

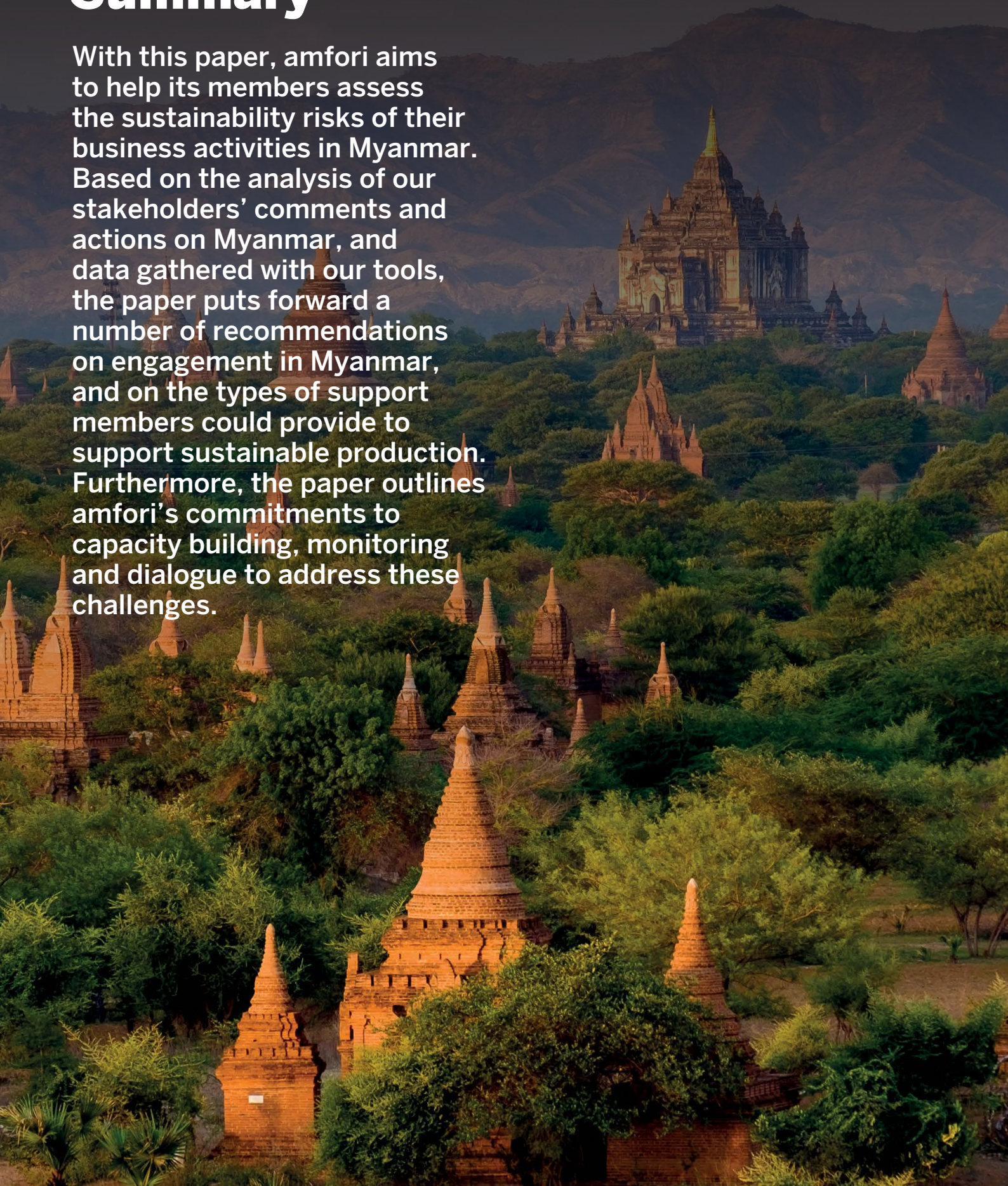


Navigating Business and Human Rights in Myanmar: A Guidance for amfori Members



Summary

With this paper, amfori aims to help its members assess the sustainability risks of their business activities in Myanmar. Based on the analysis of our stakeholders' comments and actions on Myanmar, and data gathered with our tools, the paper puts forward a number of recommendations on engagement in Myanmar, and on the types of support members could provide to support sustainable production. Furthermore, the paper outlines amfori's commitments to capacity building, monitoring and dialogue to address these challenges.



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amfori and its Commitments

amfori believes in a world where all trade delivers social, environmental and economic benefits to all. We support our members to thrive by enabling responsible business conduct in their supply chains. We call this Trade with Purpose.

This mission serves as the compass for all amfori support to members' actions in sourcing countries.

In this context it is also important to note amfori's commitments to:

- **The United Nations Guiding Principles** on Business and Human Rights (UNGPs), where due diligence is defined as an essential process through which a company exercises its responsibility to respect human rights and to remediate adverse impacts. The amfori BSCI Code of Conduct covers the sustainability principles that the business partners of the amfori BSCI participants agree to respect when signing the code. These principles are based on international norms (see annex) such as the UNGPs. Note that in 2022, amfori organised a series of practical UNGP training courses on "Understanding and Implementing Human Rights Due Diligence".
- **The UN's Sustainable Development Goals (SDGs).** According to our [Vision 2030](#), amfori is committed to contributing to the SDGs. To this end, we have [mapped out how our work connects to these Goals](#) and identified 10 SDGs our work impacts⁴. These include SDG 8, which aims to end modern slavery⁵, human trafficking and child labour, as well as advance full employment and decent work with equal pay.

Of additional relevance, amfori has adopted a gender-responsive approach to forced labour, as stated in amfori's 2020 [guidance paper on State Imposed Forced Labour](#). This approach is also in line with the [2021 EU Guidance on Forced Labour](#).

⁴ Responsible consumption and production, 2) Decent work and Economic Growth, 3) Life on Land, 4) Climate Action, 5) Quality Education, 6) Gender Equality, 7) Good Health and Well-being, 8) Clean Water, 9) Affordable and Clean Energy, 10) Partnerships for the Goals.

⁵ In 2020 amfori published a [guidance paper on State Imposed Forced Labour](#) articulating amfori's approach specifically to SIFL and providing recommendations that supports amfori and its Members to address this exploitative malpractice.



Objective and Purpose of this Paper

With the mission and commitments in mind, the objective of this paper is to provide an assessment of the situation of business, human rights and broader Sustainability Due Diligence in Myanmar. This assessment is based on stakeholder analysis, our monitoring tools and data and our advocacy experience, with the aim of providing amfori and its members with broad recommendations on how to support human rights and Sustainability Due Diligence (SDD) in Myanmar.

The primary purpose of this paper is to help amfori members in their own risk assessment on operating responsibly in Myanmar.

The secondary purpose is to share the conclusions of this paper in support of amfori's partners and stakeholders in their monitoring, communication and advocacy efforts on Myanmar.

Myanmar – Economic and Political State of Play

According to an October 2021 [World Bank report](#), decades of military rule have left Myanmar poor and underperforming economically. Since the country gained its independence from Britain in 1948, the UN and human rights organisations have for the most part reported consistent human rights violations in the country, leading to the imposition of economic and political sanctions from the international community.

A nominal civilian government was installed in 2012, followed by the country's first free and fair elections in 2015, which eased trade and economic sanctions. However the mistreatment of ethnic minorities, particularly the Rohingya, continued to be condemned by the international community and human rights actors.

In February 2021, the elected civilian government, led by Nobel Peace Prize Laureate Aung San Suu Kyi was deposed, and the military declared a one-year state of emergency. In August 2021, this state of emergency was extended until August 2023.

The World Bank report mentioned above, states that the combined effects of the military coup and COVID-19 have deepened Myanmar's economic and humanitarian crisis. In July 2021, the Bank projected that the economy would contract by about 18%, with damaging implications for lives, livelihoods, poverty and future growth. This could result in the loss of about 1 million jobs and a decline in workers' incomes due to reduced hours or wages. It further stated that the proportion of Myanmar's population living in poverty was likely to more than double by the beginning of 2022, compared to 2019 and that recent events could jeopardise much of the progress Myanmar made in the past decade.

Even before the coup, Myanmar was ranked 101 out of 165 countries in [the 2021 Sustainable Development Report, an annual report](#) on progress towards the SDGs. Notably, the report particularly highlighted challenges related regarding modern slavery and fundamental labour rights in the country.

On the broader human rights front, Amnesty International's March 2022 report on [the State of the World's Human Rights](#) describes the human rights situation in Myanmar as having deteriorated considerably after the military coup in February 2021. According to Amnesty, more than a thousand people have been killed and many thousands of others, who opposed the military takeover, detained. Workers have also been intimidated and threatened to return to work, and trade union leaders and workers were among those arrested and killed.

[The ILO in March 2022](#) also condemned the "continued harassment, intimidation and arbitrary arrests and detentions of labour activists, trade unionists and others, including the Rohingya, in the exercise of their human rights."



Myanmar and the EU

The EU's current objective towards Myanmar is "to support the country and its people on their path to democracy, peace and prosperity".

In terms of [the EU's position](#), the regional bloc was Myanmar's third biggest trading partner in 2020 (after China and Thailand), accounting for 11.7% of the country's total trade. The EU imported goods worth €2.6 billion from Myanmar.

The key EU imports from Myanmar are textiles, manufactured goods, footwear and agricultural products. Myanmar is the 10th largest exporter of clothing to the EU. However, the country only accounts for 2.3% of EU textile imports- significantly behind China (30%), Bangladesh (20%) and Turkey (13%).

Myanmar benefits from the EU's Everything But Arms (EBA) scheme, which grants unilateral duty free and quota free access for all exports except arms and ammunition to the EU. In 2018, the EU entered an enhanced engagement with Myanmar under the EBA with the purpose of assessing compliance with human rights and labour rights conventions. According to a report by [the European Parliament Research Service on Myanmar](#), by February 2021, the country's exports to Europe had increased 19 times since 2013, when the EBA was granted.

Since the military coup on 1 February 2021, the EU has stated that it is 'reassessing its engagement' with Myanmar and its response, based on its EU Council Conclusions of 22 February 2021. Despite several calls by civil society groups for the European Commission to remove or at least review its EBA preferences to Myanmar (as called for by amfori), the European bloc has thus far refused to do so.

But the EU's response to date, has mainly consisted of increasing sanctions against individuals and entities associated with or owned by the Myanmar military. It has indicated that it is not prepared to impose more general trade-related sanctions on the country.

amfori's Engagement in Myanmar

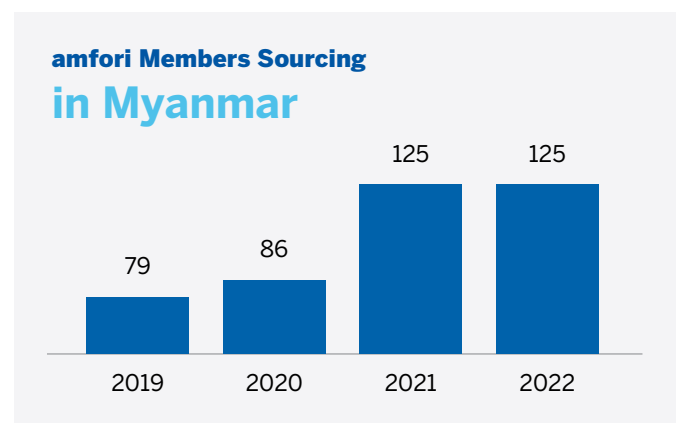
Sourcing and Monitoring from amfori Members: What Our Data Says

To better understand how amfori can address the human rights situation in Myanmar, this paper has looked at amfori's data on member engagement in Myanmar in terms of the impact of the coup on sourcing, trends in due diligence activities of amfori members and the findings of these actions.

However, it is important to note that any trends observed in the data are also impacted by the Covid 19 situation and cannot be attributed solely to the human rights/SDD situation in the country or the Due Diligence response from amfori members.

Sourcing

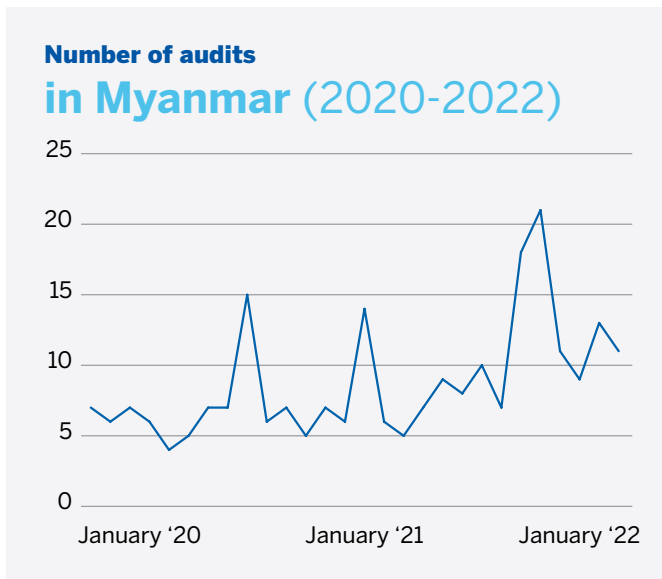
The number of members sourcing from Myanmar has been increasing in recent years. As of March 2022, there were 125 amfori members sourcing from Myanmar. Before 2020, amfori had only 79 members sourcing from the country. Although there seems to have been no decline since the coup, the upward trend seems to have come to a halt.



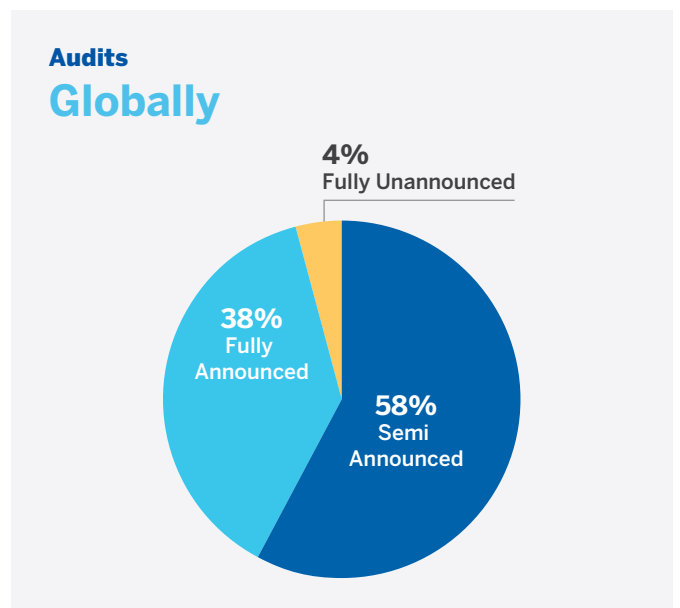
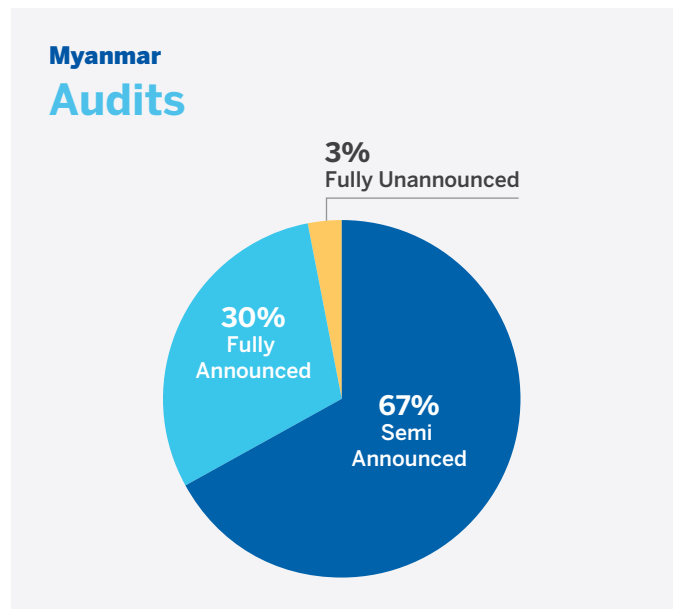


Social Audits

amfori's data shows that audit activity has increased in recent years, and that this trend has continued after the coup. In 2021, there were 118 audits. Since the start of 2022 (January, February, March) there have been 34 audits, which is twice as many as in the same period in 2020. However, there does not seem to be a consistent trend in growth or decrease in the number of audits since the February 2021 coup.

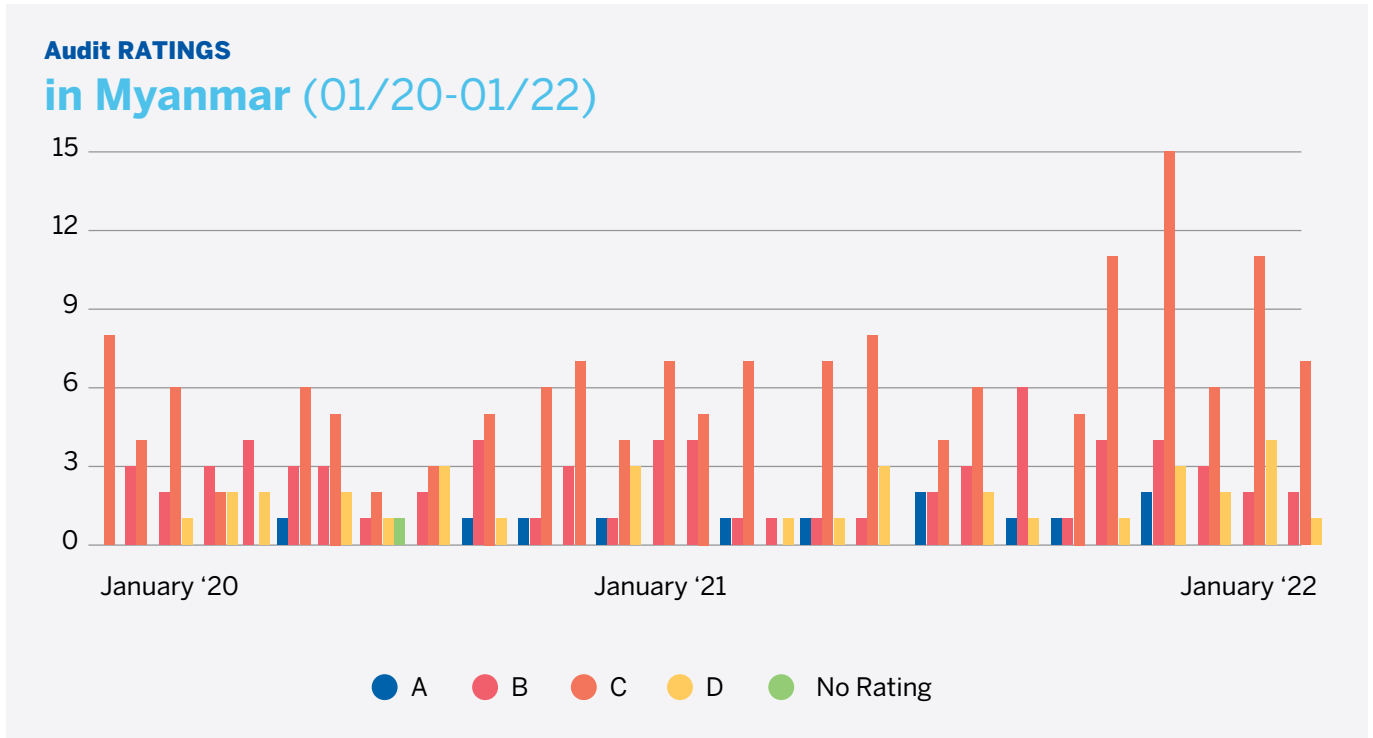


What may be of interest, is that over the period of 2020 to 2022, the percentage of unannounced audits in Myanmar are higher than the combined average across all countries. This may indicate that members in Myanmar are making more of an effort to be vigilant.

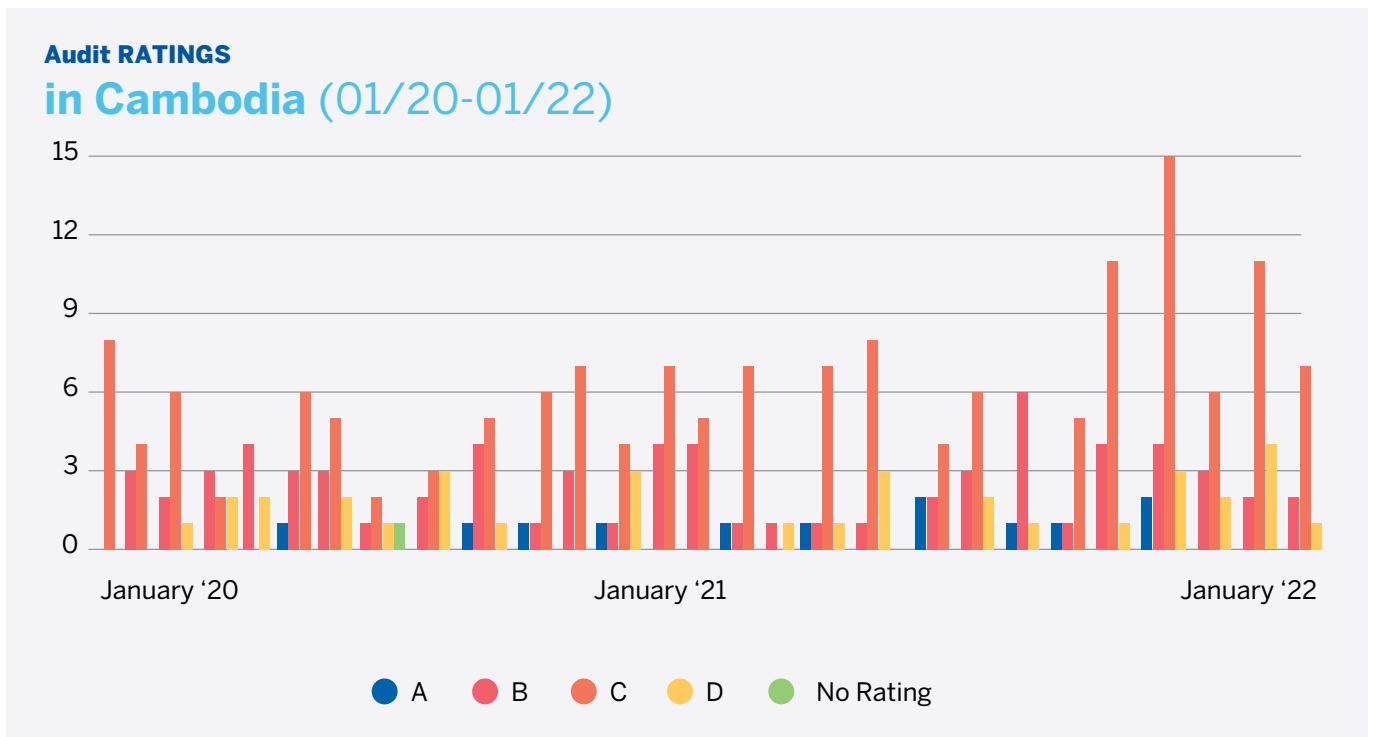


Ratings

As regards the results of these audits, it is also hard to identify any significant changes or patterns since the military coup. If anything, there might be a slight improvement overtime with a reduction in the number of D ratings. But it is hard to attribute this to the Due Diligence efforts of members, and it does not seem to reflect the above reported deterioration of the human rights situation in the country. It can be argued that the findings of the audits either reflect specific situations among amfori's producers that differ from the general picture in the country, or that the audits do not detect the deteriorating trend in human rights across the country.



To put Myanmar's performance in some context, we can compare it with that of a neighbouring sourcing country with a similar number of audits – Cambodia. Here we see relatively better ratings.



A closer look at audit results in the specific performance areas shows no clear trend emerging in results obtained after the coup. The proportion of ratings awarded A, B, C and D has largely been maintained.

Performance Area Label		A	B	C	D	E
Performance Area		Number of Monitorings	Number of Monitorings	Number of Monitorings	Number of Monitorings	Number of Monitorings
1	PA01	1	9	23	45	2
2	PA02	31	19	26	3	1
3	PA03	79	1			
4	PA04	75	4	1		
5	PA05	57	22		1	
6	PA06	45		12	20	3
7	PA07	43	10		21	6
8	PA08	80				
9	PA09	78	1	1		
10	PA10	79	1			
11	PA11	80				
12	PA12	52	22	6		
13	PA13	67	11	2		

Audit ratings per Performance Area (2020)

Performance Area Label		A	B	C	D	E
Performance Area		Number of Monitorings	Number of Monitorings	Number of Monitorings	Number of Monitorings	Number of Monitorings
1	PA01		17	46	51	3
2	PA02	36	36	36	9	
3	PA03	106	11			
4	PA04	11	4	3		
5	PA05	42	64	11		
6	PA06	45		43	28	1
7	PA07	77	26		12	2
8	PA08	117				
9	PA09	117				
10	PA10	112	5			
11	PA11	115				2
12	PA12	65	27	25		
13	PA13	97	18	2		

Audit ratings per Performance Area (2021)

Performance Areas Descriptions

PA01	Social Management System and Cascade Effect
PA02	Workers Involvement and Protection
PA03	The right of Freedom of Association and Collective Bargaining
PA04	No Discrimination
PA05	Fair Remuneration
PA06	Decent Working Hours
PA07	Occupational Health and Safety
PA08	No Child Labour
PA09	Special Protection for young workers
PA10	Precarious Employment
PA11	No Bonded Labour
PA12	Protection of the Environment
PA13	Ethical Business Behaviour

In summary, the data suggests that the easing of sanctions and the granting of EU trade preferences prior to the February 2021 coup led to an increased interest by amfori members in sourcing from Myanmar. Although this came to a halt after the coup, it has not led to amfori members disengagement. Members may have slightly increased monitoring activities, but there is no discernible difference in the results from their audits after the coup.



amfori Advocacy and Awareness Raising Activities

amfori has been monitoring and advising its member businesses and advocating on the human rights/CSDD situation in Myanmar towards stakeholders for several years.

Actions in recent years have included [advocating for a sustainability chapter](#) in the EU-Myanmar Investment Protection Agreement in 2016⁴, and the sending of [a joint letter with 16 other organisations](#) to the government of Myanmar to call on the government to respect the rights of ethnic minorities.

In a significant action, in 2019, amfori joined the consultancy - Sequa, the Centre for Economic and Social Development of Myanmar (CESD) and the Confederation of Trade Unions of Myanmar (CTUM) to implement the European Commission [funded SMART TaG project](#) aimed at improving working conditions of garment workers in Myanmar. amfori's principal role was to set up a policy/advocacy agenda on responsible EU-Myanmar value chains in the garment and textile sectors, manage dialogue on the issue and bring in the voice of stakeholders. amfori also had supporting roles in developing a training manual on international standards for the Myanmar garment industry and training the trainers to deliver this training.

After the military coup in February 2021, amfori released [a guidance statement](#) for its members on respecting enhanced due diligence. Additionally in March 2021, amfori co-developed a [joint statement](#) with 9 other organisations including ETI, Fairwear, and AAFA calling on brands to undertake Human Rights Due Diligence and ensure their responsible purchasing practices in Myanmar.

But in the light of the difficult situation created by the coup in implementing the SMART TaG project, amfori officially withdrew from the project in October 2021, and subsequently communicated this decision to its Smart TaG project partners Sequa and the European Commission.

Most recently in February 2022, amfori issued a [call](#) to the EU to investigate whether Myanmar had violated its core human and labour rights in relation to the GSP regulation.

⁴ Sustainability chapters are now standard in all EU bilateral trade and investment agreements.



What our stakeholders say on Myanmar

For several months, amfori has been gathering views analyses and advice on Myanmar from its key stakeholders including members of [amfori's Stakeholder Advisory Council \(SAC\)](#), other UN representatives, civil society groups, business associations/Multi-Stakeholder Initiatives, and auditing companies. These findings gathered via dialogue and monitoring of websites are below.

Auditing Companies

In the first five months of 2022, amfori consulted its audit companies on experiences and challenges in conducting due diligence in Myanmar. The audit companies identified the following key challenges for companies in doing responsible business in the country:

- Abnormally high freight, forwarding and warehouse costs passed on by buyers to suppliers has led to a shift of orders to neighbouring countries Bangladesh and Vietnam.
- A number of Japanese and Chinese investors have moved out of Myanmar in favour of Pakistan and Bangladesh because they have felt unsafe and have concerns about the Covid-19 crisis.
- Small producers have been forced to close because of insufficient government supporting measures under COVID-19, and a lack of cost-sharing opportunities, especially for garment companies, except those receiving foreign investment. Moreover, insufficient orders have led to closure of producers and loss of jobs.
- Some brands seem to be organising more audits than usual because they may want to minimise their risks. However, audit companies do not see this as the best solution for fear of audit fatigue.
- Some audit companies have had to switch to remote audits because of the current difficulty in organising on-site audits.
- Factory workers and management generally have little understanding of amfori BSCI requirements, principles and values.
- The implementation of amfori BSCI has predominantly been hampered by severe travel restrictions, power cuts, limited access to or suspension of the internet, protests, insufficient local qualified auditors and a workforce affected by Covid.
- Key social compliance risks are also emerging from the potential growth of unauthorised subcontracting. This is due to some factories outsourcing work to other factories due to a shortage of workers caused by many workers going on sick leave with Covid.
- Performance areas that are likely to be most affected relate to wages and legal benefits for workers. This is partly due to the closure of factories and the difficulty for workers to collect wages afterwards.
- The difficulty for workers to go to work sites due to rising transportation costs and safety concerns related to protests, robberies and random checks by the military has also been observed.
- Many workers apparently do not perceive the trade unions as supportive, as workers who are not members of a -trade union prefer to work rather than strike, as the Unions have requested. A weakening of trade unions' influence was also observed, with problems in collective bargaining and general communication.
- The lack of cash flow and insufficient banking services has led to delays in the payment of salaries and social protection.

UN Agencies

In line with common practice in politically highly sensitive situations, since the military takeover of February 2021, the different UN agencies have communicated on Myanmar mainly through joint statements condemning the coup.

Nevertheless, in March 2022, the ILO released [a significant statement announcing the establishment of a Commission of Inquiry](#) into the non-observance of ILO standards in Myanmar since the coup. The Commission will investigate non-observance of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Forced Labour Convention, 1930 (No. 29).

In its announcement, the ILO noted *“the escalation of large-scale lethal violence against civilians, including children, and the arrest and torture of Aung Ko Latt, a member of the Mahlwagone Railway Union,”*. It called on the military to put an immediate stop to such action and condemned the continued harassment of unions and minorities.

The ILO’s announcement is noteworthy as it is the highest-level investigative procedure of the organisation, and such

an investigation is only set up when an ILO Member State has been accused of committing persistent and serious violations and has repeatedly refused to address them. To date, only 14 such investigations have been established.

Prior to the ILO announcement, one of the most recent joint communications by UN agencies has focused on the impact of the crisis on women. A study titled [“Regressing Gender Equality in Myanmar: Women Living Under the Pandemic and Military Rule”](#) launched on International Women’s Day in March 2022, was based on more than 2000 interviews with women in Myanmar. It shows that the crisis has disproportionately affected women and girls. This is a point that was also highlighted by a UN representative in amfori’s SAC. The Report cites women’s concerns, including the following comment, “as factories are closed there are more and more jobless women.” One of the report’s recommendations is a call to support women-owned and women-led businesses, and to provide economic relief to sectors and industries where women are a substantial proportion of workers.

Trade Unions

Since the coup in February 2021, criticism of the military takeover in Myanmar has escalated from most of the major global unions.

IndustriAll, the global union that represents workers in the mining, energy and manufacturing sectors, [called](#) on multinationals doing business in Myanmar in November 2021 to take immediate action to cease their operations, divest, stop placing new orders and end all business relations in the country.

Furthermore, to mark the anniversary of the coup, in January 2022, a number of trade union associations, including the All Burma Federation of Trade Unions and the Federation of General Workers Myanmar, [called on multinational fashion brands to “cease all production and withdraw”](#).

However, according [to a Center for Strategic and International Studies report](#), “a survey from December 2021 by the Workers’ Solidarity League of Burma, more than half of whose respondents work in garment and shoe factories, showed virtually no support for labour unions’ campaigns for broader sanctions.”

It is also important to note that the Council of Global Unions, which brings the International Trade Union Confederation (ITUC), the world’s largest trade union, with ten other global

unions as well as the Trade Union Advisory Committee to the OECD, has so far taken a more nuanced position on divestment. In its statement on Global Day of Action in September 2021 it “urges business to end any direct or indirect business, commercial, or financial ties to the Myanmar military and military-owned businesses, or economic activities that sustain the military regime”. The ITUC defends this nuance by arguing that it is becoming increasingly difficult for companies to demonstrate that their business partners have no direct or indirect ties to the military.

But most recently, the ITUC Secretary General Sharan Burrow outlined what the ITUC considers to be the three priority actions it wants from stakeholders towards Myanmar in [a statement issued in March 2022](#):

- The UN Security Council should impose an arms embargo on Myanmar
- Governments should recognise the National Unity Government of Myanmar
- Give donations to the strike fund that goes directly to workers and trade unionists

It is notable that divestment is not mentioned amongst these actions.



Key Business Associations and Multi-Stakeholder Initiatives (MSIs)

Since the February 2021 [joint statement](#) on Myanmar mentioned above from business associations and MSIs, including amfori, ETI, Fairwear Foundation, FLA and AAFP, there have been very few public statements from these organisations. However, there have been a few significant actions from ETI and Fairwear Foundation, which are mentioned below.

ETI

In November 2021, the ETI announced that it will develop a sectoral assessment of the garment sector in Myanmar. The assessment, which will now be conducted between February and July 2022, should provide businesses and other organisations with a practical interpretation of the UNGPs and OECD guidelines, which can be used as a basis for their own assessment and decision-making.

The research design aims to include interviews with a wide range of stakeholders and key informants and a survey of 3,000 workers, complemented by extensive desk research. amfori has consulted the ETI on the assessment and supports the project. We plan to share relevant data and analysis, including this report as appropriate, with the ETI.

As part of this exercise, ETI in May 2022, put out [an update to its position](#) advising that:

- Business refrain from making any additional investments in Myanmar currently.
- Business continues to meaningfully engage with unions locally and internationally with respect to their presence in Myanmar.

Fairwear Foundation

In March 2022, Fairwear released a [Guidance](#) for brands on Myanmar. The Guidance aims to advise member brands to practice enhanced due diligence. According to the guidance, this includes a number of measures, including calls for:

- Brands and suppliers in Myanmar should refrain from buying goods and services from companies linked to, or owned by, the military
- Member brands that are not active in Myanmar at present, to not start producing in Myanmar.
- Brands already active in Myanmar to not start production at new production locations in Myanmar,
- Brands to remediate labour violations, when they occur, or if they are not able to adequately monitor the working conditions at their suppliers,
- Brands should consider a responsible disengagement and exercise the utmost care in assessing the impact on workers.

As part of enhanced due diligence, Fairwear is also promoting its complaints helpline as a channel through which workers could seek remedy in the absence of on-site audits. It is also exploring the possibility of conducting virtual assessments.

NGOs and other CSOs

The focus of the majority on NGOs working on Myanmar has been on addressing violence against citizens and supporting the humanitarian needs in the country.

A [joint statement](#) released in February 2022 by 8 international NGOs, including Oxfam, Actionaid and Care International to mark the anniversary of the coup, calls, among other things, for the UN to pass a resolution to facilitate the protection of civilians, and on ASEAN to facilitate dialogue and the implementation of its [5-Point Consensus Plan](#). The Plan, amongst others, calls for constructive dialogue between all partners. The importance of advancing the implementation of the ASEAN 5 Point Consensus plan is also echoed by a civil society member of amfori's SAC.

Another civil society member of the SAC is of the view that in situations like Myanmar, it is better for companies to stay to protect jobs and connections to the outside world. However, this decision should depend on the influence companies have on those in power, e.g., how important the garment sector is to the wealth of these leaders⁴. If pulling out can lead to a change in policy, then this should be considered. But such a decision requires further political analysis. Moreover, decisions affecting jobs-should take into consideration how important the sector in question is in enabling women to engage in formal employment.

The NGO - Clean Clothes Campaign - is even clearer on the above point. In a [report published on the anniversary of the coup](#) in February 2021, the NGO states "In such a volatile situation, brands may be tempted to cut and run, and many already have, but our message to brands is that they should prioritise workers' rights above all. Those sourcing from Myanmar have a clear responsibility to ensure their actions do no harm and that they are taking concrete steps to protect workers."

Conclusions

amfori's mission and commitments to the UNGPs, the SDGs and adherence to other international norms (see annex) sets a framework for what amfori's members engagement with Myanmar should aim for. This should include the promotion of human rights, the fight against forced labour, decent work, broader workers' rights, gender responsiveness and broader responsible business conduct.

⁴ EU Foreign Affairs Chair has Josep Borrell has warned that EBA suspension would hurt the general population, in particular the 500 000 employees of garment factories, while having little effect on the military, whose economic interests are mostly in other sectors. <https://epthinktank.eu/2021/02/17/myanmar-the-return-of-the-junta/>

The political and economic state of play in Myanmar points to a worsening situation in all these areas since the coup, particularly with increasing violence towards labour activists, the loss of decent work, rising unemployment in sectors where women are a substantial proportion of workers.

Looking at the data on amfori members engagement in Myanmar over the past two to three years does not in itself provide the clearest picture of the worsening situation or how members' approach is contributing to tackling the abovementioned concerns. But what can be seen is a stagnation in the numbers of members sourcing from the country and a slight increase in the number of audits following the coup. However, to better understand any trends and better support members, further dialogue with members may be needed to comprehend the motivations and rationales behind actions.

Since the coup in February 2021, amfori has increased its advocacy, awareness-raising and stakeholder engagement on Myanmar. However, it is too early to say how these increased activities are impacting the situation on the ground.

What is more evident is the importance of amfori engaging the EU. As Myanmar's third biggest trading partner with influential trade preferences, the EU is one of the governmental actors with the strongest leverage on Myanmar. Through its trade and wider corporation, it continues to have the potential to impact the political and economic situation in the country. Engagement with other stakeholders is also crucial.

Our auditor partners have suggested important activities that amfori could conduct to address the challenges they see in carrying out due diligence. Our UN partners, including those in our SAC, have helped us understand the particular challenges in Myanmar, highlighting issues faced by women and other vulnerable groups.

International Trade Unions have been very vocal on the actions they want businesses to take. While most Unions seem to be advocating for businesses to divest from Myanmar, the largest global trade union association brings some nuance to this message and leaves room for interpretation. It is also important to see the demand for divestment in the context of workers' views and rights and its potential impact on the SDGs and the economic situation in the country.

Thus far, other business associations and MSIs have not come out in favour of divestment. Fairwear's 2022 Guidance to brands goes no further than asking brands to consider responsible disengagement, exercise the utmost care in assessing the impact on workers.

There also seems to be little support for divestment among NGOs and civil society actors, even among the most critical ones. Instead, there are calls for a stronger focus on workers' rights and for the security and humanitarian needs.

In terms of members' views, it is worth noting the results of the [amfori 2021 feedback exercise on forced labour](#), which involved a sample of amfori's European membership consisting of over 50 members. Over half of the respondents stated that disengagement was not one of their immediate considerations from forced labour hotspots.

Recommendations and Commitments

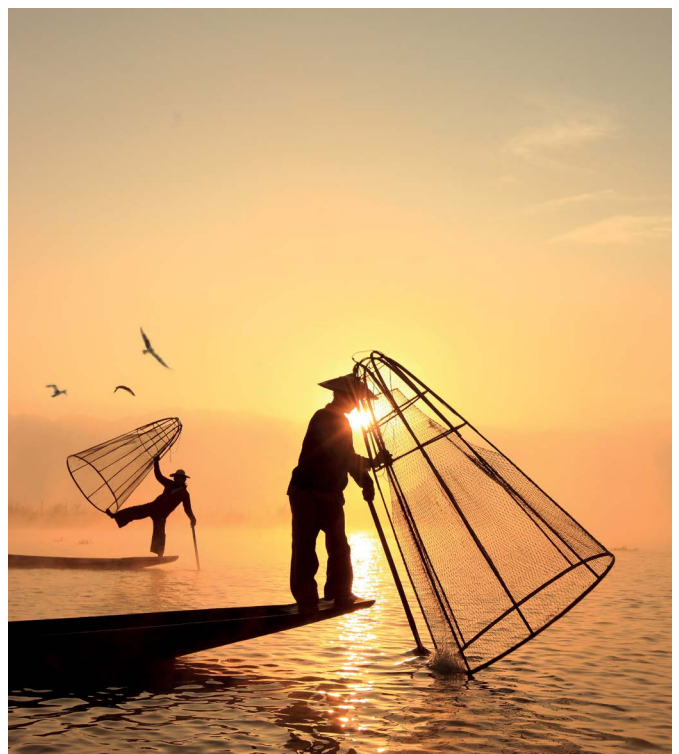
The following recommendations are derived from the above analysis and conclusions.

For Members

- Disengage from companies known to be owned or controlled by the military in Myanmar, while making every effort to protect workers who may be impacted. While disengaging, particular attention should be given to the impact on women and other vulnerable groups. For further information on companies associated with the military you can consult the OHCHR 2019 report *The economic interests of the Myanmar military** Independent International Fact-Finding Mission on Myanmar and the Burma UK Campaign's *The Boycott List*.
- Adhere to the six points in the annex on a conflict sensitive lens to due diligence. This includes mapping and monitoring your supply chain beyond tier one and taking action to prevent the conflict from worsening.
- Adopt a gender sensitive approach, and where possible, support the retention of jobs in sectors where women and other vulnerable groups are predominant, and where no ties have been found with the military as mentioned above.
- In auditing
 - Pay more attention to performance areas linked to wages and benefits, and devise ways of paying workers in cases of unexpected events and factory shutdowns.
 - Give greater focus to areas relating to labour rights, including child labour, basic wages and labour contracts.
- Remediate any labour violations, if you are not able to adequately monitor the situation.
- Support social security initiatives for workers and consider contributing to funds established for this purpose, including the ITUC Strike Fund.
- Support the development of worker representation and the strengthening of unions.

(Re)new(ed) Commitments from amfori

- Organise a dialogue with amfori members on Myanmar's approach, amongst others, to better understand sourcing and monitoring drivers, and challenges and opportunities for businesses in the country, including the trend of sub-contracting.
- Intensify training on amfori BSCI requirements for producers and involve auditors in the process.
- Further explore the use of remote/hybrid audits to supplement in-person audits where this is not possible.
- Continue dialogue with auditing companies to better understand emerging challenges and opportunities in monitoring.
- Maintain and strengthen advocacy with the EU and ASEAN, amongst others, to better leverage trade relations, but also strengthen support for the social protection of workers and sustainable production.
- Maintain and strengthen engagement, including further consultation with the amfori Stakeholder Advisory Council, UN agencies, unions, MSIs and NGOs. This should include former erstwhile partners from the Smart TaG project.
- Explore the roll out of amfori's Speak for Change Grievance Mechanism in Myanmar post 2023.



Annex

International Norms and Standards and Myanmar

According to international due diligence standards, notably the [UNGPs](#) and the [OECD MNE Guidelines](#), businesses have a responsibility to **respect** human rights and to **remediate** violations when they occur.

This responsibility extends to the whole value chain and implies that companies must understand, as part of their due diligence, how they might be connected to negative impacts. This includes understanding how you might become complicit in actions taken by others along the value chain.

Due diligence is in itself an act of engagement. By engaging with potentially affected stakeholders, companies can identify and assess the negative impacts they might be connected to.

Acting upon all identified risks, however, might not be feasible in practice. Companies are therefore asked to **prioritise** their due diligence efforts by starting where risks to people are the most **severe**.

There are therefore considerations around **proportionality** and degree of **involvement** to be made: expectations on businesses will vary depending on whether a company **caused, contributed to** or was **directly linked to a negative** impact.

Acting Responsibly in Situations of Conflict & High-Risk

Given the heightened risk that companies could be connected to human rights abuses and / or violations of humanitarian law in situations of conflict, there is an expectation that companies conduct enhanced / heightened due diligence.

This means applying a conflict-sensitive lens to a company's standard due diligence processes by, amongst others

1. Committing to act in a conflict sensitive way

The first step in a typical due diligence journey is a policy commitment. Your commitment to respecting human rights, in case it does not cover conflict considerations, could be updated to indicate that your company will apply a **conflict sensitive lens** to your own due diligence processes and furthermore ensure **compliance with international humanitarian law**.

2. Mapping and monitoring of your supply chain, beyond tier 1, to understand your direct and indirect connection to the high-risk context

Once you have mapped your supply chain, establish a **direct connection** with those business partners operating in the region and, to the extent possible, **continue conducting responsible business practices**. Ensure the monitoring of your business partners is

ongoing, by using various monitoring tools including e.g., Self-assessment questionnaire, Pre-qualification assessment (PQA) and Third-party amfori audits.

3. Making sure that local contexts and dynamics are fully understood, including the human rights situation on the ground, by continuously engaging

Engage with a varied pool of local **stakeholders** to get a contextualised representation of the situation on the ground and to fully understand the conflict dynamics, including its main actors. In contexts of conflict, situations tend to be rather fluid and can rapidly evolve. It is imperative that you base your **assessment and ongoing monitoring** on up-to-date information.

The engagement should also include **workers or their representatives**, either directly or indirectly via your business partners. When doing so, make sure mechanisms are in place to protect those at risk of potential retaliatory measures.

If engaging locally is too challenging, consider engaging with **independent experts**, including from civil society, national human rights institutions or embassies.

4. Putting in place actions to prevent exacerbating the situation with your activities or those of actors in your supply chain

Prioritise your risks by not only focusing on their **severity to people**, but also by considering others which might **cause or exacerbate the conflict**. The **context**, therefore, becomes critical for you to add to the severity equation.

When reflecting on adverse impacts to people, apply a **gender lens**. Also, consider that it is often the case that in conflict-affected and high-risks areas, vulnerable groups such as women and children are at greater risk of exploitation.

5. Considering to responsibly disengage

International standards regard **responsible disengagement** as an option of **last resort**.

If and when you decided to suspend or terminate your activities, make sure you have fully assessed the **impacts**, including the indirect ones, of disengagement.

Do not overlook the impacts on **people** and in how far those might worsen. Do the benefits of disengaging outweigh the negative impacts? How are you intending to **mitigate** the negative impacts that will occur?

In particular, plan the strategy both in terms of immediate and longer-term steps that you and your business partners will take, and detail how you intend to mitigate negative actions stemming from your decisions.

6. **Communicating, communicating, communicating**

Throughout your enhanced due diligence, do not underestimate the importance of being **transparent** about your actions and to **communicate** about the steps you are undertaking, both internally and externally.

Even though you might not be subject to direct public scrutiny, chances are that your customers, investors, shareholders or employees will expect some information from you. Be proactive. Try answering the following questions:

- How am I enhancing my due diligence?
- What has changed in the way I conduct due diligence so that I identify, prevent, mitigate and remediate heightened human rights risks and comply with international humanitarian law?



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