



# QUESTIONS AND ANSWERS (Q&A) MYANMAR GUIDELINE ON FREEDOM OF ASSOCIATION

The Myanmar FOA Guideline and further information material are available for download [here](#).

## 1. What is the Myanmar Guideline on Freedom of Association (FOA)?

The Myanmar Guideline on Freedom of Association (FOA Guideline) is a public document that operationalizes the requirements of the ACT Memorandum of Understanding on Freedom of Association. It specifies and explains what the principles of Freedom of Association (FOA) mean in practice.

Factories producing for ACT member brands in Myanmar have agreed on the FOA Guideline with the Industrial Workers' Federation of Myanmar (IWFM), the sectoral trade union federation in Myanmar affiliated to ACT member IndustriALL Global Union. Freedom of Association is a universal, international right of workers. The rights of workers, trade union members and trade union representatives specified in the FOA Guideline are not limited to trade unions affiliated to IWFM. Factories need to respect these rights of all workers and their representatives independently of any specific trade union affiliation.

At the same time, the FOA Guideline is a practical tool to help factories achieve constructive and predictable relations with trade unions that can help to reduce conflicts, stabilize production and increase productivity.

## 2. What do ACT member brands expect from their business partners in terms of compliance with the FOA

Compliance with the FOA Guideline is a zero-tolerance business requirement for all business partners of ACT member brands in Myanmar up from 1 April 2020.

When workers have formed a trade union or are in the process of forming a trade union, management has to comply with the FOA Guideline by engaging with the trade union on the basis of the Guideline. This includes the freedom of workers to contact sectoral trade union federations and the right of trade union federations to access factories in which they have members.

Factories without a trade union are expected to apply in particular Section 1 of the Guideline on the right to Freedom of Association and make sure that all relevant members of management (HR, supervisors, etc.) comply with the provisions outlined in this section in case workers decide to form a union.

If a factory has a trade union, signing the FOA Guideline as an agreement between management and the trade union at factory level helps ensure its practical implementation by confirming the mutual commitment to give effect to the GL. With FOA an international human right and an ACT member brand requirement, factories supplying for ACT member brands need to comply with their responsibility of respecting the rights of workers, trade union members and trade union representatives under the Guideline, whether or not they sign it. It is recommended to sign the Guideline with the trade union at factory level in order to support effective implementation and also for management to be able to hold the union accountable for expected behavior outlined in the Guideline.

In case suppliers do not comply with their responsibilities under the FOA Guideline, ACT brands will take action to ensure compliance or if these efforts are unsuccessful, terminate their business relationship with this supplier as a means of last resort.

**3. What is expected from factories that have trade unions which are not members of IWFM?**

The FOA Guideline operationalizes the principles of International Labour Standards on Freedom of Association irrespective of trade union affiliation.

Factories producing for ACT brands are expected to respect the rights of workers, trade union members and trade union representatives specified in the Guideline irrespective of whether the factory union is affiliated to any particular federation or no federation at all. Any trade union – regardless of its affiliation – can request the application of the FOA Guideline at factory level to structure its relations with management. ACT brand suppliers are required to apply the Guideline as part of their compliance with Freedom of Association and should not oppose the request of the trade union to apply the Guideline.

Trade unions and employers at factory level are free to negotiate additional benefits at factory level. However, in order to be in compliance with ACT brand requirements, suppliers cannot negotiate any agreement that provides fewer rights and benefits than foreseen in the Guideline.

**4. What is expected from factories without a trade union?**

Factories without a trade union are expected to apply in particular Section 1 of the Guideline on the right to Freedom of Association and make sure that all relevant members of management (HR, supervisors, etc.) comply with the provisions outlined in this section in case workers decide to form a union.

The Guideline does not create any obligation on suppliers to unionise factories. As outlined in the Guideline no employer shall initiate or influence the establishment of a union. The FOA Guideline operationalises the international human rights obligation of employers to remain neutral and not to oppose the wish of workers to unionise. This means that no worker should be intimidated, discriminated against or dismissed by reason of participating in the formation of a trade union.

**5. What is expected from factories that have a workplace cooperation committee (WCC) but no trade union?**

A WCC is a joint consultation body of management and workers' representatives in factories. It is not a trade union (Basic Labour Organisation (BLO)). If workers wish to form a trade union, management shall not oppose this (see section 1 of the Guideline). In the absence of a trade union, factories should apply Paragraph 19 of the FOA Guideline regarding consultation processes with the WCC.

In factories that have a WCC and where a trade union is being formed, trade union representatives shall be included in the WCC in line with Myanmar labour law. The factory needs to follow the procedures for joint meetings with the trade union outlined in Section 2 of the Guideline.

**6. What is expected from factories with a trade union that does not request to apply the GL?**

If a trade union does not request management to apply the Guideline, this does not exempt the factory from having to respect the rights of workers as outlined in the Guideline.

**7. What is expected from suppliers that have multiple trade unions in the factory?**

The Guideline applies to all trade unions and employers cannot discriminate against one. The Guideline does not change the need for employers and trade unions to find workable rules of engagement if more than one trade union represents workers in a factory. However, the Guideline defines some rules for cooperation that increase the likelihood to find a workable solution to engage with competing trade unions.