

## Burma – FWF guidance paper

FWF is occasionally asked whether FWF membership is possible for companies sourcing from Burma. This document is intended as a response to these questions and as a guidance document for (prospective) affiliates of FWF.

### ***Background***

Burma has been ruled by a military dictatorship since 1962. The regime allowed elections in 1990 which were won by the National League for Democracy. The regime did not recognise the outcome of the election and placed Aung San Suu Kyi, the leader of the NLD, under house arrest. In 2007 the military violently suppressed mass protests against their regime, which resulted in killings of many unarmed citizens. It is estimated that Burma currently counts around 1500 political prisoners.<sup>1</sup>

### ***Abuse of labour rights in Burma***

Widespread abuse of labour rights is reported in Burma. Below, three examples are provided of violations of international labour standards in Burma:

- During each year from 1998 onwards, the ILO Commission of Inquiry<sup>2</sup> found widespread instances of forced labour. The regime uses forced labour on a large scale for infrastructure works, intended to promote the tourism industry of Burma. Civilians are forced to work on building bridges, (rail)roads etc. The military also uses forced labourers in its fight against armed insurgent groups. Finally, people were reported to have been forced to act as mine sweepers.
- There are reports of prevalence of child labour in the country. Existing legislation in Burma states the minimum age for employment is 13 years. However as legislation is poorly enforced, many children never enrol in school and / or do not complete primary school. Children are frequently employed in arts and crafts industries.
- Since 1964 the military have abolished all trade union organisations. Substituting for independent unions are government-sponsored Regional Workers Councils. The ILO Committee on Freedom of Association continually receives complaints concerning anti-union discrimination in garment factories in Burma.<sup>3</sup> Labour leaders are under constant threat of mistreatment and imprisonment. There are various reports of labour leaders have been killed by the military.

### ***Position of EU***

Following requests by the democratic opposition in Burma, the EU has developed a framework for sanctions against Burma by member states by means of the 'Council Common Position of Restrictive Measures against Burma/Myanmar'.<sup>4</sup> The purpose of

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<sup>1</sup>Since 1962 the regime has used the name Myanmar. The NLD tend to refer to the country by the name Burma.

<sup>2</sup><http://www.ilo.org/public/english/standards/relm/gb/docs/gb273/myanmar.htm>

<sup>3</sup>Example:<http://www.ilo.org/ilolex/cgi/lex/pdconv.pl?host=status01&textbase=iloeng&document=1957&chapter=3&query=Myanmar%40ref&highlight=&querytype=bool&context=0>

<sup>4</sup><http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:210:0038:0069:EN:PDF>

the sanctions is to disempower the regime, to ease repression on the population and to push the regime to into a tripartite dialogue with the ethnic minorities and the democratically elected leader of Burma, Aung San Suu Kyi. In this framework, a ban is placed on investments in Burmese state companies and companies that are owned by members of the military. The EU has instated a visa ban for senior members of the Burmese army and government officials. Whereas no boycott has been placed on Burmese oil and gas exports which are considered as most crucial for the regime's economic survival, the EU has instated a ban on gems, mining and the timber trade.

### ***Position of the ILO***

In 2000, the ILO governing body adopted a resolution declaring that states and private companies are expected to re-examine their relations with Burma to ensure that they are not unwittingly encouraging the use of forced labour.<sup>5</sup>

In July 2009 FWF consulted the ILO helpdesk for companies on the current position with regard to companies that are sourcing from Burma, which confirmed that the ILO still has the same position on Burma. The ILO emphasises the need for measures to ensure that companies cannot take advantage of the existing system of forced labour.

### ***Position of the international trade union movement***

The ITUC and Global Union Federations call upon national governments and multilateral organisations to prohibit companies to invest in Burma's oil and gas fields. Following requests by the democratic opposition in Burma, both union federations call for suspended investment in and trade with Burma until a regime change takes place in the country. In the words of the ITUC this means that 'foreign companies should temporarily divest their assets in Burma'.

The ITUC actively campaigns to convince foreign companies not to have business links with Burma.<sup>6</sup> The ITUC keeps a public database of more than 400 companies which have trade or investment links with Burma.<sup>7</sup>

The position of the ITUC and Global Union Federations is associated with the Federation of Trade Unions of Burma (FTUB), which has been prohibited in Burma and operates from neighbouring countries. FTUB is an affiliate member of ITUC.<sup>8</sup>

### ***Consultation of stakeholders in Thailand by FWF***

In 2009 FWF consulted various labour NGOs from Thailand working with Burmese migrants on the position that FWF should take regarding (prospective) affiliates that are sourcing from Burma, which lead to the following input:

- In general labour NGOs from Thailand argue that it is not possible to source from Burma without strengthening the position of the military regime. Sourcing from Burma is not possible without bribing local military leaders at some stage of production. This pattern results in hidden economic costs for international buyers and strengthens the financial position of the military.
- Military leaders in Burma have strong links with many privately owned enterprises throughout the country, either by direct ownership or through

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5 <http://www.ilo.org/public/english/standards/reim/ilc/ilc95/pdf/pr-2.pdf>

6 <http://www.ituc-csi.org/IMG/pdf/BirmanieEN.pdf>

7 [www://ituc-csi.org/spip.php?rubrique177](http://www.ituc-csi.org/spip.php?rubrique177)

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relatives. Military leaders control recruitment processes in all layers of the economy. Local military leaders tend to pressure local businesses to offer their relatives a job.

- Labour disputes in Burma often result in the employer's calling in the authorities, after which the military or local police puts complaining workers or labour leaders under pressure. Workers have been reported to have been assassinated after a labour dispute as a means to deter further unrest.

### ***FWF Position***

Based on the above FWF finds that it is not possible to combine production in Burma with corporate social responsibility:

- The situation in Burma with regard to enforcement of existing legislation and general respect for human rights provides insufficient foundation for a credible process that should lead to improvements in working conditions in factories.
- As a result of the political situation in Burma, FWF finds there is no credible structure for strengthening social dialogue between local stakeholders.

### ***Implications for FWF affiliates***

Sourcing from Burma implies an involvement in violated of labour rights, (in)directly strengthens the military regime and weakens the momentum for processes that should lead towards democratisation of the country.

As part of the process of becoming an affiliate of FWF a prospect company is asked to evaluate whether it is inclined to gradually terminate production in Burma. If this is the case the prospect affiliate must commit itself to a strategy for doing this in a responsible way and within a clear timeframe. As part of the timeframe, factories must be given sufficient notice of the ending business relationship. The company must provide sufficient information to the factory to explain why this decision was taken.

The above should be part of the work plan of the prospective FWF affiliate. During the execution of this plan, FWF is willing to support the affiliate in this process as part of the support that FWF provides to affiliates.

### ***Future steps***

FWF will continue to monitor the positions of the above mentioned parties on Burma. If political developments in Burma lead to changes in their positions, FWF will assess to what extent its position on sourcing from Burma is to be revised.