



June 12, 2019

Daw Aung San Suu Kyi  
State Counselor  
Office of the President  
Nay Pyi Taw  
Republic of the Union of Myanmar

Dear State Counselor:

On behalf of international garment, footwear, and travel goods buyers, we write to express our increasing concern over serious and repeated violations of the fundamental rights to freely associate, to organize, and to bargain collectively in both law and in practice in Myanmar.

Thanks to your leadership, Myanmar has transformed from a country closed off from the world due to crippling international sanctions to one of the fastest-growing garment, footwear, and travel goods suppliers in the world. In a few short years, you have transformed the industry into an export powerhouse, quadrupling Myanmar's garment, footwear, and travel goods exports to \$5.2 billion last year, and, more importantly, employs hundreds of thousands of workers.

Despite substantial and impressive progress made during the previous several years in further constructing a democratic legal framework and implementing consistent rule of law, the international apparel, footwear, and travel goods buyers we represent are nonetheless deeply troubled by recent amendments and actions which can misalign, confuse, and even derail some of this progress in implementing a consistent and democratic legal framework.

We are concerned with the implementation of, and proposed reforms to, the Labor Organizations Law (LOL) of 2011 and the Settlement of Labor Disputes Law (SLDL) of 2012, particularly on the issue of freedom of association. As detailed in the appendix to this letter, our association members are concerned that worker's rights to freely associate as union members are not being fully respected. Our members have also noted unduly burdensome approval processes for trade union registrations and industrial actions, especially the requirement of documents, procedures, and approvals which are nowhere mentioned in law.

We understand that the Assembly of the Union recently passed amendments to the SLDL and is considering several amendments to the LOL. However, these amendments, both adopted and proposed, not only fail to address the concerns raised by the International Labor Organization (ILO) and other key stakeholders, but they would make the laws worse in many respects, including but not limited to:

- Requiring trade unions to re-register every two years, which would grant the government significant leverage over unions to refrain from the full exercise of their rights lest their re-registration application be denied (LOL);
- Placing a limit of 30 days on strikes, after which workers would be required to return to work (LOL);
- Imposing imprisonment and significant fines on striking workers (*up to 104 days of wages at the minimum wage rate*), including those who engage in a strike which is technically illegal under the laws of Myanmar, but which are fully consistent with their rights under ILO Conventions (LOL)
- Failing to establish a meaningful legal framework for collective bargaining (SLDL); and
- Allowing employers to bargain collective agreements with non-union bargaining councils, against the clear advice of the ILO (SLDL)

While we are hopeful that the reforms approved to the SLDL will improve the labor dispute settlement process, it remains unclear whether the reforms will result in efficient, proper, and enforceable judgements, that workers will have access to an adequate remedy (including reinstatement), and whether the increased penalties will be enough to dissuade violations of the law.

We urge your government to work with the ILO and other stakeholders to ensure that the labor law reforms, and implementation of those reforms, meet both international law and best practices. We also urge the Government of Myanmar to respect freedom of association and other internationally-protected labor rights, and refrain from continued measures to deny these rights in practice.

With the right laws and procedures in place, and effective implementation, Myanmar can build on its success by distinguishing itself and attracting responsible businesses to create long-term relationships in Myanmar. Such an approach would benefit everyone – international buyers, local employers, workers, and the state.

We look forward to working with you to create a prosperous garment, footwear, and travel goods industry that benefits all stakeholders.

Sincerely,

American Apparel & Footwear Association  
Fair Labor Association  
Initiative for Compliance and Sustainability  
Social Accountability International

CC: U Thein Swe, Union Minister for Labour, Immigration and Population  
Mahn Win Khaing Than, Speaker of the Amyotha Hluttaw  
T Khun Myat, Speaker of the Pyithu Hluttaw  
U Aung Lynn, Ambassador

## **Appendix**

### ***Registration***

The ILO Committee on the Application of Standards has urged the government to “ensure that the registration of workers’ and employers’ organizations is not subject to unreasonable requirements to guarantee that the right to join or establish organizations of their own choosing is not hindered in practice” and “ensure that applications for union registration are acted upon expeditiously and are not denied unless they fail to meet clear and objective criteria set forth in the law.”

The trade union registration process has not improved and appears to be getting worse. During the tripartite discussion, trade unions explained that registrar officials had denied numerous completed applications for reasons found nowhere in the law or rules. These reasons included: 1) a requirement that all executive committee members submit their curriculum vitae; 2) a requirement that all union members submit photocopies of ID cards (extremely onerous since many workers are unable to obtain government-issued IDs); 3) a requirement that the union obtain a letter from the employer acknowledging that the union has informed management of its intent to register (which essentially gives employers the ability to veto the union’s registration by withholding the letter); and 4) a requirement that the union obtain signatures from at least 10 percent of the workforce – and that these be from *non-union* members. These requirements significantly impede the exercise of freedom of association.

Unions report that the registration process can extend for several months, and in many cases end in rejection. The authorities continue to use arbitrary reasons to reject applications, the most recent being objections over the dues rate indicated in the union’s constitution. In other cases, officials have accused unions—without evidence—of forging the signatures of members and requiring the union to submit the application again with new signatures. This gives the impression that the registrar is proactively seeking to prohibit the registration of new unions.

### ***Anti-union Retaliation***

We are deeply concerned that trade union leaders and activists are routinely dismissed for engaging in legal union activity, such as organizing workers into a union, raising complaints, and seeking negotiations with management. The dispute settlement procedures in place fail to provide a remedy for affected workers and fail to sanction employers for any illegal behavior. The arbitration body and arbitration council generally apply the law poorly, and when they do so correctly, employers often refuse to respect these awards. Recently a supplier to a major footwear brand shut down the factory rather than comply with a binding arbitration decision to reinstate a union leader. The supplier subsequently shifted production to a second non-unionized factory in Yangon.

### ***Civil Liberties***

The Committee on the Application of Standards urged the government to, “ensure that workers are able to carry out their trade union activities without threat of violence or other violations of

their civil liberties by police or private security.” We note that the Peaceful Assembly and Peaceful Procession Law enacted in 2012 has been used extensively to detain peaceful protesters speaking out on matters of public interest, including workers. We note that in February 2019, several trade union leaders were arrested in Mandalay under this law for having peacefully protested the labor law reform process and the failure of the government to protect workers from anti-union discrimination. The authorities have claimed that only residents of Mandalay may protest there, which is an unjustifiable limitation on the right to peacefully assembly. Since then, the accused have had to travel to Mandalay numerous times to attend multiple *pro forma* court hearings, which has caused them to lose work time and incur significant expenses.