

NOVEMBER 2022

Updated Guidance for Companies Sourcing from Myanmar

THE ISSUE

This Issue Brief provides an update on the situation for workers in Myanmar since the military coup on February 2, 2021 and updates FLA's [statement and guidance](#) issued on March 2, 2021. This document focuses on the labor rights risks of sourcing in Myanmar and does not address the potential political, legal, or reputational risks that are inherent in sourcing from a country after a military coup.

BACKGROUND

Since the coup, the military junta has closed independent unions, arrested union leaders and activists, and generally oppressed the ability of workers to organize or to raise grievances in the workplace. While many companies and suppliers have taken steps to protect workers where they can, the situation for workers has deteriorated over the past two years. Reports from independent trade unions and organizations such as the International Labor Organization (ILO) have documented the decline in labor conditions. The ability of independent assessors and company staff to operate freely to gather information and remediate non-compliances is compromised and means companies may not be receiving accurate information. Some notable recent developments include:

- On Sept. 2, 2022, Vicky Bowman, a former United Kingdom ambassador to Myanmar and director of the [Myanmar Center for Responsible Business](#), was [arrested by the Myanmar military](#). The Myanmar authorities also arrested Bowman's husband, alleging they had breached the country's immigration laws. Bowman's work at the Myanmar Center for Responsible Business has centered on promoting responsible business conduct for international and domestic companies working in Myanmar.
- The [United States \(US\) government announced on Mar. 21, 2022](#) that it was formally designating the violence against the Rohingya minority by Myanmar's military as genocide and crimes against humanity. The US government has issued sanctions against individuals and businesses linked to the military coup ([US-Burma/Myanmar sanctions list](#)).
- In March 2022, the ILO established a Commission of Inquiry (the organization's highest level of investigation) into the decline in workers' rights in Myanmar following the military coup. The inquiry is focused on freedom of association and forced labor. On Sept. 2, 2022, the [Commission held its first session](#).
- On Jan. 31, 2022, a [global alliance of over 160 trade unions](#) called on international brands to stop sourcing from Myanmar. Following the publication of an Ethical Trade Initiative commissioned sectoral assessment in September 2022 (linked below), [IndustriALL Global Union](#) called on companies to divest from Myanmar.

- The European Union (EU) has issued [several rounds of sanctions](#) targeting top Myanmar government officials, high-ranking military officials, and business entities linked to the military government. [European and Myanmar trade unions](#) have called on the EU to suspend the Everything But Arms (EBA) trade deal with Myanmar. EBA permits certain goods to be exported to the European market free from tariffs and quotas.
- The US State Department issued a [business advisory](#) on Myanmar on Jan. 26, 2022, which focused on the heightened risk of doing business in Myanmar and the risk of benefiting the military regime through business activities.

FLA RECOMMENDATIONS

Given the continued deterioration of labor conditions in Myanmar, FLA company members should consider the following guidance:

- **If your company is not currently sourcing from Myanmar, FLA strongly recommends that you do not begin any new sourcing within the country.**
- If your company is currently sourcing from Myanmar, FLA recommends that you:
 1. Exercise enhanced due diligence and supply chain monitoring to ensure respect for workers' fundamental rights with a particular focus on labor contracts, hours of work, pay, health and safety, and freedom of association.
 - a. Examine whether your company's responsible purchasing practices are sufficiently robust to ensure that the company is not contributing to forced labor through, for example, excessive or involuntary overtime.
 - b. Place a special emphasis on the safety and economic security of the workers in sourcing factories. Companies may take measures such as providing safe transportation for workers or taking additional precautions for the safety of any workers utilizing either your company's grievance mechanism or the factory's mechanism (especially if those workers are union leaders). FLA strongly encourages its member companies to work with their suppliers to resolve any labor issues or disputes together with the workers to avoid involvement with Myanmar government authorities.
 2. Undertake enhanced human rights due diligence to identify whether your company is doing business (directly or indirectly) with companies that are known to be owned or controlled by the Myanmar military. If such ties are found, take steps to sever those business relationships in a manner that follows FLA's Responsible Retrenchment, Exit, and Closure Guidance which can be found in the MyFLA Resource Library.
 3. Engage proactively with suppliers in Myanmar and closely monitor the situation at all sourcing factories. Honor existing commitments made to factories in terms of payments and orders already in production and extend lenient contract terms on delivery dates if needed.
 4. Determine if you can conduct appropriate due diligence with your Myanmar suppliers. If not, companies should follow FLA's guidance on Responsible Retrenchment, Exit, and Closure.

5. Ensure that the company is prepared for a responsible exit in the event the situation deteriorates further and it can no longer source responsibly.

ADDITIONAL RESOURCES ON MYANMAR:

- [IndustriALL begins discussion on responsible exit from Myanmar](#), Nov. 2, 2022
- [UN Special Rapporteur on the Situation of Human Rights in Myanmar](#) (home page)
 - [Report of the Special Rapporteur on the situation of human rights in Myanmar. Thomas H. Andrews](#), Oct. 12, 2022 (outlining current human rights and humanitarian situation)
- ETI-commissioned report from September 2022: [Myanmar enhanced due diligence sectoral assessment – Findings and considerations from the assessment on business and human rights for the garment sector in Myanmar](#).
 - [Marks & Spencer Statement Regarding Myanmar Exit](#), Oct. 11, 2022
 - [Primark Statement Regarding Myanmar Exit](#), Sept. 15, 2022
- [Jan. 19, 2022 FLA webinar on Sourcing from Myanmar](#): FLA hosted a webinar with Vicky Bowman and Thi Thi Thein of the Myanmar Center for Responsible Business and Serkan Tanka, H&M's Myanmar country manager. The guests discussed the current situation in the country and what that means for companies sourcing from Myanmar. The webinar guests also reviewed what enhanced due diligence in Myanmar would entail for companies.
- EuroCham Myanmar: [Myanmar Garment Sector Factsheet, January 2022](#).