



Action  
Collaboration  
Transformation



## MYANMAR INFO BRIEF GUIDELINE ON FREEDOM OF ASSOCIATION (FOA)

### WHAT IS FREEDOM OF ASSOCIATION?

Freedom of Association is the right of workers and employers to form and join organizations of their own choosing. It is a human right under the International Labour Organisation's Fundamental Principles and Rights at Work ([ILO Convention 87](#) and [Convention 98](#)) and the [United Nations' Universal Declaration of Human Rights](#).

### WHY DOES IT MATTER FOR BUSINESS?

Freedom of association matters for business for three reasons:

1. Freedom of Association is an internationally recognized human right that business enterprises need to respect under the [UN Guiding Principles](#) and the [OECD Guidelines for Multinational Enterprises](#). Respect of the workers' right to form and join trade unions is part of the sourcing requirements of ACT member brands.
2. Consumers and policy makers in key markets increasingly demand that garment production meets fundamental human and environmental standards.
3. There is a business case:
  - Establishing formal mechanisms for dialogue between employers and trade unions means that grievances can be discussed before they escalate into intractable problems. This can minimise disruptions to business and reduce costs.
  - By reducing the risks of an industrial dispute social dialogue between employers and trade unions can create the stability needed to ensure continued production and investment.
  - Good cooperation at the workplace is critical to achieving high levels of productivity.
  - Social dialogue can contribute to a sense of shared responsibility for business success between workers, trade unions and management.

### A PRACTICAL TOOL FOR EMPLOYERS AND WORKERS

Compliance with freedom of association as an internationally recognized human right is a key requirement of the Codes of Conduct of global brands. In Myanmar, there is a need for more clarity on what freedom of association means in practice. What are the rights and responsibilities for both employers and workers? What are good ways to work together in a constructive and efficient way?

In 2019, Myanmar-based employers from the garment and footwear sector have formed an Employer Working Group. Together with the Industrial Workers Federation of Myanmar (IWFM) - the sectoral trade union affiliated to ACT member IndustriALL Global Union - have negotiated a Guideline on Freedom of Association (FOA) to address these questions. The negotiations were supported by the member brands of [ACT \(Action, Collaboration, Transformation\)](#) and facilitated by the International Labour Organization.

### OVERVIEW ON THE CONTENT OF THE FOA GUIDELINE

In line with the ILO's international labour standards, the FOA Guideline operationalizes what freedom of association means in practice. The key contents include:

#### 1. Right to Freedom of Association

- ✓ No worker shall be subject to discrimination, disciplinary action or dismissal by reason of forming a trade union, participating in trade union activities or being a trade union representative or member.
- ✓ Management should engage in social dialogue with trade unions that are in the process of registration.

#### 2. Process for Joint Meetings Between Management and Trade Unions

- ✓ In factories with trade unions, management will meet every two weeks with a minimum of 3 trade union representatives to facilitate constructive social dialogue. Either party may request additional ad-hoc meetings to address urgent concerns.
- ✓ Trade union representatives will be considered on duty and compensated as defined in paragraph 10 of the FOA Guideline while participating in joint meetings with management.

#### 3. Release and Facilities for Trade Union Activities

- ✓ Management shall release the members of the trade union executive committee from their work duties for a combined total of 8 days (64 hours) per month to carry out trade union activities during which they will be considered on duty as defined in Paragraph 10 of the FOA Guideline. The trade union executive committee will decide how to allocate the 8 days among the trade executive committee members.
- ✓ Management should provide appropriate facilities such as meeting space and a trade union notice board for trade union representatives and provide access to the workplace for trade union federations with members in the factory.

#### 4. Dismissal Procedures

- ✓ Workers can only be dismissed or be subject to disciplinary action with evidence, on the basis of applicable laws and regulations.
- ✓ Workers will not be subject to dismissal on the basis of trade union membership, holding office or having participated in trade union activities.
- ✓ Management should consult with trade union or in the absence of a trade union with WCC worker representatives prior to disciplinary action or dismissal. The right to make final decisions rests with management.

#### 5. Collective Bargaining Mechanism and Negotiation Process

- ✓ A section addressing the collective bargaining mechanism and negotiation process will be developed in the future and, once established, will become an integral part of the FOA Guideline.
- ✓ Where there are trade unions in a factory, negotiations over wages and conditions of employment and work should take place in good faith with a view to reaching a collective agreement, balancing workers stated needs and those of the employer. There should be compliance with any agreement reached.

#### 6. Strikes, Lock-outs and Picketing

- ✓ Trade unions and management should try to resolve any dispute in good faith and only use strike and lock-out when all efforts at negotiation have failed.

- ✓ Nobody shall force workers who are not participating in the strike to go on strike or obstruct their regular work in any way using physical violence or threats against management and workers who choose to continue to work. This prohibition does not extend to firmly but peacefully inciting other workers to keep away from the workplace.
- ✓ Nobody shall use physical violence or threats against workers peacefully exercising their right to strike.
- ✓ Management has the right to deduct salary for days of strike.

### 7. Standards of Conduct for Management and Trade Unions

- ✓ Both trade union members and management have an obligation of good faith and respect towards each other.
- ✓ All workers, including trade union members and their representatives, have to comply with the law<sup>1</sup>, the employment contract and the workplace rules (including providing prior notice to the employer in case of leaving or not coming to the workplace during working hours).
- ✓ Management and workers should not behave in a manner that is bullying, intimidating, obstructive or undermines the confidence and trust of each other and other people in the workplace.

### 8. Support to Factory Business Activities

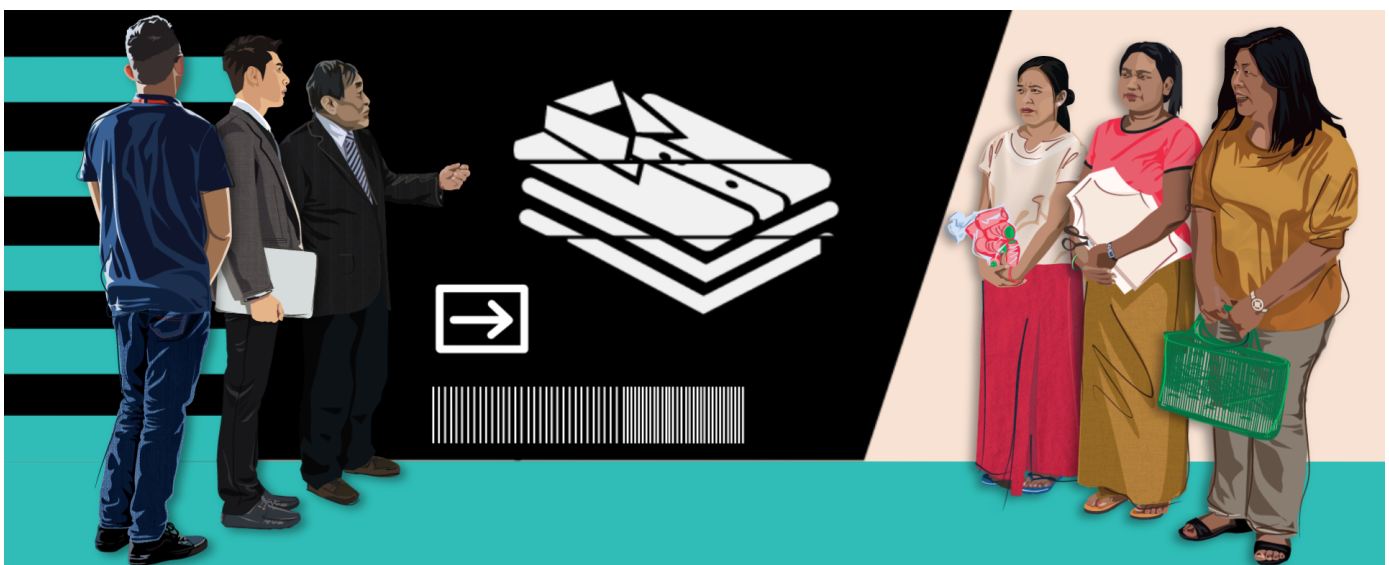
- ✓ In factories with a trade union, management and trade union representatives should hold regular consultations on how to jointly achieve successful business development and a mutually respectful working relationship between workers and management on the shop floor.

### 9. Dispute Resolution Mechanism

- ✓ All conflicts that may arise in the implementation of this Guideline will be subject to a dispute resolution procedure, which once established, will automatically become an integral part of the Guideline.

### 10. Implementation and Monitoring

- ✓ Management shall post all relevant information on related rules, regulations, and the FOA Guideline on the factory notice board in local language and will bring the content of the Guideline to the attention of all management personnel.
- ✓ This summary of the Guideline will be posted on a notice board for the attention of all workers.



<sup>1</sup> To the extent that the law is in line with International Labour Standards.

### OBJECTIVES OF THE FOA GUIDELINE

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| <ul style="list-style-type: none"> <li>✓ Help secure constructive relations between employers and workers</li> </ul>       | <ul style="list-style-type: none"> <li>✓ Specify and ensure the practical application of the principles of Freedom of Association under International Labour Standards</li> </ul> |
| <ul style="list-style-type: none"> <li>✓ Help build a practical mechanism to deal with issues at the workplace</li> </ul>  | <ul style="list-style-type: none"> <li>✓ Ensure that suppliers and buyers can meet their compliance responsibilities and fulfil the expectations of their customers</li> </ul>    |
| <ul style="list-style-type: none"> <li>✓ Help position Myanmar as a world class responsible production location</li> </ul> | <ul style="list-style-type: none"> <li>✓ Facilitate cooperation between employers and trade unions to solve workplace issues before they evolve into major conflicts</li> </ul>   |

### STRENGTHENING MYANMAR AS A GLOBAL PRODUCTION LOCATION

The FOA Guideline is a tool for maintaining and growing Myanmar as a production location. It aims at strengthening and improving the position for Myanmar on the global production map by contributing to more stability through constructive social dialogue.

Ensuring respect for Freedom of Association as a human right of workers is essential for the future of Myanmar as a production location for global brands. Strong human rights compliance at the workplace is important in the context of trade preferences and consumer attitudes towards products Made in Myanmar. Here, brands, suppliers and trade unions can make an important contribution.

Respect for freedom of association as specified in the FOA Guideline is a requirement for doing business with [ACT member brands](#). Problems in implementing the FOA Guideline can be addressed together. Ultimately, non-compliance with the FOA Guideline will result in termination of the business relationship.

*“The Guideline is a framework that every factory can use to have a clear and predictable way of engaging with trade unions. This can help to stabilize the business.”*

*Paul Zubo, Spokesperson of the Employer Working Group*

*“We have seen good faith in this negotiation, and we look forward to the next steps. If we all work together to implement the Guideline, we can make history together”*

*Khaing Zar Aung, President of IWFM*

*“For H&M Group, the Freedom of Association Guideline is a key tool to achieve more stable industrial relations in Myanmar. It can help to maintain and increase factory efficiency while at the same time ensuring the implementation of one of the most basic human rights: freedom of association”*

*Serkan Tanka, H&M  
Country Manager in Myanmar*