



## British American Tobacco and Imperial Brands: child and forced labour on tobacco farms (Malawi)

**Sector:** Tobacco

**Issues:** Child labour, forced labour, hazardous working conditions

**The companies:** **British American Tobacco** (BAT) and **Imperial Brands** (Imperial) are British tobacco companies and both are among the top four tobacco companies worldwide by market share. In 2021, BAT made £10.2bn profit, while Imperial Brands made £2.9bn.<sup>1</sup>

**Affected rights holders:** Malawi is one of the top five tobacco leaf-producing countries in Africa.<sup>2</sup> It has nearly 800,000 tobacco farmers.<sup>3</sup> Farmers often work under exploitative and hazardous conditions.<sup>4</sup> In certain tobacco producing regions, 57% of children are engaged in child labour on tobacco farms.<sup>5</sup> UN experts have urged the Malawi Government and tobacco companies to take action to prevent the risk of child labour from persisting.<sup>6</sup>

### Details:

In 2020, more than 7,000 Malawian tobacco farmers – comprised of more than 4,000 adults and more than 3,000 children – brought a claim against BAT and Imperial in the UK High Court. They allege that

BAT and Imperial facilitate human trafficking and dangerous working conditions amounting to forced labour in Malawian plantations. After being trafficked, the farmers have to build themselves new homes, get insufficient food and work extreme hours for seven days a week.<sup>7</sup> They are also exposed to industrial accidents, injuries and diseases.<sup>8</sup> They often do not get paid at the end of the season.<sup>9</sup> Children as young as three years old allegedly worked on the farms.<sup>10</sup> The claimants argue that BAT and Imperial allegedly knew, or otherwise ought to have known, that the exploitative conditions faced by the farmers left them with no choice but to rely on their children to work.<sup>11</sup>

The tobacco value chain is opaque. Companies such as BAT and Imperial purchase the leaves through third-party dealers who buy from farms.<sup>12</sup> They argue that the farmers have no evidence that their tobacco farms supply BAT or Imperial and applied to the High Court to strike out the claim based on insufficient evidence. While BAT and Imperial both claim that they can trace the leaves to farm level, it was explained in the subsequent hearing that these records are only held by the leaf supplier.<sup>13</sup> The High Court subsequently allowed the case to proceed.<sup>14</sup>

## How could a UK Business, Human Rights and Environment Act have made a difference?

In our assessment, under a UK Business, Human Rights and Environment Act, BAT and Imperial would likely have been expected to hold records of the farmers they sourced from and to have checked them thoroughly for potential human rights abuses. They would have had to engage with the dealers and the farmers to find solutions to the risk of child labour, hazardous working conditions and trafficking.

The companies may have published supplier lists, as well as details on their risk assessments, including risks identified and measures taken to prevent or minimise them. This increased transparency would have made it easier for both parties to show where BAT or Imperial sourced their tobacco leaves from, making it possible to assess the appropriateness of their due diligence measures.

While the legal action is ongoing and liability is yet to be determined, the UK Business, Human Rights and Environment Act could have facilitated access to justice for the Malawian farmers by placing the onus on BAT and Imperial to show that they took all reasonable measures to prevent child labour and forced labour in their Malawian suppliers.

## Endnotes

- 1 BAT (2022), [“Annual Report and Form 20-F 2021”](#) 9; Imperial Brands (2022), [“Annual Report and Accounts 2021”](#) 72.
- 2 Tobacco Tactics (1 February 2022), [“African region”](#).
- 3 Marty Otañez and Laura Graen, “Gentlemen, why not suppress the prices?": Global Leaf Demand and rural livelihood in Malawi” in International Development Research Centres, *Tobacco Control and Tobacco Farming: Separating Myth from Reality* (2014).
- 4 Leigh Day (25 June 2021), [“Court allows Malawian child farmer claims against British American Tobacco and Imperial to proceed”](#).
- 5 The Guardian (25 June 2018), [“Special report: The children working the tobacco fields: ‘I wanted to be a nurse’”](#).
- 6 UN Office of the High Commissioner for Human Rights (21 December 2022), [“Malawi: Children working on tobacco farms remain out of school, say UN experts”](#).
- 7 Leigh Day (25 June 2021).
- 8 EWHC [2021], [“Milasi Josiya & 7,262 others v British American Tobacco and Imperial Tobacco”](#) [5].
- 9 Leigh Day (25 June 2021).
- 10 EWHC [2021], [“Milasi Josiya & 7,262 others v British American Tobacco and Imperial Tobacco”](#) [3].
- 11 Leigh Day (25 June 2021).
- 12 The Guardian (18 December 2020), [“BAT and Imperial tobacco firms profited from child labour, law firm alleges”](#).
- 13 EWHC [2021], [“Milasi Josiya & 7,262 others v British American Tobacco and Imperial Tobacco”](#) [14]-[17].
- 14 EWHC [2021].