, piecework and other non-time work, the employer is required to submit a time and motion study with the DOLE and make sure that the compensation for the work done to produce a certain number of the results or piecework for 8 hours should not be lower than the set minimum wage rate per region.

Wage and hours laws specific to piece rate workers, seasonal workers, and migrant workers

- The minimum wage rates for the agriculture employees are prescribed by the Regional Tripartite Wages and Productivity Boards and from each region.²⁷

25. Labor Code IRR, Book III, Rule IV, Section 5

26. Labor Code, Article 93, Article 94, Labor Code IRR, Book III, Rule IV, Sections 4, 6, 7 & 8

27. Labor Code, Article 99

- The Secretary of Labor shall regulate the payment of wages by results, including pakyaw, piecework and other non-time work, in order to ensure the payment of fair and reasonable wage rates (refers to the minimum wage rates set by the RTPWB), preferably through time and motion studies or in consultation with representatives of workers and employer's organizations.²⁸
- As discussed above, the rate for piecework requires time and motion study to ensure that the compensation for a certain number of results or piecework for 8 hours does not fall below the minimum wage rate for time-based work.

Other specific rules applicable to migrant workers including any legal requirements to ensure they are legally permitted to work

- Foreign nationals seeking admission into the Philippines for the purposes of employment must apply for the appropriate work visa. There are several work visa categories available, depending on the corporate employer's registration as a legal entity and other special registrations. The most common work visa pre-arranged employment visa for a period longer than six (6) months. The employer must file the prescribed application with the Bureau of Immigration together with the documentary requirements, which include application forms and the employment agreement. A pre-arranged employee must also first secure an Alien Employment Permit from the DOLE.
- Subject to certain exceptions, if a foreign national is already in the Philippines as a tourist or a business visitor, he can file the appropriate petition to convert his visa status to that of a pre-arranged employee without having to leave the Philippines. After the visa approval has been stamped on the employee's passport, the processing of the Alien Certificate of Registration Identification Card (ACR I-Card) will start. The work visa can be renewed/extended prior to its expiry. After expiry, a new application for a work visa must be submitted.²⁹
- All foreign nationals who intend to engage in gainful employment in the Philippines must apply for an Alien Employment Permit (AEP) (though certain categories of foreign nationals are excluded from this requirement).³⁰ In this regard, only the following categories of foreign nationals are exempt from securing an AEP in order to work in the Philippines:
 - All members of the diplomatic services and foreign government officials accredited by the Philippine Government.
 - Officers and staff of international organizations of which the Philippine Government is a co-operating member, and their legitimate spouse desiring to work in the Philippines.
 - Foreign nationals elected as members of the governing board who do not occupy any other position, but have only voting rights in the corporation.
 - All foreign nationals granted exemption by special laws and all other laws that may be promulgated by the Congress.
 - Owners and representatives of foreign principals, whose companies are accredited by the Philippine Overseas Employment Administration (POEA), who come to the Philippines for a limited period solely for the purpose of interviewing Filipino applicants for employment abroad.

28. Labor Code, Article 101

29. Commonwealth Act No 613, An Act to Control and Regulate the Immigration of Aliens into the Philippines (The Philippine Immigration Act of 1940) sections 19 and 20

30. Labor Code, Article 40; Department Order No 97-09, Revised Rules for the Issuance of Employment Permits to Foreign Nationals, as amended by Department Order No 120-12, section 1

- Foreign nationals who come to the Philippines to teach, present and or conduct research studies in universities and colleges as visiting, exchange or adjunct professors under formal agreements between the universities or colleges in the Philippines and foreign universities and foreign governments (provided that exemption is on a reciprocal basis).
- Permanent resident foreign nationals, probationary or temporary resident visa holders.
- An approved AEP is required before a foreign national can file an application for a work visa.
- All applications for an AEP must be filed and processed at the DOLE Regional Office or Field Office which has jurisdiction over the intended place of work. In the case of foreign nationals to be assigned in related companies, they can file their application with the Regional Office which has jurisdiction over any of the applicant's intended places of work.

Laws on payment of wages relevant to the frequency of payment in agriculture, for example, laws on whether end of season one-time payments are permissible

- No employer shall pay the wages of an employee by means of promissory notes, vouchers, coupons, tokens, tickets, chits, or any object other than legal tender, even when expressly requested by the employee.
- Payment of wages by check or money order shall be allowed when such manner of payment is customary, or is necessary because of special circumstances as specified in appropriate regulations to be issued by the Secretary of Labor or as stipulated in a collective bargaining agreement.³¹
- Wages shall be paid at least once every 2 weeks or twice a month at intervals not exceeding 16 days. If on account of force majeure or circumstances beyond the employer's control, payment of wages on or within the time herein provided cannot be made, the employer shall pay the wages immediately after such force majeure or circumstances have ceased. No employer shall make payment with less frequency than once a month.³² The local or national government usually declares a state of calamity in case of a force majeure affecting a particular locality or region. The employer, however, may also present evidence before the labor court for specific events that prevent the employer from paying the salaries in accordance with the frequency set under the Labor Code to justify non-compliance.
- Arguably, this provision applies only to rank and file employees and not with supervisory or managerial employees. In other words, for managerial and supervisory employees, salaries can be paid once a month.

Laws on regular and overtime hours (e.g. maximum work hours, requirements for overtime hours to be voluntary)

- The provisions of the Labor Code on Working Conditions and Rest Periods shall apply to employees in all establishments and undertakings whether for profit or not, but not to government employees, managerial employees, field personnel, members of the family of the employer who are dependent on him for support, domestic helpers, persons in the personal service of another, and workers who are paid by results as determined by the Secretary of Labor in appropriate regulations.³³

31. Labor Code, Article 102

32. Labor Code, Article 103

33. Labor Code, Articles 82-96

- The normal hours of work of any employee shall not exceed eight (8) hours a day.³⁴
- Work may be performed beyond eight (8) hours a day provided that the employee is paid for the overtime work, an additional compensation equivalent to his regular wage plus at least twenty-five percent (25%) thereof. Work performed beyond eight (8) hours on a holiday or rest day shall be paid an additional compensation equivalent to the rate of the first eight (8) hours on a holiday or rest day plus at least thirty percent (30%) thereof.³⁵

Requirements that employers must meet to request overtime from workers

- Overtime work beyond 8 hours a day is allowed provided that the employee is paid for the overtime work.³⁶
- Normal hours of work is eight (8) hours; any excess is considered overtime work and subject to overtime premium pay. However, there is no maximum number of allowable overtime work fixed by law.
- Maximum days of work is six (6) days per week. A 24-hour rest day is required after every 6 consecutive normal work days. Work during an employee's rest day is subject to payment of rest day premium pay.
- Children below fifteen (15) years of age may be allowed to work for not more than twenty (20) hours a week provided, that the work shall not be more than four (4) hours at any given day. Children fifteen (15) years of age but below eighteen (18) shall not be allowed to work for more than eight (8) hours a day, and in no case beyond forty (40) hours a week. Lastly, children below fifteen (15) years of age shall not be allowed to work between eight o'clock in the evening and six o'clock in the morning of the following day and no child fifteen (15) years of age but below eighteen (18) shall be allowed to work between ten o'clock in the evening and six o'clock in the morning of the following day (Child Labor Act, Section 3).

Laws on basic entitlements or benefits to be paid to workers (e.g. social security, health care, holidays, other leave entitlements etc.)

- Employers are required to enroll their employees, and make contributions on their behalf, with the following:
 - Social Security System (SSS) – Both employer and employee make contributions. Membership entitles employees to monetary benefits for sickness, maternity, disability, retirement and death. Employees are likewise allowed to avail themselves of loans, payable through salary deduction.
 - Philippine Health Insurance Corporation (Philhealth) – Both employer and employee make contributions. Membership entitles employees to medical insurance.
 - Home Development Mutual Fund (HDMF) – Both employer and employee make contributions. Membership entitled employees to avail of housing or other multi-purpose loans.
- Also, employees are entitled to the following:
 - Yearly service incentive leave of five (5) days with pay, for employees who have already rendered at least one (1) year of service

34. Labor Code, Article 83

35. Labor Code, Article 87

36. Labor Code, Article 87; Labor Code IRR, Book III, Rule I, Section 8, Labor Code, Article 90; Labor Code IRR, Book III, Rule III, Sections 1 to 8, Labor Code IRR, Book III, Rule IV, Section 5

- Maternity leave of 60 days if by normal delivery, or 78 days if by cesarean delivery, for the first four (4) deliveries/miscarriages
- Paternity leave of seven (7) days with pay for the first four (4) deliveries/miscarriages
- Solo Parents' leave of seven (7) days with pay
- Holiday pay. The Philippines observes the following public holidays:

Regular Holidays

New Year's Day	- January 1
Maundy Thursday	- Moveable
Good Friday	- Moveable
Araw ng Kagitingan	- April 9
Labor Day	- May 1
Independence Day	- June 12
National Heroes Day	- Last Monday of August
Bonifacio Day	- November 30
Christmas Day	- December 25
Rizal Day	- December 30

- In addition, the Muslim holidays of Eid'l Fitr and Eid'l Adha are also celebrated, the exact days on which they fall to be announced by the Office of the President of the Philippines.

Special (Non-Working) Days

Ninoy Aquino Day	- August 21
All Saints' Day	- November 1

Additional Special (Non-Working) Day

Last Day of the Year	- December 31
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- The employer may require an employee to work on a regular holiday but shall pay such employee twice the regular pay. If the work is required on any special day, the employee is entitled to an additional 30% of regular pay.
- Additional compensation for work performed:
 - On an employee's scheduled rest day (plus 30% of regular pay);
 - On Sundays and holidays (plus 30% of regular pay), if the nature of the work is such that there are no regular work days and rest days;
 - On a regular holiday which also falls on a rest day (plus 30% of regular pay and 30% of the 100% regular pay due for working on a regular holiday, or a total of 60% of regular pay); and
 - On special days which also falls on the employee's scheduled rest day (50% of regular pay).
- Generally even farm workers are entitled to the above benefits, especially when the workers are compensated based on time rendered for work or time-based as farm workers do not fall on any of the exemptions under Article 82 of the Labor Code, as amended. As mentioned, farm workers are not considered field employees. Big agricultural plantations such as for pineapple, sugarcane, cassava, or banana usually provide these benefits.

- However, most of the tobacco farmers grow tobacco using their own personal land, relatively of a small size, e.g., 1 hectare, etc. As such, they work on their own farms or engage just a handful of farm workers (say 3 or 4 workers) to perform farm work on a “pakyaw” basis. There is a pre-agreed rate for doing the work such as planting, harvesting, or applying CPAs and the compensation is agreed based on the number of workdays to complete the work multiplied by the agreed rate, which is usually the prevailing minimum wage rate in the region. As noted above, if the work exceeds 8 hours in a day or the work falls on a holiday, the agreed rate should factor in the required premium payments for overtime or holiday work.
- For social security, philhealth, or other social welfare benefits cited above, the small farm owners declare themselves as self-employed with the SSS, together with fisherfolks. For Philhealth, all citizens are covered by the Philhealth fund through the local government units. Thus, it is seldom that small farm owners register their farm workers with the SSS and Philhealth.

Principle 3 – FAIR TREATMENT

Summary

ALP MEASURABLE STANDARDS	MARKET LEGAL STANDARDS			COMMENTS
	MATCHES	EXCEEDS	OPPOSES	
No physical abuse, threat of physical abuse, or physical contact with the intent to injure or intimidate	The Revised Penal Code provides for criminal penalties for physical abuse, maltreatment, coercion, threats, or other forms of physical contact with intent to injure or intimidate			
No sexual abuse or harassment	The Anti-sexual Harassment law specifically provides penalties for sexual abuse or harassment in a workplace			
No verbal abuse or harassment	The Revised Penal Code provides penalties for slander, oral defamation, libel or any verbal abuse or harassment			Various special laws also provides for penalties involving verbal abuse or harassment such as the Magna Carta for Women, Anti-sexual Harassment law, etc.
No discrimination on the basis of race, color, caste, gender, religion, political affiliation, union membership, status as a worker representative, ethnicity, pregnancy, social origin, disability, sexual orientation, citizenship, or nationality	Various laws provide for criminal penalties against different forms of discrimination			The New Civil Code also provides for civil damages arising from discriminatory acts
Worker access to fair, transparent and anonymous grievance mechanism	Recourse may either be in the regular courts or the National Labor Relations Commission which is jurisdictional depending on the cause of action			

Applicable laws

- Physical Punishment, Abuse, etc.
 - Physical Injuries (The Revised Penal Code, Act No. 3815 (“RPC”), Articles 263, 265, 266 [1], [2])
 - Maltreatment (RPC, Article 266 [3])
 - Coercion (RPC, Articles 286, 287)
 - Child abuse, cruelty or exploitation or be responsible for conditions prejudicial to the child’s development. (Child Protection Act, Section 10)

- Protection to women against all forms of violence, including physical, sexual and psychological violence (Magna Carta of Women, Republic Act No 9710, Section 4 [k] [2])
- Civil claims for damages against employers (Republic Act No. 386 [“Civil Code”], Article 33)
- Anti-Sexual Harassment Act (Republic Act No. 7877, Section 3 [a][1], Sections 4 & 5)
- Magna Carta for Persons with Disability (Republic Act No. 7277 as amended)
- Unjust Vexation (RPC, Article 287 [2])
- Threats (RPC, Articles 282, 283 & 284)
- Oral Defamation (Slander) (RPC, Article 358)
- Slander by Deed (RPC, Article 359)
- Discrimination and Harassment
 - Discrimination against any woman employee (Labor Code, Article 135; Labor Code IRR, Book III, Rule XI, Section 4 [c] & Rule XII, Section 13, Magna Carta of Women, Section 35 in relation to Section 4 [b])
 - Solo parent (Labor Code, Article 140)
 - Persons with disabilities (Magna Carta for Persons with Disability, Republic Act No. 7277, as amended, Section 5; Rule II, Section 1.2 of the Implementing Rules and Regulations of the Magna Carta for Persons with Disability)
 - Persons with HIV (Republic Act No. 8504, Section 35)
 - In regard to wages, workhours and other terms and conditions of employment to encourage or discourage union membership (Labor Code, Article 248 [e])
 - An employee for having given or being about to give testimony under the Labor Code (Labor Code, Article 248 [f])
 - Discriminate against any employee who has filed any complaint or proceeding with respect to wages or has testified or is about to testify in such proceedings (Labor Code, Article 118)

Your Answer

Laws defining and prohibiting physical, sexual, or verbal threats, abuse, contact, or harassment

- Philippine laws do not provide for specific rules against physical punishment (or threat), verbal abuse, etc. which are particularly applicable to workers or employees.
- In general, however, the Philippine Revised Penal Code (RPC) declares the following acts as criminal offenses and are equally applicable to workers or employees:
 - Physical Injuries. Committed by any person who, without intent to kill, shall inflict upon another any physical injury. The penalty for this offense varies depending on the degree of injury inflicted upon the aggrieved party/complainant, which are classified into serious physical injury, less serious physical injury and slight physical injury. (Articles 263, 265, 266 (1), (2))
 - Maltreatment. Committed by any person who shall ill-treat another by deed without causing any injury. (Article 266 (3))

- Coercion. The penalty for this offense varies depending on: (i) the means used to coerce (violence, intimidation or intimidation), and (ii) the purpose of the coercion. (Articles 286 and 287)
- Unjust Vexation. Includes any human conduct which although not productive of some physical or material harm would, however, unjustly annoy or vex an innocent person. (Article 287 (2))
- Threats. Committed by any person who shall threaten another with the infliction upon the person, honor or property of the latter or his family of any wrong. The penalty for this offense varies depending: (i) whether the wrong threatened amounts to a crime and if so, the crime that he or she threatened to commit; (ii) whether the threat was made to impose or demand a condition; (iii) the manner the threat was made; and (iv) the prevailing circumstances when the threat was made. (Articles 282, 283 and 284)
- Oral Defamation (Slander). (Article 358)
- Slander by Deed. Committed by any person who shall perform an act, not constituting libel, which shall cast dishonor, discredit or contempt upon another person. (Article 359)
- In addition, Section 10(a) of the Child Protection Act prohibits any person from committing any acts of child abuse, cruelty or exploitation or be responsible for conditions prejudicial to the child's development.
- Section 9 of the Magna Carta of Women provides the policy of the State to ensure that all women are protected from all forms of violence, including physical, sexual and psychological violence occurring within the general community, such as rape, sexual abuse, sexual harassment and intimidation at work. (Section 4 (k) (2))
- Article 33 of the Civil Code of the Philippines ("Civil Code") provides that for cases involving defamation, fraud, and physical injuries, a civil action for damages, entirely separate and distinct from the criminal action, may be brought by the injured party.
- In relation, civil claims for damages against employers may arise from violations of the "abuse of right" clauses, which particularly provides that:
 - Every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith. (Article 19)
 - Every person who, contrary to law, willfully or negligently, causes damage to another, shall indemnify the latter for the same. (Article 20)
 - Any person, who willfully causes loss or injury to another in a manner that is contrary to morals, good customs or public policy shall compensate the latter for the damage. (Article 21)
- Protection from Sexual Harassment
 - The Anti-Sexual Harassment Act (Republic Act No. 7877) protects employees from sexual harassment which may be committed by an employer or any other person having authority, influence or moral ascendancy over the employee concerned in a work or employment-related environment.
 - Sexual harassment in a work/employment-related environment is committed when:
 - The sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms, conditions, promotions, or privileges; or the refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in any way

would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee.

- The above acts would impair the employee's rights or privileges under existing labor laws.
- The above acts would result in an intimidating, hostile, or offensive environment for the employee.
- The employer or the head of the work/employment-related environment or institution has a duty to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts of sexual harassment. Towards this end, the employer or head of office shall:
 - Promulgate appropriate rules and regulations in consultation with and jointly approved by the employees, through their duly designated representatives, prescribing the procedure for the investigation of sexual harassment cases and the corresponding administrative sanctions.
 - Create a committee on decorum and investigation of cases on sexual harassment. The committee shall conduct meetings with officers and employees to increase understanding and prevent incidents of sexual harassment. It shall also conduct the investigation of alleged cases constituting sexual harassment.
- The employer or head of work/employment-related environment or institution shall be solidarily liable for damages arising from the acts of sexual harassment committed in the employment environment if the employer or head of work/employment-related environment or institution is informed of such acts by the offended party and no immediate action is taken thereon.

Laws defining and prohibiting discrimination

- Article 135 of the Labor Code of the Philippines (Labor Code) declared as unlawful for any employer to discriminate against any woman employee with respect to terms and conditions of employment solely on account of her sex and imposed criminal and civil liabilities for the commission of acts of discrimination against women. The same provision also identified the following as acts of discrimination:
 - Payment of a lesser compensation, including wage, salary or other form of remuneration and fringe benefits, to a female employee as against a male employee, for equal work value.
 - Favoring a male over a female employee with respect to promotion, training opportunities, study and scholarship grants solely on account of their sexes.
 - All other acts determined by the Secretary of Labor and Employment as a form of discrimination of a woman employee with respect to terms and conditions of employment on account of her sex. (Book III, Rule XI, Section 4 (c) of the Implementing Rules and Regulations of the Labor Code, as Amended)
- In addition, Section 35 of the Magna Carta of Women prohibits in general discrimination against women, defined as "any gender-based distinction, exclusion, or restriction which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil, or any other field." (Section 4 (b) (1))
- Article 140 of the Labor Code prohibits an employer from discriminating any person in respect to terms and conditions of employment on account of his/her age.

- The Labor Code considers as unfair labor practice for an employer to discriminate:
 - In regard to wages, hours of work and other terms and conditions of employment in order to encourage or discourage membership in any labor organization. (Article 248 (e))
 - An employee for having given or being about to give testimony under the Labor Code. (Article 248 (f))
- Section 7 of the Solo Parents' Welfare Act (Republic Act No. 8972) prohibits an employer from discriminating a solo parent employee with respect to terms and conditions of employment on account of his or her status.
- Section 5 of the Magna Carta for Persons with Disability (Republic Act No. 7277, as amended) provides that no persons with disabilities shall be denied access to opportunities for suitable employment. A qualified disabled employee shall be subject to the same terms and conditions of employment and the same compensation, privileges, benefits, incentives or allowances as a qualified able bodied person.
- In addition, Rule II, Section 1.2 of the Implementing Rules and Regulations of the Magna Carta for Persons with Disability provides that no individual or entity, whether public or private, shall discriminate against a qualified disabled person by reason of disability in regard to job application procedures; the hiring, promotion, or discharge of employees; employee compensation, job training, and other terms and conditions of employment. The said also identified the following as acts of discrimination:
 - Limiting, segregating or classifying a disabled job applicant in such manner that adversely affects his work opportunities;
 - Using qualification standards, employment tests or other selection criteria that rule out or tend to rule out a disabled person unless such standards, tests or other selection criteria are shown to be job-related for the position in question and are consistent with business necessity;
 - Utilizing standards, criteria or methods of administration that:
 - have the effect of discrimination on the basis of disability.
 - perpetuate the discrimination of others who are subject to common administrative control.
- Providing a lower compensation, salary, wage or other forms of remuneration and fringe benefits to a qualified disabled employee by reason of his disability as compared to a worker performing the same type and amount of work but who is not disabled;
- Favoring a non-disabled employee over a qualified disabled employee with respect to promotion, training opportunities, study and scholarship grants, solely on account of the latter's disability;
- Re-assigning or transferring a disabled employee to a job or position he cannot perform by reason of his disability;
- Dismissing or terminating the services of a disabled employee by reason of his disability unless the employer can prove that the satisfactory performance of the work involved is impaired by reason of the disability to the prejudice of the business entity; Provided, however, that the employer has first exerted effort to provide reasonable accommodations for the disabled worker;
- Failing to select or administer in the most effective manner employment tests which accurately reflect or measure the skills, aptitude or positive traits of the disabled applicant or employee rather than the impaired sensory, manual or speaking capabilities of such applicant or employee, if any; and
- Excluding disabled persons from membership in labor unions or similar organizations.

Protection of workers from discrimination (workers' rights and employers' obligations)

- The special laws enumerated above provide for protection of workers from various forms of discrimination.

Laws on resources for victimized workers including any access to grievance mechanisms

- Recourse may either be in the regular courts or the National Labor Relations Commission which is jurisdictional depending on the cause of action as enumerated above.

Principle 4 – FORCED LABOR AND HUMAN TRAFFICKING

Summary

ALP MEASURABLE STANDARDS	MARKET LEGAL STANDARDS			COMMENTS
	MATCHES	EXCEEDS	OPPOSES	
No work under bond, debt or threat	The Philippine Constitution proscribes involuntary servitude in any form, except as punishment for a crime for which a party has been duly convicted			
Workers must receive wages directly from the employer.	The Labor Code requires the employer to directly pay the wages to the employee			In case of death of the employee, the employer is required to pay the accrued wages and benefits of the deceased employee to his/her legal heirs
Workers are free to leave their employment at any time with reasonable notice, without threat or penalty	The employee may resign from employment at any time subject to 30 day prior written notice			If the employee fails to observe the notice requirement, he/she may be held liable for damages. There are certain instances when an employee may resign effective immediately without being held liable for damages such as when there is threat to his/her life arising from his/her employment
Workers are not required to make financial deposits with farmers, labor contractors, or any other third party at the time of recruitment or at any point during employment	No employer shall require his/her worker to make deposits from which deduction shall be made, for the reimbursement of loss of, or damage to tools, materials or equipment supplied by the employer			
Workers are not charged recruitment fees or other related fees for their employment by labor contractors	It is unlawful for an employer to make any deduction from the wages of any employee for the employer's benefit, or his representative or intermediary as consideration of a promise of employment or retention of employment			

Wages or income from crops and work done are not withheld beyond the legal and agreed payment conditions.	It shall be unlawful for any person, directly or indirectly, to withhold any amount from the wages of a worker or induce him to give up any part of his wages by force, stealth, intimidation, threat or by any other means whatsoever without the worker's consent			
Farmers do not retain the original identity documents of any worker	NA			
Where farmers are legally required to retain the original identity documents of workers, they provide secure storage protected from unauthorized access and ensure workers have access to their documents upon end of employment	NA			
Where labor contractors are used, farmers verify their labor practices and ensure they are in line with the ALP standards	NA			Contract growing or growership agreement is not covered by the law on contracting under Articles 106-109 of the Labor Code and its prevailing implementing rules, Department Order No. 174, Series of 2017
No employment of prison or compulsory labor	No involuntary servitude in any form shall exist except as a punishment for a crime whereof the party shall have been duly convicted			

Applicable laws

- The Philippine Constitution, Article III, Section 18(1)
- The RPC, Articles 272 (slavery), 273 (exploitation of child Labor)
- Worst forms of child labor such as slavery, sale and trafficking of children, debt bondage and serfdom, and forced or compulsory labor are prohibited (Child Protection Act, Section 12-D [1] [as amended by the Child Labor Act, Section 3])
- Unlawful to withhold any amount from the wages of a worker or induce him to give up any part of his wages (Labor Code, Article 116)

Your Answer

 Legislation on forced labor (including any regulation on identity document retention or wage withholding)

- Philippine laws provide for protection against forced labor.
- Article III, Section 18 (1) of the Philippine Constitution proscribes involuntary servitude in any form, except as punishment for a crime for which a party has been duly convicted.
- In relation, the RPC provides for punishment for the commission of the following crimes which are tantamount to forced labor:
 - Slavery. Committed by anyone who shall purchase, sell, kidnap or detain a human being for the purpose of enslaving him or her. (Article 272)
 - Exploitation of child labor. Committed by anyone who, under the pretext of reimbursing a debt incurred by an ascendant, guardian or person entrusted with the custody of a minor, shall, against the latter's will, retain such minor in his or her service. (Article 273)
 - Services rendered under compulsion in payment of debt. Committed by any person who, in order to require or enforce the payment of a debt, shall compel the debtor to work for him or her, against the debtor's will, as a household servant or a farm worker.
 - In addition, Section 3 of the Child Labor Act (enumerates forced or compulsory labor as practices similar to slavery and considers it as one of the worst forms of child labor.

 Legislation relating to limits or prohibitions on recruitment fees and deposits workers may be required to pay

- Unlawful to make any deduction from the wages of any employee for the employer's benefit, or his representative or intermediary as consideration of a promise of employment or retention of employment (Labor Code, Article 117)
- No employer shall require his worker to make deposits from which deductions shall be made for the reimbursement of loss or damage to tools, maintenance, or equipment supplied by the employer subject to exceptions (Labor Code, Article 114; Labor Code IRR, Book III, Rule VIII, Section 14))

 Legislation regulating the operation of labor brokers and other third party recruiters

- Article 106 to 109 of the Labor Code and DOLE Department Order No. 174 series of 2017 (DOLE 174) are the current applicable laws and regulations.
- Contract growing/farming is excluded from the coverage of DOLE 174³⁷
- Job contracting arrangements shall be legitimate if the following conditions concur:
 - The contractor must be registered with the DOLE and carries on a distinct and independent business;
 - The contractor has substantial capital and/or investment;
 - The Service Agreement ensures compliance with all the rights and benefits under Labor Laws.

 37. Department Circular No. 01-17 Clarifying the applicability of Department Order No. 174, Series of 2017

- A third party workers service provider or job contractor/sub-contractor must comply with the following:
 - Minimum capitalization requirement of at least Php5Million fully paid up capital
 - Proof of ownership or lease agreement on tools, equipment, machineries and work premises
 - Payment of Php100,000.00 registration fee with the DOLE
 - Proof of financial capacity to pay the wages and benefits of the workers in every service contract using the Net Financial Contracting Capacity (NFCC) formula in government procurement
 - Control over the performance of the work of the employee deployed or assigned to render the contracted work or services
 - Not engaged in labor-only contracting arrangement
 - Not engaged in prohibited activities under Section 6 of DOLE 174
 - Observes the rights of its workers under Section 10 of DOLE 174
 - Observes the required contracts under Section 11 of DOLE 174
 - Not delisted from the registry of legitimate contractor/subcontractor
- DOLE 174 prohibit labor-only contracting. Under Section 5 of DOLE 174, there is labor-only contracting when:
 - The contractor does not have substantial capital or
 - Contractor does not have investments in the form of tools, equipment, machineries, supervision, work premises, among others, and
 - The Contractor's employees recruited and placed are performing activities which are directly related to the main business operation of the principal.

Laws on prison labor

- No involuntary servitude in any form shall exist except as a punishment for a crime whereof the party shall have been duly convicted (Philippine Constitution, Article III, Section 18 (2))

Principle 5 – SAFE WORK ENVIRONMENT

Summary

ALP MEASURABLE STANDARDS	MARKET LEGAL STANDARDS			COMMENTS
	MATCHES	EXCEEDS	OPPOSES	
Farmers provide a safe and sanitary working environment	Every employer, including farmers, covered by the Occupational Safety and Health Standards (OSHS) shall give complete job safety instructions to all his workers, especially to those entering the job for the first time, including those relating to the familiarization with their work environment, hazards to which the workers are exposed to and steps taken in case of emergency			
Farmers take all reasonable measures to prevent accidents, injury and exposure to health risks.	This is covered by the OSHS			
No person is permitted to top or harvest tobacco, or to load barns unless they have been trained on avoidance of green tobacco sickness.	NA			There is no regulation about this particular requirement specific to tobacco farming. If this relates also to the application of CPA, then the general provisions under the OSHS apply.
No person is permitted to use, handle or apply crop protection agents (CPA) or other hazardous substances such as fertilizers, without having first received adequate training.	This is covered by the OSHS			
No person is permitted to use, handle or apply crop protection agents (CPA) or other hazardous substances such as fertilizers, without using the required personal protection equipment.	The employer shall provide his workers with necessary protective clothing and equipment maintained in good condition			
Persons under the age of 18, pregnant women, and nursing mothers must not handle or apply CPA.	NA			There is no regulation about this particular requirement specific to tobacco farming. If this relates also to the application of CPA, then the general provisions under the OSHS apply

No person do not enter a field where CPA have been applied unless and until it is safe to do so.	NA			There is no regulation about this particular requirement specific to tobacco farming. If this relates also to the application of CPA, then the general provisions under the OSHS apply
Every person has access to clean drinking and washing water close to where they work and live.	NA			There is no regulation about this particular requirement specific to tobacco farming. If this relates also to the application of CPA, then the general provisions under the OSHS apply
Accommodation, where provided, is clean, safe, meets the basic needs of workers, and conforms to the country's laws.	NA			There is no regulation about this particular requirement specific to tobacco farming. If this relates also to the application of CPA, then the general provisions under the OSHS apply

Applicable laws

- Article 162 and 165 of the Labor Code
- The Occupational Safety and Health Standards (OSHS) are the rules and regulations governing work safety and health as mandated in PD 442, Book IV, Article 162, of the Labor Code of the Philippines.
- Department of Environment and Natural Resources (DENR) Administrative Order 2015-09 Rules and the Procedures for the Implementation of the Globally Harmonized System (GHS) issued on 19 May 2015;
- DOLE Department Order No. 136 series of 2014 on the Guidelines for the Implementation of Global Harmonised System (GHS) in Chemical Safety Program in the Workplace (DOLE DO 136-14)

Your Answer

Requirements for provision of medical protection (availability of first aid kit, health & safety training etc.)

- Each employer covered by the provisions of the OSHS shall:
 - give complete job safety instructions to all his workers, especially to those entering the job for the first time, including those relating to the familiarization with their work environment, hazards to which the workers are exposed to and steps taken in case of emergency;
 - comply with the requirements of OSHS. (Occupational Safety and Health Standards ("OSHS"), Rule 1000, Section 1005)
- All workers shall be thoroughly informed of the health hazards connected with their work and the measures to be taken to protect themselves therefrom. (OSHS, Rule 1090, Section 1093.12)
- The employer shall provide his workers with necessary protective clothing and equipment maintained in good condition. (OSHS, Rule 1950, Section 1955.03)
- Workers exposed to prolonged contact with natural fertilizers shall be subjected to regular medical examination. (OSHS, Rule 1950, Section 1955.03)

- It shall be the duty of every employer to:
 - Establish in his workplace occupational health services to provide a healthful place of work;
 - Adopt and implement a comprehensive health program for his workers;
 - Enter into a contract with hospitals or dental clinics, if these are not available in his workplace; and
 - Maintain a health record of his programs and activities and submit an annual medical report, using form DOLE/BWC/HSD/OH-47, to the Regional Labor Office concerned, copy furnished the DOLE Bureau of Working Conditions on or before the last day of March of the year following the covered period. (OSHS, Rule 1965, Section 1965.01)

Requirements to report accidents and injuries

- Disability benefits may be claimed from the Social Security System provided that the employee is a contributing member. (SSS Law)
- OSHS, Rule 1053 provides for the reporting obligations of the employer to report work accidents or occupational illness in places of employment.
- OSHS, Rule 1054 provides for the obligation of employer to maintain and keep an accident and illness record. OSHS, Rule 1054 also provides that the employer shall accomplish an Annual Work Accident/Illness Exposure Data Report in duplicate using the prescribed form DOLE/BWC/HSD-IP-6b, which shall be submitted to the DOLE's Bureau of working conditions copy furnished the Regional Labor Office or duly authorized representative having jurisdiction on or before the 30th day of the month following the end of each calendar year.
- OSHS, Rule 1093, Section 1093.17 provides that the employer shall maintain accurate record of employee exposure to potentially toxic materials which are required to be measured or monitored. This record shall be open to authorized agents and the workers exposed to such hazards

Requirements for green tobacco sickness training or awareness

- None.

Requirements for PPE needed for using, handling, storing, or disposing of crop protection agents (CPA). This may vary depending on the CPA in question.

- Workers handling pesticides and harmful fertilizers shall be instructed not to eat, drink or smoke unless: (a) they have removed their protective clothing; (b) they have washed their hands and face; and (c) they are in the area for eating purposes. (OSHS, Rule 1950, Section 1955.03)
- All containers with hazardous substances shall be properly labelled. (OSHS, Rule 1090, Section 1093.04)
- Workers handling pesticides and harmful fertilizers shall: (a) deposit their personal or street clothing in rooms provided for the purpose; (b) remove all protective clothing and equipment at the end of each day's work and deposit them in specified decontaminating containers provided for the purpose; and (c) wash hands, face and neck or take a shower if pesticides/harmful fertilizers was used or handled. (OSHS, Rule 1950, Section 1955.03)

- Protective clothing shall be laundered or otherwise thoroughly cleaned at least once a week or more frequently, depending upon the degree of the contamination and the material or substance used. (OSHS, Rule 1950, Section 1955.03)
- Workers shall thoroughly wash gloves after every use. (OSHS, Rule 1950, Section 1955.03)
- Workers shall be provided with, and shall use personal protective clothing and equipment in accordance with the requirements of Rule 1080. (OSHS, Rule, Section 1093.03(1))
- Protective clothing, like boots, gloves, goggles and face shield shall be use in mixing, diluting, spraying or spreading toxic fertilizers (OSHS, Rule 1950, Section 1955.01(4))
- PPE shall also be used to supplement control methods when such measures cannot adequately eliminate the hazard or when other measures are not possible. (OSHS, Rule 1090, Section 1093.03(2))

Restrictions on CPA use, handling, storing, or disposing (e.g. restrictions on vulnerable population such as under 18s, pregnant women, nursing mothers interacting with CPA)

- When practicable, harmless substances shall be substituted for hazardous substances or the process shall be revised to reduce worker exposure to the hazards. (OSHS, Rule 1090, Section 1093.01)
- Pesticides and fertilizers shall be handled and used only by persons thoroughly instructed in their use handling hazards and the precautions that shall be taken to avoid such hazards. (OSHS, Rule 1950, Section 1953.01)
- Persons working with pesticides and fertilizers shall have pre-employment and periodic examinations as provided under Rule 1960. (OSHS, Rule 1950, Section 1953.02)
- Persons handling pesticides and fertilizers which react strongly to alcohol, shall abstain from alcoholic drinks at least 10 hours before and at least 12 hours after any work or operation where these substances are applied. (OSHS, Rule 1950, Section 1953.03)
- All personnel exposed to irritating or toxic substances shall be provided with appropriate protective clothing including head covering, which shall: (a) be removed before eating or leaving the premises and kept in places provided for the purpose; (b) not be taken out of the factory by the users for any purpose; and (c) be maintained in good condition and washed or cleaned at least once a week. (OSHS, Rule 1090, Section 1093.10)

Other legislation related to CPA, (e.g. where they may be stored or transported, explicit restrictions on specific CPAs, weather conditions under which CPA application may or may not occur, other restrictions limiting contact or exposure with CPA)

- All containers with hazardous substances shall be properly labelled. (OSHS, Rule 1090, Section 1093.04)
- Workers exposed to prolonged contact with natural fertilizers shall be subjected to regular medical examination. (OSHS, Rule 1950, Section 1955.03)
- Persons working with pesticides and fertilizers shall have pre-employment and periodic examinations as provided under Rule 1960. (OSHS, Rule 1950, Section 1953.02)
- Persons handling pesticides and fertilizers which react strongly to alcohol, shall abstain from alcoholic drinks at least 10 hours before and at least 12 hours after any work or operation where these substances are applied. (OSHS, Rule 1950, Section 1953.03)

- All personnel exposed to irritating or toxic substances shall be provided with appropriate protective clothing including head covering, which shall: (a) be removed before eating or leaving the premises and kept in places provided for the purpose; (b) not be taken out of the factory by the users for any purpose; and (c) be maintained in good condition and washed or cleaned at least once a week. (OSHS, Rule 1090, Section 1093.10)
- Pesticides or empty containers shall not be left lying about in the fields, yards and other open areas, and shall not be thrown into ponds, streams or drains OSHS, Rule 1950, Section 1957 (2)
- Handling and disposal of pesticides and fertilizers are usually governed by the Occupational Safety and Health Standards (OSHS).
 - For Pesticides:

Rule 1957 provides: Disposed of Unwanted Materials:

(1) Waste of harmful pesticides, empty cases, boxes, bottles, and other containers shall be:

 - a. returned to the supplier, if practicable;
 - b. buried deep in the earth away from springs and other water sources;
 - c. burned in such a way that persons cannot be endangered by the smoke and other products of combustions.

(2) Pesticides or empty containers shall not be left lying about in the fields, yards, and other open areas, and shall not be thrown into the ponds, streams or drains.

(3) Pesticides that have not lost their potency shall be destroyed. The competent authority shall be consulted on the proper disposal of large quantities of these substances.
 - For Fertilizers:

1955: Fertilizers:

1955.01: Handling:

The following rules shall be observed in the handling of agricultural chemicals:

 - (1) Fertilizers shall not be left unattended to when not in use;
 - (2) Fertilizers shall be prepared by mechanical means in closed vessels. However, if closed mechanical preparation is impracticable:
 - a. Tall vessels and long handled implements shall be used to reduce the risk of splashing;
 - b. Vessels shall not be fully filled to avoid splashing.
 - (3) Unbreakable vessels shall be used in the preparation of toxic fertilizers.
 - (4) Protective clothing, like boots, gloves, goggles and face shield shall be used when mixing, diluting, spraying or spreading toxic fertilizers.
 - (5) Spillage of fertilizers and contamination shall be prevented. Spillage shall be thoroughly cleaned immediately.
 - (6) Whenever practicable, apply toxic fertilizers by mechanical means.
 - (7) Immediately after spraying toxic fertilizers in a greenhouse, the employers shall:
 - a. require all persons entering the greenhouse to be properly protected;
 - b. post notices on all gates of the greenhouse stating how long the area is to remain closed before entry of persons without proper protection is allowed.
 - (8) Workers using toxic fertilizers shall not:
 - a. blow out blocked spray pipes or nozzle with the mouth;
 - b. spray or spread fertilizers against the direction of the wind.

- (9) Decontaminate the exterior of all tanks and containers in which toxic fertilizers are stored.
- (10) Securely close the opening of all tanks and containers in which toxic fertilizers are kept.
- (11) Tanks and piping shall:
 - a. be regularly checked for damage and
 - b. be provided with stop valves or other devices that can effectively prevent or limit the escape of the substance.
- (12) Fertilizers shall be transported only in suitable vehicles to ensure protection to the driver and other users of the vehicles.
- (13) Handling of organic fertilizers shall be by mechanical means to minimize direct contact with such fertilizers or in the absence of mechanical means, proper protection during handling shall be required.
- (14) Personal protective equipment shall be provided too, and used by workers when applying mineral fertilizers.

1955.02: Storage:

- (1) Storage place for fertilizers shall be well lighted to facilitate easy identification of chemicals.
- (2) Storage building shall be sound, weather-proof, water-tight and fire-resistant.
- (3) Storage rooms or buildings shall be locked to prevent entry of unauthorized persons or animals.
- (4) Fertilizers shall be stored separately from other material and in particular; away from food and feeding stuff.
- (5) Fertilizers of different kinds shall be stored separately in sacks or containers on skids or platform and kept away from walls and combustible materials.
- (6) Transfer nitrate from bags and wooden barrels to incombustible bins. Empty bags and barrels shall be thoroughly washed after each use.
- (7) Sodium chloride shall be stored in metal containers.
- (8) Aqua ammonia shall be stored in a cast iron or mild steel tank designed with a working pressure of 7 kg./cm²
- (9) Anhydrous ammonia shall be transported and stored in pressure containers designed with a working pressure of 18.65 kg./cm² g (265 psig). Storage tanks shall have no brass and copper fittings.
- (10) Anhydrous ammonia tanks shall be provided with pressure relief valves on the pipelines and bleed valves in the hoses.
- (11) Tanks for anhydrous ammonia shall:
 - a. be situated at a safe distance from other buildings, fire hazard and traffic;
 - b. be protected against solar heat and mechanical damage; and
 - c. not more than four-fifths (4/5) full.
- (12) Organic fertilizer shall be stored in open and well ventilated areas.
- (13) Fertilizers stored in containers other than those provided by the manufacturer shall be clearly labeled with the name of the substance and marked with proper symbols.

Requirements related to providing drinking water and safe housing

- None.

Requirements for worker accommodation if provided

- Not applicable.

Restrictions on farm equipment (e.g. maintenance and licensing for operators)

- None.

Principle 6 – FREEDOM OF ASSOCIATION

Summary

ALP MEASURABLE STANDARDS	MARKET LEGAL STANDARDS			COMMENTS
	MATCHES	EXCEEDS	OPPOSES	
Farmers do not interfere with workers' right to freedom of association.	The Philippine Constitution protects the freedom of workers to form and join unions for purposes which are not contrary to law			The Labor Code specifically allows workers to create labor organizations
Workers are free to join or form organizations and unions of their own choosing.	This is allowed by the Constitution and the Labor Code			
Workers are free to bargain collectively.	This is allowed by the Constitution and the Labor Code			
Worker representatives are not discriminated against.	This is covered by the Labor Code			It is considered Unfair Labor Practice for an employer to interfere, coerce or restrain workers from the exercise of their right to self-organization
Worker representatives have access to carry out their representative functions in the workplace.	This is protected by the Labor Code			It is considered Unfair Labor Practice for an employer to interfere, coerce or restrain workers from the exercise of their right to self-organization
Persons under the age of 18, pregnant women, and nursing mothers must not handle or apply CPA.	NA			There is no regulation about this particular requirement specific to tobacco farming. If this relates also to the application of CPA, then the general provisions under the OSHS apply

Applicable laws

- Philippine Constitution, Article III, Section 8
- Philippine Constitution, Article XIII, Section 3(2)
- Labor Code, Article 3

Your Answer

Laws on organizing unions and their operation (e.g. protections in place for freedom of association, protection against employer interference)

- The Philippine Constitution protects the freedom of workers to form and join unions for purposes which are not contrary to law. (Article III, Section 8; Article XIII, Section 3 (2)) The Philippine Constitution also provides that “The State shall guarantee the rights of all workers to self-organization, collective bargaining and negotiations. Workers are also granted the right to participate in policy and

decision-making processes affecting their rights and benefits as may be provided by law.” (Philippine Constitution, Article XIII, Section 3 [2])

- In addition, Article 3 of the Labor Code declares that it is the policy of the State to assure the rights of the workers to self-organization.

Laws or requirements for collective bargaining

- All persons employed in commercial, industrial and agricultural enterprises and in religious, charitable, medical, or educational institutions, whether operating or not shall have the right to self-organization and to form, join, or assist labor organizations of their own choosing for purposes of collective bargaining. (Article 243 of the Labor Code) On the other hand, ambulant, intermittent and itinerant workers, self-employed people, rural workers and those without any definite employers may form labor organizations for their mutual aid and protection.

Laws related to worker representatives (e.g. requirements for representatives to be in place, protection from discrimination, access to carry out functions in workplace)

- None.

Other prohibitions on union discrimination and employer interference

- It shall be unlawful for any person to restrain, coerce, discriminate against or unduly interfere with employees and workers in their exercise of the right to self-organization. (Labor Code, Article 246)
- The Labor Code considers as unfair labor practice for any employer to: (a) Interfere with, restrain, or coerce employees in the exercise of their right to self-organization (Labor Code, Article 248(a)); (b) Require as a condition of employment that a person or an employee shall not join a labor organization or shall withdraw from one to which he or she belongs (Labor Code, Article 248(b)); (c) Contract out services or functions being performed by union members when such will interfere with, restrain, or coerce employees in the exercise of their right to self-organization (Labor Code, Article 248(c); and (d) Initiate, dominate, assist or otherwise interfere with the formation or administration of any labor organization, including the giving of financial or other support to it or its organizers or supporters (Labor Code, Article 248(d)).

Principle 7 – TERMS OF EMPLOYMENT

Summary

ALP MEASURABLE STANDARDS	MARKET LEGAL STANDARDS			COMMENTS
	MATCHES	EXCEEDS	OPPOSES	
At the time of hire, farmers inform workers of their legal rights			There is no such requirement ³⁸	Employment relationship may arise notwithstanding the absence of a written contract by the application of the so-called four-fold test, i.e., payment of wages, hiring and selection, discipline and dismissal, and right to control the manner and means of work
At the time of hire, farmers inform workers of the essential aspects of the work relationship and work place safety such as work to be performed, working hours, wages paid, period of hire, and all legally mandated benefits			There is no such requirement	Employment may exist based on the application of the four-fold test
Farmers and workers have entered into written employment contracts when required by a country's laws and workers receive a copy of the contract.			Written contract is not a requirement for an employment relationship to exist	
Terms and conditions of employment contracts do not contravene the country's laws.	The Labor Code provides for the minimum terms and conditions of employment which cannot be waived by the parties even in a written contract			

Applicable laws

- Labor Code, Articles 243, 297-299 (just and authorized causes of termination of employment)
- DOLE Department Order No. 147 series of 2015 on Amending the Implementing Rules and Regulations of Book VI of the Labor Code

38. Article 3 of the Philippine New Civil Code expressly provides that ignorance of the law excuses no one from compliance therewith. Thus, farmers are also expected to be aware of their legal rights. However, for the protection of the parties and not just the worker, there is a need to put the agreement in writing where the parties lay down their respective rights and obligations especially in employment contracts with ordinary rank and file employees or farm workers. Doubts in the interpretation and implementation of our labor laws as well as employment contracts are usually resolved in favor of labor or the worker as the law recognizes that the employer and the worker do not stand on equal playing field.

Your Answer

 Legal requirements to constitute labor/employment relation

- Article 243 of the Labor Code states that “all persons employed in commercial, industrial and agricultural enterprises and in religious, charitable, medical, or educational institutions, whether operating for profit or not, shall have the right to self-organization and to form, join, or assist labor organizations of their own choosing for purposes of collective bargaining. Ambulant, intermittent and itinerant workers, self-employed people, rural workers and those without any definite employers may form labor organizations for their mutual aid and protection.”

 Laws and regulations on employment contracts (incl. necessity for written employment contracts, and if is not what are the grounds to consider the existence of a verbal employment agreement)

- It is not necessary to have a written employment contract to prove that a person is an employee. There is also no law specifically enumerating the terms that must be included in an employment contract.
- Article 1306 of the Civil Code of the Philippines recognizes the freedom of the parties to stipulate or establish the terms and conditions of a contract, provided these are not contrary to law, morals, good customs and public policy.
- However, Article 1700 of the Civil Code classifies labor contracts as contracts imbued with public interest.
- Labor laws and statutory labor standards are deemed to be written into all employment contracts, and stipulated terms and conditions cannot fall below the applicable labor standards provided by the Labor Code. Any terms or conditions that violate the applicable labor standards are null and void. Employment contracts cannot be used by employers to evade their responsibility for complying with labor laws.

 Required content for written employment contracts

- As mentioned above, there is also no law specifically enumerating the terms that must be included in an employment contract.
- The four-fold test is used only to determine employer-employee relationship and does not apply to landowner and tenant relationship. Employment is generally governed by the Labor Code, while landlord-tenant relationship is governed by special laws.
- Republic Act (R.A.) No. 1199, which became operative on 30 August 1954, was enacted to govern share tenancy. Section 14 of the said law recognized the rights of the tenants to choose for leasehold tenancy agreement. R.A. No. 3844, which took effect on 8 August 1963, as amended by RA No. 6389, finally declared agricultural share tenancy as contrary to public policy and was, thereby, abolished. Section 4 of RA 6389 automatically converted share tenancy throughout the country into agricultural leasehold relationship.
- The Comprehensive Agrarian Reform Law (CARL) or R.A. No. 6657, which took effect on 15 June 1988, expressly repealed Section 35 of R.A. No 3844 which exempted fishponds, saltbeds, and lands principally planted to citrus, coconut, cacao, coffee, durian and other similar permanent crops. The significant implications of this evolution of the law are as follows:

1. The abolition of share tenancy now covers all agricultural landholdings without exceptions;
2. The conversion of share tenancy into leasehold is mandated by law;
3. Agricultural leasehold can be a preliminary step to land ownership. Hence, all share-crop tenants were automatically converted into agricultural lessees as of 15 June 1988, whether or not a leasehold agreement has been executed; and
4. Leaseholders' security of tenure shall be respected and guaranteed.

In accordance with these developments of the law, Sec. 12 of R.A. No. 6657 mandates the Department of Agrarian Reform (DAR) to determine and fix the lease rentals within retained areas and areas not yet acquired for agrarian reform in accordance with Section 34 of R.A. No. 3844.

- Additionally, Section 6 of R.A. No. 6657 recognizes the right of the farmer to elect whether to become a farmer-beneficiary or a leaseholder in the retention area of the landholder. Section 67 of the same Act directs the Registrar of Deeds to "register . . . patents, titles, and documents required for the implementation of the CARP."
- Pursuant to the DAR's mandate to protect the rights and improve the tenurial and economic status of farmers in tenanted lands, and its efforts to provide for an effective mechanism that shall implement leasehold and improve the method for determining and fixing lease rentals, as well as deal with external factors such as the prevailing practice and stance of landowners to deny the existence of tenancy relations whenever possible, the rules and procedures governing agricultural leasehold tenancy and leasehold implementation, particularly DAR ADMINISTRATIVE ORDER NO. 02-06, was issued by the Department of Agrarian Reform.
- Under DAR AO No. 02-06, agricultural leasehold shall be based on a tenancy relationship. The following are essential elements of agricultural tenancy:
 - 1.1. The parties are the landholder and the tenant;
 - 1.2. The object of the relationship is an agricultural land;
 - 1.3. There is consent freely given either orally or in writing, express or implied;
 - 1.4. The purpose of the relationship is agricultural production;
 - 1.5. There is personal cultivation;
 - 1.6. There is consideration given to the lessor either in a form of share of the harvest or payment of fixed amount in money or produce to or both

Deadline for contract conclusion (e.g. on date of hire or within 30 days of hire etc.)

- None.

Requirements for various types of contract (indefinite term, definite term, temporary workers, and probationary workers)

As mentioned above, generally, there are no specific requirements. However, as a general reference, the following are the types of employment arrangement under Philippine jurisprudence and labor laws and regulations:

- Regular Employees
 - There are two kinds of regular employees (Labor Code, Article 294):
 - Regular employees by nature of work, that is, those who are engaged to perform activities which are usually necessary or desirable in the usual business or trade of the employer.
 - Regular employees by years of service, that is, those who have rendered at least one year of service, whether continuous or broken, with respect to the activity in which they are employed.
 - The primary standard to determine regular employment is the reasonable connection between the particular activity performed by the employee in relation to the usual business or trade of the employer. The test is whether the activity of the employee is usually necessary or desirable in the usual business or trade of the employer.
 - A regular employee enjoys the benefit of security of tenure as guaranteed by the Philippine Constitution. This means that the employee cannot simply be terminated, other than those just and authorized causes as provided by law.
- Probationary Employees
 - Article 295 of the Labor Code makes express reference to probationary employment, which provides a trial period, during which the employer observes the fitness, propriety and efficiency of a probationer to decide whether he is qualified for permanent employment, while the probationer seeks to prove to the employer that he has the qualifications to meet the reasonable standards for permanent employment. If the employee was allegedly hired on a probationary basis, but was not informed of the standards that would qualify him as a regular employee, he is deemed a regular employee from the very start. Additionally, an employee who is allowed to work beyond the probationary period shall be deemed regular. This probationary period is usually fixed at six months or less. However, the parties to an employment contract can agree to a longer period of probation (for example, when the same is established by company policy or when the same is required by the nature of work to be performed by the employee).
- Fixed-Term Employees
 - While not specifically mentioned in Article 294 of the Labor Code, a fixed-term employment is recognized under the Civil Code, pursuant to the freedom of parties to fix the duration of the contract, whatever its object. These fixed-term employment contracts are not limited to seasonal work or specific projects with predetermined completion dates; also contemplated are employment arrangements whereby the parties have assigned a specific date of termination. This pertains to fixed-term employment where the duration of employment is already indicated and agreed upon by the parties at the onset of employment.
 - In this jurisdiction, the frequency of payment of wages or salaries does not affect the classification of employment. Regular employees could either be monthly paid or daily paid workers. It is only the frequency of the payment of salaries that differentiates monthly from daily paid workers but their classification as to whether they are regular, project, fixed-term, or probationary is what is determined by the application of the pertinent provisions of the Labor Code.
 - A verbal agreement for fixed term employment is allowed. However, a written contract is preferred in order to have an evidence that the parties agreed to the duration of employment. Otherwise, the worker may claim regular employment and alleged that the duration of employment is indefinite.

- For this employment arrangement to be considered compliant with the employees' right to security of tenure, it must:
 - Be voluntarily and knowingly agreed upon by the parties, without any force, duress, or improper pressure being brought to bear upon the employee, absent any vices of consent.
 - Appear that the employer and employee dealt with each other on more or less equal terms, with no moral dominance whatever being exercised by the former over the latter.
- Project Employees
 - A project employee is one whose employment has been fixed for a specific project or undertaking, the completion or termination of which has been determined at the time the employee is engaged (Labor Code, Article 294). It is not sufficient that an employee is hired for a specific project or phase of work. There must also be a determination of, or a clear agreement on, the completion or termination of the project at the time the employee is engaged.
 - The services of project employees are coterminous with the project. They can be terminated upon the end or completion of that project, or a phase of the project, for which they were hired. The employer has no obligation to pay them separation pay.
 - The predetermination of the duration of the period of a project employment is important in resolving if an employee is a project employee or not. For example, in a previous case, the Court ruled that while the employee was clearly hired for a specific project, the absence of a definite period of the project led the Court to the conclusion the employee was regular.
- Seasonal Employees
 - Seasonal workers perform work that is seasonal in nature and are employed only for the duration of one season (Labor Code, Article 294). Ideally, the duration of the season has to be indicated at the onset of employment. The duration of employment is being dictated by the duration of the season say for instance the tobacco planting and/or harvesting season. For instance, in the hotel industry, hotels are allowed to engage additional workers only for the duration of the Christmas or holiday season. There is a need to define the duration at the onset of employment as the worker may claim regular employment which is for an indefinite period. Regular employment can be terminated only for just or authorized causes and expiration of a period or season is not one of them.
 - Seasonal workers who are rehired every working season are considered to be regular employees. The nature of their relationship with the employer is such that during off season they are temporarily laid off, but when their services are needed, they are re-employed. They are not, strictly speaking, separated from the service but are merely considered as on a leave of absence without pay until they are re-employed. Their employment relationship is never severed but only suspended. As a result, these employees are considered to be in the regular employment of the employer.
 - However, it is not sufficient that the work performed is seasonal in nature. There must also be evidence that the employee worked only for the duration of the season. For example, in a previous case, the fact that the employees repeatedly worked as sugarcane workers for the employer for several years established the regular employment.
- Casual Employees
 - There is casual employment where an employee is engaged to perform a job, work or service which is merely incidental to the business of the employer, and that job, work or service is for a definite period made known to the employee at the time of engagement (Implementing Rules of the Labor Code, Book VI, Rule I, section 5(b)). A casual employee is one whose work is neither regular, project or seasonal.

- A good example on this is a worker or carpenter hired for instance to rebuild a part of a barn. A carpenter can be hired as a casual employee for the upkeep and maintenance of the barns such as painting the walls or the roof. If the carpenter continues to work with the employer for a period of 1 year, either continuous or intermittent, the worker will be considered a regular casual employee whose employment shall continue as long as the need for the services exists.
- However, if a casual employee has worked for at least one year (whether continuously or not) he becomes a regular employee but only with respect to the activity in which he is employed, and his employment will continue while that activity exists. Even though a casual employee, he is entitled to all the rights and privileges, and is subject to the same duties and obligations, as is granted by law to regular employees during the period of his actual employment.

Requirements for termination of employment (termination with or without cause, wrongful dismissal, notice periods required to end employment etc.)

- The right to security of tenure means that a regular employee shall remain employed unless his or her services are terminated for just or authorized cause and after observance of procedural due process.
- An employer may dismiss an employee on the following just causes:
 - serious misconduct;
 - willful disobedience;
 - gross and habitual neglect of duty;
 - fraud or breach of trust;
 - commission of a crime or offense against the employer, his family or representative;
 - other similar causes.
- The other grounds are authorized causes:
 - installation of labor-saving devices;
 - redundancy;
 - retrenchment to prevent losses;
 - closure and cessation of business; and
 - disease / illness
- In termination for authorized causes, separation pay is the amount given to an employee terminated due to installation of labor-saving devices, redundancy, retrenchment, closure or cessation of business or incurable disease.
- Separation pay may also be granted to an illegally dismissed employee in lieu of reinstatement.
- In cases of installation of labor-saving devices or redundancy, the employee is entitled to receive the equivalent of one month pay or one month for every year of service, whichever is higher.
- In cases of retrenchment, closure or cessation of business or incurable disease, the employee is entitled to receive the equivalent of one month pay or one-half month pay for every year of service, whichever is higher.
- In case of separation pay in lieu of reinstatement, the employee is entitled to receive the equivalent of one month pay for every year of service.

- An employer shall observe procedural due process before terminating one's employment. In a termination for just cause, due process involves the two-notice rule:
 - notice of intent to dismiss specifying the ground for termination, and giving said employee reasonable opportunity within which to explain his or her side;
 - A hearing or conference where the employee is given opportunity to respond to the charge, present evidence or rebut the evidence presented against him or her;
 - A notice of dismissal indicating that upon due consideration of all the circumstances, grounds have been established to justify termination.
- In a termination for an authorized cause, due process means a written notice of dismissal to the employee specifying the grounds at least 30 days before the date of termination. A copy of the notice shall also be furnished the Regional Office of the DOLE where the employer is located.
- For probationary employees, termination can be done prior to their acquiring the status of regular employees if they fail to meet the performance standards required of their position, which standards were made known to them at the start of their probationary employment.
- For project or fixed-term employees, termination can be done upon completion of the project or when the fixed-term expires.
- In cases of termination for just causes, the employee is entitled to payment of indemnity or nominal damages in a sum of not more than 30,000 pesos ; in case of termination for authorized causes, 50,000 pesos .
- The legality of a dismissal may be questioned before the Labor Arbiter of a Regional Arbitration Branch of the National Labor Relations Commission (NLRC), through a complaint for illegal dismissal. In establishments with a collective bargaining agreement (CBA), the dismissal may be questioned through the grievance machinery established under the CBA. If the complaint is not resolved at this level, it may be submitted to voluntary arbitration.
- An employee may question his or her dismissal based on substantive or procedural grounds.
- The substantive aspect pertains to the absence of a just or authorized cause supporting the dismissal.
- The procedural aspect refers to the failure of the employer to give the employee the opportunity to explain his or her side.
- An employee who is dismissed without just cause is entitled to any or all of the following:
 - reinstatement without loss of seniority rights;
 - in lieu of reinstatement, an employee may be given separation pay of one month pay for every year of service
 - full backwages, inclusive of allowances and other benefits or their monetary equivalent from the time compensation was withheld up to the time of reinstatement;
 - damages if the dismissal was done in bad faith
- Reinstatement means restoration of the employee to the position from which he or she has been unjustly removed. Reinstatement without loss of seniority rights means that the employee, upon reinstatement, should be treated in matter involving seniority and continuity of employment as though he or she had not been dismissed from work. When a Labor Arbiter rules for an illegal dismissal, reinstatement is immediately executory even pending appeal by the employer (Article 223 of the Labor Code).

- Reinstatement pending appeal may be actual or by payroll, at the option of the employer.
- Full backwages refer to all compensations, including allowances and other benefits with monetary equivalent that should have been earned by the employee but was not collected by him or her because of unjust dismissal. It includes all the amounts he or she could have earned starting from the date of dismissal up to the time of reinstatement.

Options for farmers to obtain legal assistance about their obligations (e.g. government departments, local labor offices, farmer associations etc.)

- None.

Specific requirements for leaf growing contracts (e.g. government imposed templates, government approval of contracts, freedom to choose terms of contract)

- None.

Appendix IV – Communication materials

ALP Principles leaflet

ALP-AGRICULTURAL LABOR PRACTICES (PEOPLE PILLAR)

1. HUGOT GAYUD NA GUINADILI ANG BATA SA TABAKOHAN (17 – PAUBOS)

2. KIHANGLAN NA PATAS ANG PAGTRATAR SA MGA TRABAHANTE

3. INSAKTO NA SWELDO UG ORAS SA PAGTRABAHO

4. DILI PWEDE ANG PINUGOS NA PAGTRABAHO inubanan sa Human Trafficking

5. SAFE WORKING ENVIRONMENT

6. IHATAG ANG KATUGOD NA MAG-APIL SA KAPUNGUN

7. TERMINO SA PAGPANGEMPLEYO

PPE Usage leaflet

ANG MGA PESTISIDYO KAY PELIGRO UG PWEDE MAHIMUNG HINUNG DAN SA KAMATAYON!

HIINUMDUMI NING MGA INSAKTO NGA PAMAAGI SA Pagsul-ob ug pag atiman sa PPE!

PAG SUL-OB SA PPE

PAGTANGTANG SA PPE

Pagsul-ob sa MASK

Pagtangtang sa MASK

CPA leaflet

MGA DAUTAN NA EPEKTO SA DILI PAGSUNOD SA INSAKTONG PAG-GAMIT SA PESTISIDYO

DIRITSO NA EPEKTO – mga timailhan sa diritso na epekto na makita o mabati sa dihang mahawiran o masimhutan ang pestisidyo

MGA EPEKTO SA KADUGAYAN – mga timailhan na dili diritso makita o mabati apan hinay-hinay na mabati paglabay sa pila ka buwan o tuig. Kini nga epekto makita sa kadugay.

Kini nga mga dautang epekto malikayan pinaagi sa INSAKTO NA PAG GAMIT SA PESTISIDYO

- ✓ Pag spray lamang kung ang kadaghanon sa peste lapas na sa Economic Threshold Level (ETL)
- ✓ Pag gamit sa pestisidyo nga adunay insakto na puntirya ug adunay ubos na lebel sa hilo o toxicity
- ✓ Pagsunod sa girekomenda nga dosage
- ✓ Pag gamit sa insaktong Personal Protective Equipment (PPE) sama sa mask, rubber gloves, goggles, apron, rubber boots, sanina nga naay taas nga bukton og karsones
- ✓ Insakto nga pag amping ug pag calibrate sa sprayer

GTS leaflet

Unsa ang Green Tobacco Sickness (GTS)?

Mao ni ang epekto sa pagsunop sa "nicotine" sa panit sa lawas nga gikan sa pag gunit sa basa nga dahon sa tabako.

- **Unsa ang mga sintomas sa GTS?**
 - Pagkalipong
 - Pagsakit sa ulo ug tiyan
 - Abnormal na pagsaka ug pag-ubos sa presyon sa dugo
 - Mabatian ni siya 30 minuto human sa paghawid sa basa nga tabako ug mudugay kini ug 12-48 ka oras
- **Likayan ang GTS!**
 1. Ayaw isagiyad ang bisan unsa nga parte sa lawas sa dahon sa tabako
 - a. Mag-suot ug gwantes ug sanina nga tag-as ug bugton
 - b. Hugasi ug sabuni ug maayo ang parte sa lawas na nasagiyad sa dahon sa tabako
 2. Ayaw paghawid sa basa nga dahon sa tabako
 - a. Siguraduhon nga uga ang sanina samtang ga-trabaho
 - b. Ilisan ang sanina kung madugaan sa tabako
 - c. Pagkahuman sa pag-uma, mag-ilis diritsu ug sanina
 3. Guinadili ang pag-uma kung init kaayo ang adlaw
 - a. Ayaw paglapas ug 7 ka oras nga trabahu sa umahan, siguraduhon na makapahulay sulod sa 7 ka oras na trabaho
 - b. Inom ug daghan tubig
 - c. Likayan ang pag-inom sa bisan unsa nga ilimnon nga makahubog samtang ga-uma

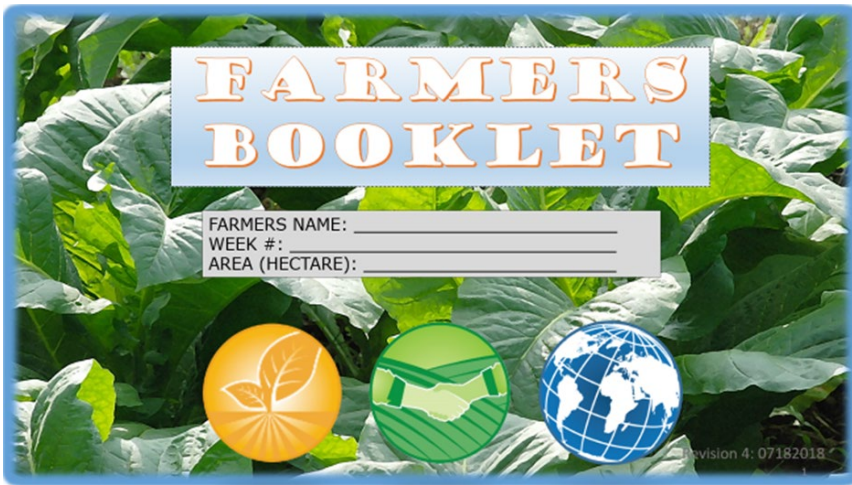
Hazardous tasks for Children leaflet



Child labor leaflet



Farmers booklet



Appendix V – Glossary

ALP	Agricultural Labor Practices
ALP Code	PMI's Agricultural Labor Practices Code
ALP Code Principle	Short statements that set expectations of how the farmer should manage labor on his/her farm in seven focus areas
ALP Program	Agricultural Labor Practices Program
Correction	Any action that is taken to eliminate a situation not meeting the standard
Corrective action	Steps taken to remove the causes of a situation not meeting the standard
CPA	Crop Protection Agents
Crew leader	Person responsible for managing a group of workers
DOLE	Department of Labor and Employment
Family farm	Farm that depends mainly on family members for the production of tobacco
Farm Profiles	A data collecting tool developed by PMI with Verité to track the socio-economic profile of the farms
GAP	Good Agricultural Practices
GTS	Green Tobacco Sickness
Leaf tobacco supplier	Company that has a contract with PMI to supply tobacco but is not a farmer
Measurable Standard	A Measurable Standard defines a good labor practice on a tobacco farm and helps determining to what extent the labor conditions and practices on a tobacco farm are in line with the ALP Code Principles
Migrant labor	Labor coming from outside the farm's immediate geographic area
NGO	Non-Governmental Organization
Piece work	Payment at a fixed rate per unit of production/work
PMI	Philip Morris International, Inc. or any of its direct or indirect subsidiaries
PPE	Personal Protection Equipment
Preventive action	Steps taken to remove the causes of potential situations not meeting the standard

Prompt Action	A situation in which workers' physical or mental well-being might be at risk, children or a vulnerable group – pregnant women, the elderly - are in danger, or workers might not be free to leave their job
Root cause	The underlying reason that caused a situation not meeting the standard
Root cause analysis	A set of analyzing and problem solving techniques targeted at identifying the underlying reason that caused a situation not meeting the standard
Sharecropping	A system of agriculture in which the farmer has a partner (“socio”) who either works together with the farmer or manages a plot of land. Costs of inputs and/or revenue are shared.
STP	Sustainable Tobacco Production
S RTP	Social Responsibility in Tobacco Production; industry-wide program
Support mechanism	A way for workers to access information and get support in difficult situations and for workers and farmers to get support in mediating disputes. Farmers have access to additional services to improve labor and business practices.