

“Bestseller’s response”, 7 July 2022

## **Response to Business and Human Rights Resource Centre**

### **General comments:**

We would like to precede our response to the specific allegations with a quick description of our standard operating procedures for allegations of Code of Conduct (CoC) violations, the resources we dedicate to handling them, as well as an overview of our Myanmar-specific due diligence.

We investigate all allegations of CoC violations in person. We have teams of social and labour specialists based in our main sourcing countries. In cases where we find that factories are not meeting our minimum requirements, we have a clearly defined escalation protocol. In the rare case that a factory or supplier is not sufficiently committed to remediating critical issues we will, which is applied uniformly across all sourcing markets. We only offboard factories as a last resort in cases when factory management are unwilling and/or unable to engage in remediation.

In cases of labour disputes, our strategy is to handle complaints at the factory level by encouraging unions and factory management to negotiate. As per ACT (ACTION COLLABORATION TRANSFORMATION) guidance on industrial relations, we do not adjudicate disputes, but instead encourage, support, and respect the outcome of fair and transparent grievance mechanisms.

Regarding Myanmar specifically, in the aftermath of the coup, BESTSELLER increased its due diligence, and put more resources in country to do our utmost to ensure that BESTSELLER products are made by workers whose rights are respected and that we are not contributing to harm in the post-coup context.

What that means is that we have clear RBC (Responsible Business Conduct) expectations for our suppliers that are integrated into commercial contracts. On top of that we have face-to-face meetings and on-site factory assessments, and where possible we use our leverage and network of rightsholders to collaborate and cooperate with a smart mix of measures (voluntary and mandatory) to raise not only the bar. We rely on stakeholders such as local unions and workers' rights advocates to be our partners in flagging concerns and working together to make respect for workers' rights the norm.

There is no simple ethical solution to sourcing in Myanmar and the gravity of this dilemma underlies our responsibility to await the independent impact assessment by ETI (Ethical Trading Initiative) and then decide on our future in Myanmar in dialogue with experts, NGOs, trade unions and other relevant stakeholders. That is what is expected of us as global corporate citizens and how we will conduct our business.

Regarding the cases referenced in your email, BESTSELLER is aware of some of these cases, and is actively engaged in investigating, monitoring, remediating, and mitigating these. However, there are a few that we are not aware of and request more information.

## **Huabo Times**

*Status: Ongoing business relationship*

- In April 2022, workers reported a number of violations at the factory to a local trade union, including mandatory overtime, excessive production targets and verbal harassment and abuse. The workers reported that they were being pressured by their employer to tell buyers that there are no violations at the factory, and threatened that if they reported the truth, the factory would close, and workers would lose their jobs.

This is the first time BESTSELLER has heard of these allegations regarding mandatory overtime, excessive production targets and verbal abuse. These are zero-tolerance issues, please share any evidence you may have to assist with our ongoing investigation and engagement with the supplier/factory management.

In the interim, BESTSELLER has contacted the managers at Huabo Times, who explained that they made an announcement on 29/03/22 to workers and the workplace coordination committee (WCC) that the factory would be assessed as part of an industry-wide human rights impact assessment being conducted by ETI but deny threatening staff.

- On 11 June 2021, a bomb exploded inside the factory, and the factory reportedly provided names of union members to the local police station. Pwint Lin Aung from Union 2 was allegedly arrested on the same day, and of 1,700 workers in total, 20 trade union members and 15 other workers were interrogated by the police. After the bomb blast, guards patrolled the area, and female

workers were body-searched and required to open their food boxes and eat in front of the guards.

The factory has denied providing names of union members to local police authorities. The factory is still waiting for a final statement from the police regarding their investigation into the explosion in the factory.

The factory explained that after the bomb, they installed a metal detector at the entrance to the factory. This metal detector is operated by ten security staff, four of whom are female. The factory added that they have CCTV in the entrance of the factory where the metal detector is, and store this for a maximum of 1 month – BESTSELLER has reviewed footage from the past week, which shows workers entering and exiting the main gate without being subject to body searches. The factory management says there have not been any body searches but noted that lunchboxes made of metal are often opened when set off the alarm but deny making staff eat the contents.

- In June 2021, Ko Naing Win Sam, who was president of Union 2, was fired without reason after a bomb exploded inside the factory. Even though the labour dispute tribunal and labour departments have since urged the factory to rehire him, the factory has not reinstated him.

The factory notes that Ko Naing Win Sam was fired in April 2021, a couple of months prior to the explosion. The worker in question stopped going to the factory from 7 April.

He had already received four warnings. On 20 April, the factory had a WCC meeting on 20 April, where it was agreed to dismiss the worker, and the local labour department was informed on April 21.

BESTSELLER's local social and labour representative has visited the site, reviewed the documentation, and verified that the dismissal came after four warnings regarding two instances of unexcused absences, one instance of stopping other workers from clocking out of work and an instance of leaving the working position for a long time without proper reason and chatting during the workday. As per the law, after four warnings, the factory dismissed Ko Naing Win Sam. The factory claims it has not received instructions from the labour department to reinstate Ko Naing Win Sam. If BHRRC (Business & Human Rights Resource Centre) has evidence to the contrary, please share it with us and we will follow up accordingly.

Additional notes: In July 2021, after a local union notified BESTELLER about alleged health and safety as well as working hour code of conduct violations. We investigated, and failed to find any concrete evidence, but nonetheless found that there is significant room for improvement on social dialogue and therefore enrolled the factory in a SmartTag training for factory management and workers' representatives.

## **Tianjin Fashion Milestone Co. Ltd**

*Status: Ongoing business relationship*

- In March 2022, it was reported that workers were facing a number of violations at the factory, including forced and unpaid overtime, denial of leave, wage deductions, denial of social security benefits, and drinking water provided to workers at the factory turning yellow. A worker was reportedly dismissed for complaining about unpaid overtime.
- In May 2022, it was reported that workers were facing a number of violations at the factory, including forced and unpaid overtime, discrimination against workers who do not work overtime, health problems allegedly caused by continuous overtime shifts, increased targets, limited toilet access, and verbal abuse from supervisors.

We are aware of the considerable problems at this as listed above - we are engaged with the factory management in remediating and mitigating future misconduct. Please note the factory management and the supplier understand the misconduct and have expressed a willingness and intention to improve. The factory has also been enrolled in SmartTag to improve its social dialogue mechanisms. We are closely watching Tianjin's performance as per an agreed corrective action plan and will escalate further if required.

- In May 2022, it was reported that pregnant workers were denied maternity leave.

Regarding the denial of maternity leave, we have investigated this and found it to be unfounded. There are 10 pregnant women working at the unit, three are already on maternity leave and the remaining seven are still working. We expect the employer to respect the laws regarding maternity leave.

## **Dong Yu Garment Co. Ltd**

*Status: Ongoing business relationship*

- In January 2022, it was reported that workers were facing several violations in the factory, including verbal abuse, being forced to work overtime and restrictions to freedom of association, with workers who tried to form a union being dismissed.

BESTSELLER has not received any information about this – these are zero-tolerance issues, please share any evidence you may have to assist with our ongoing investigation and engagement with the supplier/factory management.

- In June 2021, the factory closed temporarily without paying workers severance or specifying when the factory would reopen. On 10 September 2021, it was reported that leaders of the Industrial Workers' Federation of Myanmar had reached an agreement on severance pay with the employer.

BESTELLER is aware of the above allegations. The IWFM (Industrial Workers Federation of Myanmar) notified us of the proposed temporary shutdown from June. The union's complaint was that the factory did not engage with social dialogue. We brought the relevant parties together and resolved through the ACT DRM, and in June they reached an agreement.

Please note, although ACT is no longer operating in Myanmar, we use the 2019 negotiated Fast-Track DRM and accompanying guideline when resolving FOA and CB-related cases.

The Fast-Track Dispute Resolution Mechanism (DRM), negotiated by ACT brands member brands, IndustriALL Global Union and local IndustriALL affiliate IWFM, is designed to address and resolve disputes on workers' rights, including but not limited to Freedom of Association, as efficiently as possible. You can read more about it [here](#)

BESTSELLER does not work with any of the other factories mentioned in the email.

We hope you find this explanation of our action regarding these cases sufficient and look forward to any feedback you have.

If you have any further questions, please reach out.