

Framework Principles of a Brand's Responsible Business Disengagement from Myanmar¹.

Background

Since the military coup in Myanmar in February 2021 international garment brands have faced scrutiny about their continued reliance on the country as a source of their product. Some stakeholders have called for brands to disengage, including calls to do so by IndustriALL Global Union and its local affiliate in Myanmar, IWFM. In recognition of and out of respect for this, but also aware of their obligations under the United Nations Guiding Principles on Business and Human Rights (UNGPs) and the OECD Guidelines on Multinationals, members of the Ethical Trading Initiative (ETI) requested its support. Accordingly, and in line with the UNGPs requirement for enhanced due diligence the ETI commissioned an independent study into the prospect for responsible business conduct in the garment sector in post-Coup Myanmar. The mandate of this study was to present options to brands through the lens of the UNGPs and the OECD Guidelines. One of the options presented, based on the conclusions of the study, was to consider a *responsible* exit from Myanmar.

Preamble

The next required step is to define the meaning of “responsible exit” in this context. Therefore, under the guidance of and with technical input from the OCED Responsible Business Unit this framework sets forth a list of the principles that would apply to any garment brand when considering a responsible exit from Myanmar, based on the conditions prevailing at the time of writing. The document has been agreed by IndustriALL Global Union. Other pre-existing documents were referred to, namely the Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework, the OECD Guidelines for Multinational Enterprises, OECD Due Diligence Guidance for Responsible Business Conduct and other useful pre-existing documents in the area of industrial relations at factory level like the ones produced under the Action Collaboration Transformation (ACT).

Ultimately, a brand will make its own unilateral decision as to its continued participation or not in Myanmar. In accordance with relevant competition/anti-trust legislation there will be no discussions between brands with the intention of agreeing whether or when such an exit will take place. The intention of this document is to set out a proposed framework of how such exit should look in order to be considered “responsible”, only if a brand chooses to exit Myanmar.

For as long as it continues to source from Myanmar, each brand shall carry out a continuous due diligence process in consultation with the main stakeholders and in particular pay special attention to not only the situation at factory level, but the national context that may affect workers’ access to remedy and/or protection of labour rights.

The framework laid out below is not exhaustive, its objective is to present principles of creating and implementing an exit such that it can be considered “responsible”. This guidance advises business to use all available means and best efforts to follow the principles, whilst recognizing that that the events leading

¹ These Principles could be considered by a Brand while deciding to responsibly exit any specific market based on Brand’s assessment that effective human rights due diligence can no longer be implemented in its supply chain as per International Standards.

to the very need for this document are (i) caused by external factors outside of the control of any one brand sourcing from Myanmar and (ii) that the current context may impede any one brand's ability to achieve all principles listed.

The Exit Decision

- The brand will establish a specific channel of communication with IndustriALL to ensure transparency of the circumstances surrounding a withdrawal from Myanmar, including sharing their current footprint in the country, the reasons for withdrawal and plans to minimize the impact thereof. This should include consideration being given to any circumstances that may prevail that could cause a reversal of the exit decision.
- The brand will cease placement of new orders, while allowing for all pre-existing commercial commitments to be completed. Relevant commercial commitments should be covered in the exit plan which will be developed in consultations with IndustriALL/IWFM and if relevant, other stakeholders.

Preparing to Exit

- The brand will prepare an operational exit plan to cover:
 - The timeframes involved in withdrawal from Myanmar at factory level, including the anticipated final order placement and final shipment date for all goods manufactured in the Brand's approved factory
 - Ongoing or enhanced due diligence activities in Myanmar until all orders are fulfilled
 - An analysis of the aggregate dependency of the factory on the Brand (taking seasonal variations into account)
- The Brand will consult with relevant third parties at national and international level to obtain inputs for the creation and implementation of this plan.
- In line with the OECD guidelines, unions representing workers in the sector are a critical group who should be informed or consulted. As the creation of this document arises from work focusing on the garment sector this means that the brand should share its plans with IndustriALL Global Union and may choose to share also with other relevant stakeholders².

Implementing the Exit Plan

- As a minimum, the brand agrees that while these orders are in production, employers should operate within the laws of Myanmar and the Brand's Codes of Conduct, as well as international labour standards and any relevant collective bargaining agreements, and in a manner whereby the impacts of disengagement on the rights of workers are identified, prevented, ceased, or mitigated to the extent possible in the current context of Myanmar.
- The brand will use its leverage to seek their suppliers' ongoing compliance the above-mentioned laws and instruments. This may include, amongst other options, the brand using its remaining leverage with the supplier or corporate group in order to remedy labour rights.
- The brand will continue to conduct risk-based due diligence in its supply chains to identify, prevent, avoid, or mitigate understood risks to workers at the factory level during the exit plan to the extent possible in the current context in Myanmar.

² Each brand will determine the specific confidentiality arrangements required to allow sharing of information to take place. This includes the content of any preceding conversations related to its decision to exit.

- If violations of its Code of Conduct are brought to the attention of the brand which cannot be readily resolved by their own supplier interactions, they will seek to address them, among other options, through collaboration with other active Brands or through the involvement of relevant 3rd parties and the supplier factory in order agree a plan for the provision of remedy.
- The brand will maintain open lines of communication with relevant supply chain partners as its operational exit plan progresses including as a minimum relevant trade unions
- The brand will make clear to its suppliers that (i) termination of workers' contracts is to be done only where absolutely necessary, and (ii) in such cases that the process follows local laws as explained for example in the summary drafted by the ILO³
- As far as possible, the brand will require suppliers to inform them in writing of their plans for terminations in advance to allow brands to review these in line with their Codes of Conduct as well as to update the detail of the Exit plans
- The brand will seek evidence of payment of workers at the end of their factory specific exit plans, including all severance and benefits payable for those affected
- Where consultation with workers' representatives is restricted, the brand should seek and agree with its suppliers the best available means of passing information on to workers in the most accessible and effective manner
- The brand's standard terms and conditions should continue to apply throughout the exit period
- Expectations of the brand and its activities in Myanmar should not increase the risk to safety of those employed in its teams in Myanmar, nor those contracted by the Business to work on its behalf, nor those working in its supplier factories.

In line with OECD guidelines, while implementing its exit plan a brand will work to facilitate the provision of access to remediation/remedy for workers in its supply chain, and to the extent possible, continue to ensure that supplier factories do not engage in worker rights violations. In this sense, if violations are identified, the supplier factory will work with the support of the Brand, IndustriALL Global Union, any other active Brands, and any other relevant third party to address them. This may include, amongst other options, the brand using its remaining leverage with the supplier or corporate group to remedy labour rights. The brand will collaborate with relevant stakeholders including IndustriALL Global Union to design applicable supportive measures for affected workers in its Myanmar supply chain.

³ https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/publication/wcms_840699.pdf