

Hazardous workplaces: Making the Bangladesh Garment industry safe

The safety record of the Bangladesh garment industry is one of the worst in the world. According to the Bangladesh Fire Department 414 garment workers were killed in at least 213 factory fires between the years 2006 and 2009ⁱⁱ. A further 79 workers lost their lives in 2010 in 21 separate recorded incidents.ⁱⁱⁱ The high death toll from these incidents reflects not only substandard buildings but poor emergency procedures, inadequate and blocked fire exits and overcrowded workplaces. Many of the workers involved were killed while producing clothing for brands and retailers in Europe and North America.

This briefing aims to give an overview of what action needs to be taken by the different actors involved in order to improve the safety of garment factories in Bangladesh, what has been achieved so far both in preventing future tragedies and compensating the victims of previous incidents and what more could and should be done by the brands, retailers and employers to ensure that the workers of Bangladesh are not risking their lives for the sake of cheap fashion.

Section A looks at why the industry in Bangladesh is so unsafe and what is required to improve safety standards in Bangladesh and the action needed to prevent future accidents. This includes background information on the industry in Bangladesh, international standards for the right to safe work, the roles and responsibilities of different stakeholders in ensuring this right is respected and an overview of the work done so far to prevent future tragedies on Bangladesh.

Section B looks at the issue of remedy in general and provision of compensation to affected families in particular. It aims to provide an overview of international standards in regard to remedy and the obligations this places on the different stakeholders and to provide a comparison and analysis of the various schemes that have been set up in Bangladesh to date. It also provides suggestions for other remedial actions.

In conclusion we provide an overview of recommendations being made to the government, industry and multinational buyers and what urgent steps now need to be taken.

Section A Prevention of future tragedies

In this section we are focusing on the need to prevent future tragedies. Why does "prevention" come first? The right to safe work is universal and should be provided to all workers. It is important not to wait for the next tragedy to happen to shock us into action; rather resources should be invested into ensuring, as far as possible, the next tragedy is avoided. This requires a systematic, long term approach focused on eliminating the root causes of factory collapses, fires and stampedes. This work must be a priority for all brands and retailers and employers, regardless of whether or not an incident has taken place in their supply chain or factory. It must also include action from both the government and trade unions, who have a responsibilities for safeguarding their citizens and members from future tragedy.

1 International standards: the right to safe work

All workers have the right to work in an environment which is safe and not detrimental to their health. The ILO Constitution sets forth the principle that workers should be protected from sickness, disease and injury arising from their employment and have established a number of conventions to promote this principle. ILO Convention 155 on Occupational Safety and Health outlines action to be taken by governments and within enterprises to promote occupational safety and health and to improve working conditions. This convention has not been ratified by the Bangladesh government.

All of the incidents documented over recent years could have been avoided if proper regulation and inspection systems were in place. Faulty electricians, old and badly maintained equipment and buildings that fail to meet building code standards have often been the cause of disasters. Death and serious injury tolls have been high due to the lack of training, procedures and equipment for use both by workers and managers and by the emergency services themselves. Locked, blocked and inadequate escape routes have also been a common factor. It is clear that the current failure of either the government of Bangladesh or the businesses that are connected to the Bangladesh industry are not doing enough to ensure garment workers rights to a safe workplace are being either protected or respected.

The UN Guiding Principles on Business and Human Rights, which were signed unanimously by all member states in March 2011, provide a framework for defining the roles and responsibilities of both governments and businesses in regard to human rights. It is based on a framework of three separate "pillars": Protect, Respect and Remedy. This framework can be applied in situations where any human right impacts could occur, including breaches of labour rights in the workplace. As the right to safe work is a recognised labour right, the UN Framework can and should be applied to the issue of hazardous workplaces and states and business therefore have responsibilities to take action to protect and respect their citizens and the community where business operates in regard to ensuring workplaces meet international and national standards on health and safety at work.

2 Why is the Bangladesh Garment Industry so unsafe?

The ready-made garment sector (RMG) in Bangladesh has become the backbone of the Bangladesh economy, producing around 80% of the country's exports. It is now the second largest garment exporter in the world, exporting over US\$17billion worth of clothing in 2011.^{iv} In recent years the industry has boomed and the number of factories engaged in garment production has increased rapidly. Bangladesh is now estimate to have between four and five thousand garment factories, ranging from large first tier suppliers to small factories largely operating as subcontractors to bigger clients.

The industry is characterised by low cost, fast production relying on cheap labour and production costs to compete with its competitors. Over three million workers, the majority of whom are young women, are employed in the Bangladesh garment industry and remain the lowest paid garment workers in the world. The lack of alternative employment options combined with widespread poverty mean these women are forced to accept jobs that are poorly paid and carried out in workplaces that fail to adhere to the most basic standards of

health and safety.

The rapid expansion of the industry has led to the conversion of many buildings, built for other purposes, into factories, often without the required permits. Others have had extra floors added or have increased the workforce and machinery to levels beyond the safe capacity of the building. Many factories run throughout the day and night in order to meet production targets. The establishment of factories, or the conversions of other buildings into garment factories, has often been done as quickly and as cheaply as possible, resulting in widespread safety problems including faulty electrical circuits, unstable buildings, inadequate escape routes and unsafe equipment.

In April 2005, 64 garment workers were killed and 80 were injured when the Spectrum factory, producing clothing for Inditex and Karstadt Quelle, among others, collapsed. The incident shone a spotlight on the poor safety record of industry that employs over 3 million workers often in buildings that are not fit for purpose. Although the Spectrum tragedy brought world attention to the safety problems in the garment industry it appears to have done little to encourage either factory owners or the government to take the systematic action required to improve the safety of Bangladesh garment workers. Every year more workers lose their lives or their health as a result.

Since the Spectrum collapse the Clean Clothes Campaign has been working with Bangladeshi trade unions, local and international labour rights NGOs and the International Textile, Garment and Leather Workers Federation (ITGLWF) to call for justice for those workers and families affected by factory disasters. This has included campaigns on several specific cases involving fires, collapse and stampedes that caused unnecessary deaths and injury to garment workers. (see appendix I for an overview of these cases). CCC has also supported calls for more industry-wide changes, calling on employers, brands and retailers and the Bangladesh government to take action to prevent further tragedies. Each of the campaigns run so far has focused on both the protection of and respect for the rights of Bangladesh workers to a safe workplace and on the need for remedy in cases where workers suffer injury or death as a result of a safety incident.

3 Action taken so far to improve safety in Bangladesh

Following the Spectrum tragedy demands were made to buyers, the Bangladesh industry and the Bangladesh government to take steps to improve the safety of garment factories. This included developing a programme of inspections to check the building safety of garment factories and the establishment of a multi-stakeholder oversight committee, which would include representatives of employers, government, trade unions and fire and safety experts, to investigate and monitor building safety issues.

Straight after the Spectrum some measures were taken including the stepping up of buyer-requested audits focused on building safety, the setting up of a government task force to look into safety, which included a point of contact where workers and others could raise their concerns, and the involvement of the Bangladesh Garment Manufacture and Export Association (BGMEA) in unannounced inspections to check on access to fire exits.

From the outset labour groups raised concerns that this response was not systematic enough, that there was limited capacity for doing any more than ad hoc visits and a lack of effective follow up. In fact the government task force remained largely limited to the

compiling of long lists of improvements needed, most of which were already established in Bangladesh law, and did little in the way of implementation or enforcement. Given that these actions were limited to larger factories owned by BGMEA/BKMEA members there were also concerns that factory owners would simply sub contract orders to smaller factories that were outside the remit of the task force and BGMEA inspections, thereby avoiding inspections or costly re-mediation actions. These concerns were soon to be proved well founded. In 2006, after these measures were introduced, dozens more workers were killed in a number of safety incidents including 63 at KTS Textile Industries, 22 at Phoenix and 3 at Sayem Fashions, proving beyond doubt that the actions taken so far were insufficient.

During 2006 the Multi Fibre Arrangement Forum Bangladesh (MFA Forum), which brought together representatives of government, industry, buyers and trade unions, held meetings to thrash out a more structural response to the problems of building safety but ultimately failed to reach agreement or to carry out any practical work in this area.

Following the tragedy at Garib and Garib in February 2010, various parties once again tried to pull together a multi-stakeholder approach to dealing with fire safety. In May 2010 a proposal was made to organise a meeting, bringing together government, buyers, industry and trade unions. This meeting finally took place in December 2010. It was attended by representatives of buyers, the garment industry, trade unions and labour rights groups. The government failed to send a representative. The meeting focused on sharing progress on individual programmes being carried out by buyers, the BGMEA and trade unions, which were largely limited to an increased focus on electrical inspections. The meeting resulted in few, if any, concrete proposals for action, apart from an agreement to meet again in the near future. Less than two weeks after the meeting, the fire at That's It Sportswear (Hameem Group) took the lives of 29 workers.

A third multi-stakeholder meeting was held in Dhaka in April 2011 bringing together representatives of the BGMEA, trade unions and buyers. The government was represented by officials from the Fire Safety Department and the Building and Factories Departments. Participants discussed the signing of a Memorandum of Understanding (MoU) that would establish a programme of work aimed to prevent future tragedies, whose implementation would be overseen by a multi-stakeholder task force. It was agreed that more negotiations would be necessary to address various aspects of the MoU and no action was agreed upon during the meeting. It was foreseen that negotiations would continue until the summer, with the hope that a final MoU would be signed within months.

The hoped for MoU failed to materialise during 2011 but negotiations continued behind the scenes. On the 15th March 2012 an MoU was signed between PVH Corp., a US company owning several brands including Tommy Hilfiger and Calvin Klein, and Bangladeshi and international labour rights groups and trade unions, including both the Clean Clothes Campaign and the International Textile Garment and Leather Workers Federation. The MoU outlines a programme of work which allows for independent building inspections, worker rights training, public disclosure and a long-overdue review of safety standards. It is transparent as well as practical, and unique in being supported by all key labour stakeholders in Bangladesh and internationally. On the 14th September, 2012 Tchibo was the second retailer to sign the MoU.

4 The role and responsibility of different stakeholders to prevent future tragedies

I Bangladesh government

Within the UN Guiding Principles it is the role of ***national governments*** to “Protect” their citizens from human rights impacts of business operations. This should include actions to prevent and investigate abuses as well as measures to punish and redress. Where abuses are taking place as a result of business practices governments carry responsibility if they fail to take appropriate steps to prevent abuses occurring.

Although Bangladesh does have regulations in regard to building safety they are not sufficient to provide real protection to workers. Furthermore the government's ability to enforce even these limited regulations is woeful. According to a report by the Bangladesh Occupational Safety, Health and Environment Foundation (OSHE) in 2008 there were only eighty personnel involved in inspection activities for the entire country – divided among four major cities – with jurisdiction over 24,299 registered factories, roughly three million shops and establishments, and two major ports. Of these personnel, only twenty were solely responsible for occupational health and safety issues^v. According to a report to the ILO in 2011^{vi} the number of inspectors had increased to 93, although the number of new workplaces has also dramatically increased during this period.

Bangladesh's failure to implement a robust and credible labour inspectorate has regularly been criticised by the ILO Committee of Experts. In the 2011 Report of the Committee of Experts to the ILO Congress it criticized the failure of the Bangladesh government to increase investment in its labour inspectorate, to recruit more labour inspectors or to properly train those already working. It also raised concerns in regard to the practice of providing significant advance notice of inspections and the authority and credibility of the inspectorate.^{vii}

Recommendations for government action^{viii}:

- Conduct a full and rigorous review of building and fire safety standards and regulations for RMG enterprises, and develop benchmarks for compliance.
- Undertake an urgent review, conducted by a multi-stakeholder committee of all multi-story buildings currently housing garment production facilities to ensure they may be safely used for this purpose.
- Ensure that the factory inspectorate is equipped with the necessary resources to conduct regular inspections for adherence to workplace safety and labour legislation, including Bangladesh's National Building Code and Factory Act.
- Issue – on a quarterly basis – a public list of all factories that do not meet the standards outlined above and revoke the export license and BGMEA membership of each factory on this list until compliance is demonstrated.
- Ensure respect for workers' internationally recognised rights of freedom of association and collective bargaining and ensure the removal of all unlawful or unreasonable obstacles to the registration of factory-level unions.
- Set up a high-level investigative committee to conduct inquiries into accidents at factories involving worker fatalities or multiple serious injuries. Such a committee should conduct a thorough investigation into the causes of each such incident and issue a public report of its investigation. The government should pursue all applicable criminal charges against the employer in the case of negligence.

II Brands and retailers

Under the UN Guiding Principles, a clear responsibility for respecting human rights is placed on **businesses** of any size and operating in any jurisdiction. Their responsibility is to avoid infringing on the human rights of others and to address adverse human rights impacts with which they are involved. The principles place an obligation on business to carry out proper due-diligence processes to identify, prevent, mitigate and account for how they address their impacts on human rights.

Although brands and retailers themselves aren't directly responsible for the safety of the buildings where production is taking place, it is clear that the decisions of brands and retailers to seek low cost, unregulated environments in which to carry out production has contributed to a situation where workers lives are being placed at risk. According to a BSCI report *'the expansion of production [in Bangladesh] has led to wild extensions of buildings, especially the construction of new stories.'*^{ix1} The purchasing practices of brands, which are often characterized by short term, unstable relationships, constant price cutting and short lead times also contribute to a lack of investment in the safety conditions within factories and attempts to produce more than the capacity of the factory allows for. At the same time buyers are relying on audit systems, widely criticised for their weakness in uncovering labour rights violations, to monitor supplier adherence to codes of conduct yet are failing to enforce corrective actions in regard to health and safety. Their failure to work in collaboration with other buyers and with local stakeholders, in particular with trade unions representing the garment sector in this regard represents a serious breach of due diligence. As such their actions can be seen as contributing to the human rights abuses detailed here, namely the loss of life and injury of workers in the Bangladesh RMG industry.

Recommendations for brands and retailers:

- Ensure that a full and rigorous review of building and fire safety standards and regulations for RMG enterprises will be conducted, including benchmarks for compliance.
- Ensure thorough, independent and transparent building and safety inspections of all suppliers in the RMG sector and re-mediation of any issues uncovered in the process.
- Ensure purchasing practices and pricing that allow for factory renovations and investments in worker safety.
- Ensure that workers are trained on their rights in collaboration with trade unions.
- Ensure that functioning and independently elected Health and Safety committees are installed at each supplier.
- Ensure that workers have information about and access to credible grievance mechanisms in order to report information about health and safety hazards.
- Ensure respect for workers' internationally recognised rights of freedom of association and collective bargaining.
- Work with labour rights organisations and unions to achieve the above mentioned recommendations.

III Bangladesh Garment Manufacturers and Exporters Association (BGMEA) /Bangladesh Knitwear Manufacturers and Exporters Association (BKMEA)

The sheer number of fire and building safety tragedies in recent years are indicators of a systematic failure of the industry to comply with national and international standards. Fires occur in all levels of production from first tier, large suppliers to small, subcontracting factories. As such the response needs to be industry wide and not simply factory by factory.

As the representative bodies of the Bangladesh garment industry the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) and the Bangladesh Knitwear Manufacturers and Exporters Association (BKMEA) are powerful and influential organisations, with the potential to make a real difference to the way the industry works. They therefore have responsibility for ensuring their members are fully informed in regard to safety standards and have an important role to play in enforcing the implementation of these standards by its members.

Recommendations for BGMEA/BKMEA:

- Ensure that BGMEA/BKMEA members are fully informed in regard to safety standards.
- Work with the government to provide full and comprehensive inspections of member factories.
- Work with the government to revoke the export license and BGMEA membership of each factory that do not meet the standards until compliance is demonstrated. Promote respect for freedom of association among its membership.

IV Factory owners

Factory owners themselves must ultimately be held accountable for their negligence in regard to the upholding of adequate safety standards in the workplaces they own and run. Simply expressing regret or even, in some cases, providing compensation to workers once an incident has occurred is not sufficient when it is their decision to cut corners in regard to building safety, electrical and equipment maintenance that has put the lives of their own workers at risk.

Each individual factory owner needs to take responsibility for ensuring the safety of his employees by taking adequate steps to rectify these problems. All buildings, including extensions to the factory, must meet legal standards and electrical equipment should be properly maintained. At the same time they must ensure that managers, supervisors and workers are properly trained in fire and safety procedures, that exit routes are sufficient for the number of workers employed in the factory, that these remain unblocked at all times. Factory gates should be kept unlocked whenever workers are in the building. It is also vital that factory owners start taking a more positive attitude to dealing with concerns of workers by allowing proper workplace representation and recognise the role that trade unions and workplace safety committees can play in upholding safety standards for workers.

Recommendations for factory owners:

- All buildings, including extensions to the factory, must meet legal standards and

electrical equipment should be properly maintained.

- Review the safety situation at all workplaces by an independent inspector, and ensure that any safety issues identified during the process are timely remedied. In case (part of) the workplaces need to be closed during renovations, workers employment should be maintained and they should not suffer of any loss of pay.
- Managers, supervisors and workers should be properly trained in fire and safety procedures and take responsibility for ensuring the safe exit of the building during or following an incident.
- Exit routes must be sufficient for the number of workers employed in the factory and must remain unblocked at all times. Factory gates should be kept unlocked whenever workers are in the building.
- Install a Health and Safety committee in accordance with Bangladeshi law. Each committee should be comprised of workers and managers, with workers representing no less than 50% of the members, and with selection of workers to be made by the factory's trade union, if present, and by democratic election among the workers where there is no trade union.
- Take a more positive attitude to dealing with concerns of workers by allowing proper workplace representation and recognise the role that trade unions and workplace safety committees can play in upholding safety standards for workers.

Joint Memorandum of Understanding (MoU) between PVH Corp., Tchibo, Bangladesh unions and labour rights groups

The MoU, signed by PVH Corp. (owners of Tommy Hilfiger, Calvin Klein and Speedo), representatives of Bangladeshi trade unions, I and a number of international labour rights groups on March 15, 2012, acknowledges the need for the Bangladeshi government, the Bangladeshi Ready-Made Garment (RMG) industry, brand owners and retailers, and labour to work together to create a safe and sustainable work environment within the Bangladeshi RMG industry. On August 14, 2012, the German retailer Tchibo was the second international company to sign the MoU.

It outlines their commitment to a two year programme, to be led by a multi-stakeholder task force, for the purposes of

- establishing an in-factory training program;
- facilitating the creation of factory health and safety committees;
- reviewing existing building regulations and enforcement;
- developing a worker complaint process and mechanism for workers to report health and safety risks; and
- advising a Chief Inspector who will design and implement a fire safety inspection program based on internationally recognized workplace safety standards.

It is envisaged that the programme will be funded by the participating brands and retailers and that it will involve all of their suppliers. Factories will be expected to take corrective action on any safety issues highlighted. Those failing to take adequate steps to address health and safety issues will lose orders, and these will be transferred to safe factories in Bangladesh, with a commitment to protecting any workers displaced as a result.

Transparency of the programme and inspections will be ensured through the regular disclosure of supplier lists and inspection reports.

The MoU will come into operation once four brands agree to sign up to and implement the programme.

Section B Compensation and Re-mediation

Work to prevent future tragedies to hit the Bangladesh industry is both urgent and vital, however it is also important to ensure that those workers and their families already affected by a factory disaster are properly compensated and that action is taken to ensure the workplaces involved are made safe for current and future employees. Such actions need to include the payment of salaries and, if necessary, redundancy to workers rendered temporarily or permanently unemployed as a result of the accident, payment of immediate medical needs of those affected and the payment of compensation for both loss and suffering and loss of income to ensure families of those workers killed and of injured workers.

1 Responsibility for providing redress

The third pillar of the UN Framework is the need for greater access by victims to effective remedy.^x This recognises the fact that, even if all efforts have been taken to prevent human rights abuses, things do go wrong.

The duty of **governments** in this regard is to ensure those affected within their jurisdiction have access to effective remedy. In Bangladesh, although there is a legal process for claiming compensation this has proved inadequate in addressing the actual needs of those affected and is often bypassed. Many of the workers and families affected by the garment fires and building collapses have never received any compensation or have received compensation at a level or in a form that fails to provide genuine remedy to the victims.

Employers often bypass the process altogether, which although illegal is rarely addressed by the courts and often goes unchallenged by workers who are unaware of their legal rights. Even where workers are aware of legal processes few have the resources to employ legal representation of the same quality and standard as employers. Many injured workers are forced to return to their villages, unable to afford life in the city without employment and as a result never get representation. Finally legal processes are often incredibly costly and may take years to reach a settlement. Most are unable to wait years for legal processes to conclude and produce required results.

Even where the courts find employers liable the emphasis on individual employers within the Bangladesh legal system means that an employer can simply state they do not have the financial resources to provide the ordered level of compensation. In the Spectrum case, a court order for the employer to pay outstanding wages and severance was not complied with on the basis that the employer was bankrupt. Legal proceeding to extract owed wages become drawn out and costly, adding yet another burden to families involved.

The first line of responsibility, under law and practice, is the direct **employer** of the workers affected, particularly when the injury has occurred as a result of negligence. In all the cases CCC has worked on deaths and injury were caused or exacerbated by illegal, unsafe building, faulty electrics or machinery, poor safety procedures and avoidable hazards such as blocked or inadequate fire exits. Although the principle of employer responsibility is supported by trade unions and campaigners, for the reasons outlined above, it often leaves victims with little or no redress.

Within the UN Framework the remedy pillar states that: "where business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes." As shown above **brands and retailers** sourcing from Bangladesh have so far failed to take proper due diligence to ensure that supplier factories meet appropriate standards of building safety. To date none have engaged in meaningful programmes to address this, despite the mounting evidence that workers are at risk of death and injury. This failure to take appropriate steps means that they do have responsibility for those workers who suffer the consequences.

Further, in the case of garment supply chains a significant percentage of the value of products made by affected workers goes to the brands and retailers meaning they are the main beneficiaries of the work carried out by employees. Brands and retailers therefore have a moral responsibility for ensuring compensation is paid, including contributing to funds where employer and government action cannot or does not meet international standards.

Surviving a fire – living with the consequences....

I fell down because somebody pushed me. I don't think they pushed me intentionally, it happened accidentally, and I fell down on the stairs....When I was in hospital, my family came to me, and they were with me. But I never saw any management. I never received any compensation. And now I'm not able to work for the rest of my life. I cannot move my fingers hardly at all."

I became a burden for my family, so they mistreat me. It's like, if they give me food one day, maybe the next three days I won't get food, even from my family.'

- Lovely, survivor KTS fire, 2006

2 Established standards for compensation provision

This section aims to provide an overview of international standards and national legislation that provides for compensation to be paid and the responsibilities of different stakeholders in this regard.

II International Standards

According to the International Labour Organisation (ILO) compensation for accidents at work is the oldest and most widespread form of social protection^{xi}. Although such schemes differ considerably from place to place, best practice is seen to be in the form of social protection schemes, funded through the pooling of financial contributions made by employers or other parties.^{xii} The ILO had adopted two conventions that cover the provision of Employment Injury Schemes: C102 and C121.

C102 deals more broadly with social security payments, which includes sickness, unemployment, maternity, medical and family benefits as well as medical compensation payments. C121 provides more detailed principles for the payment of compensation for damages sustained during employment.

The main principles include the following:

- All workers regardless of length of service are covered. All types of workers, including migrant workers, are entitled to the same level of compensation.

- Compensation should be in the form of periodic payment throughout a period of incapacity for work and in case of death. Lump sum payments should only be provided in certain circumstances (e.g. partial injury).
- Amount of periodic payments should be flexible and can be raised or decreased based on external factors (e.g. increase in cost of living, partial recovery of affected employee).
- Occupational illnesses and accidents during commutes to and from work are also included in Employment Injury Schemes.

C121 also sets minimum standards of payments at 60% of wages in the case of temporary or permanent incapacity for work and 50% of wages in case of death (next of kin to be beneficiary). In general compensation payments are made on the basis of the injury received and are not tied to the need to prove or admit liability of any party.

The ILO conventions don't specify how and by whom compensation should be provided, but recommends the establishment of a nationally Employment Injury Board that all employers pay into. Such schemes work as insurance policies for all employers against paying out compensation for workplace injury. They also mean that workers' aren't reliant on the ability of one specific employer to pay.

II Bangladesh national legislation^{xiii}

Bangladesh has not ratified either convention 102 or 121 and national legislation in Bangladesh as regards to employment injury benefits falls short of the international standards as defined by the relevant ILO conventions. Specifically the Bangladesh government doesn't provide a national compensation or injury scheme and doesn't have provisions or a system for administering periodic payments to beneficiaries of compensation payments^{xiv}.

Liability for Employment Injury Compensation lies squarely with the employer involved and it is the responsibility of the employer to administer the payments, sometimes with the oversight of the labour court. The definition of "employer" under the legislation is quite broad and can include not just the direct employer but also companies (principal employer) that have contracted the work to another party (the contractor) who directly employs the worker, provided that the work is part of the normal business of the principal employer and the accident occurs on premises usually used by the principal employer^{xv}.

The circumstances under which compensation should be provided are laid out under the Bangladesh Labour Act 2006 (BLA). The procedures differ depending on whether the case involves a death, permanent or temporary injury.

In the case of death an employer must deposit 100,000 TK compensation to the Court, which will then decide on distribution of compensation to beneficiaries. The employer might directly compensate the family of a worker who died as a result of a workplace accident, but only when the worker, during his or her employment, has nominated any of his successor for compensation^{xvi}.

In cases of non fatal accidents compensation is decided on the basis of the seriousness of injury, categorised as total disablement, permanent total disablement, permanent partial disablement or temporary partial disablement. Workers who suffer a permanent total or partial disability should be provided with a lump sum payment, those who suffer a

temporary total or partial disability are provided with periodic payments based on salary for the period of their disability. Those workers entitled to claim a lump sum are expected to have attempted to negotiate this with their employer prior to taking their claim to court.

III BGMEA insurance scheme

BGMEA and BKMEA have made it mandatory for their members to pay into a group insurance which provides compensation to the families of workers in case of death. RMG companies have to deposit the yearly due insurance premium amount to BGMEA/BKMEA, which thereafter pay the amount to the insurance company on behalf of the said member. If any claim arises due to the death of a worker, the insurance company will pay the claimed money to BGMEA/BKMEA. BGMEA/BKMEA, thereafter, will pay the said money (100,000 Taka) to the deceased worker's nominee(s) directly. Unless the workers are covered with insurance, BGMEA/BKMEA would not grant export permission to that company.

3 Comparison of compensation schemes

Following the Spectrum disaster in 2005 the CCC have been working with trade unions in Bangladesh to establish models of compensation, with the expectation that the provision of funds would come from the governments, the industry and the buyers involved. Below is a comparison of different models that have been instigated following campaigns on Spectrum (2005), Garib and Garib (2010), That's It Sportswear (2010) and Eurotex/Continental (2011).

In all cases demands were made that victims received adequate medical care and immediate relief, that a lump sum payment was made to account for pain and suffering caused and that the long term medical and financial needs of the victims and their families were provided for.

I Provision for immediate medical and financial needs

In the immediate aftermath of the Spectrum disaster most injured workers were transferred to the local government hospital for treatment. During a visit by some of the major buyers from Spectrum, which took place in the weeks immediately after the disaster many of the injured workers were visited by Neil Kearny, secretary general of the ITGLWF and Javier Chercoles from Inditex. It was clear during the visits that the victims, many of whom sustained serious injuries to limbs and organs were not receiving adequate treatment. At the request of Inditex, who also offered to pay the treatment fees, eighteen of the most seriously injured workers were transferred to the "Trauma Center" in Dhaka – a high quality private medical service specializing in orthopaedics and pain treatment. A further four workers were transferred in the following weeks and families caring for the victims were provided with food, again paid for by Inditex. In total 70 workers received treatment at the Trauma Center with fifty four of these requiring prolonged treatment. One worker was transferred for special rehabilitation at the National Hospital for Paraplegics in Toledo.

Following the Garib and Garib fire in 2010 six workers were admitted to several hospitals in the Dhaka area, we believe this was paid for by the owner. Following the fire at That's It Sportswear, the owners of the factory – Hameem group - paid the medical costs of the injured workers. The same was true for workers injured in the Eurotex and Continental incidents.

II Addressing redundancy and re-employment of survivors

In the immediate aftermath of an accident much of the initial attention, for good reason, is focused on the dead and injured, but for those incidents where the factory is forced to close either temporarily or permanently all the employees of the factory suffer the immediate burden of being made suddenly unemployed. In many cases they will be owed wages and benefits accrued in the period immediately prior to the incident. Therefore an urgent first step is to identify survivors of the accident and ensure they are compensated for back wages and redundancy and supported to find new employment. In cases where the factory closes temporarily workers need to continue receiving salaries until the factory is ready to reopen.

In the case of Spectrum the estimated workforce was estimated to be around 1200. Work was done by the trade union to identify those workers who had lost their income overnight. In total 680 workers were identified as ex-Spectrum workers and were paid a "relief payment" of 2000 TK each (equivalent to around one months wages in 2005). The union also provided these workers with information about alternative job opportunities. Buyers from the factory were also pressed to find alternative employment for Spectrum workers in other factories supplying their brand. One year after the disaster overtime and back wages had been paid to the identified workers, but no severance pay^{xvii} had been provided. Although in the end most of the spectrum workers were able to find other work they were never paid the severance they should have been entitled to, nor any of the back wages owed.

In the cases of Hameem, Eurotex and Continental all the injured workers continued to receive their wages and the factories resumed work shortly after the fire. No reports have been made of job losses resulting from the incidents. In the case of Garib and Garib production did cease at one facility, while the other remained open but no information has been provided on the provision of back pay or severance.

III Establishment of compensation funds

Much of the work by unions and campaigners has focused on the development of compensation funds for deceased and injured workers, which would provide for the longer term financial needs of victims and their families. The trade union movement and labour rights campaigns both in Bangladesh and internationally believes that provision of compensation should be the responsibility of the Bangladesh government, employers, garment industry representatives and international buyers. Therefore all the schemes proposed by trade unions and campaigners are envisaged to be multi-stakeholder and established through contributions from the government, industry bodies (the BGMEA and BKMEA), the owners and the buyers of the factories involved.

The first such fund to be established was proposed following the Spectrum disaster by the ITGLWF and Inditex. It was hoped that the scheme would be funded by brands sourcing from the factory, Spectrum, the BGMEA and the government. In the end only the owner and a handful of brands (Inditex, KarstadtQuelle, Scapino, New Wave Group and Solo Invest) contributed to the fund. The Spectrum Relief Fund was the first initiative of this kind to be developed in Bangladesh and a lot of work was invested in developing formulas for compensation provision, pensions, definitions of beneficiaries and administration of the scheme, as a way of establishing best practice for future cases.

A similar scheme was proposed following the fire at That's It Sportswear. This would require various stakeholders to pay contributions into a separate bank account set up for this occasion, from which compensation payments would be made to the affected families. The proposal set out amounts that should be paid by each stakeholder which included brands (45%), the factory owner (28%), the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) (18%) and the government (9%). By 2012 the brands had all contributed the amount required to provide compensation to the families of the deceased, but have so far refused to contribute compensation for injured workers. The owner has contributed only 40% of its required contribution for compensation to families of the dead workers, along with 274,000TK towards a range of expenses including some compensation, medical and burial costs. The factory owners have also agreed to pay the education costs of any dependent children of those workers killed. The BGMEA has only paid 20% of its contribution while the government has yet to contribute aside from payments for burial costs.

In the case of the fire at Garib and Garib, no compensation scheme has been sent up, and none of the buyers or the owners have contributed money. H&M, one of the major buyers, have decided to focus on the needs of the children and elderly parents, but not to provide general compensation based on the lost income suffered by family members of the dead workers. Other brands sourcing from the factory include Terranova (owned by the Italian company Teddy) and LC Waikiki (owned by the Turkish company Tema), all of whom initially announced that they were willing to contribute to the compensation of the victims and the French company Provera, who announced that it was willing to help the families of the victims. No concrete proposals have been made by any of these brands and no concrete steps towards the provision of compensation have been forthcoming.

In the case of the Eurotex and Continental factory the compensation scheme was devised on the same lines as those developed following the fire at That's It Sportswear. Most of the stakeholders involved in the Eurotex and Continental factories have contributed the expected amount. The majority of the brand contribution was paid by PVH Corp., with a smaller contribution made by GAP. The owner assumed responsibility for the government share. The amount owed by the BGMEA insurance scheme is still to be paid.

IV Compensation payments to families of deceased workers

In the case of Spectrum it was agreed to provide a lump sum "relief" payment to the families of deceased workers. A lump sum payment of 168,000 TK (2,102.10 euros) was agreed for each family identified as a beneficiary. An initial 100,000 TK was paid to the families by the employer shortly after the factory collapse. Fifty six of the families received the remaining 68,000 TK between December 2008 and February 2009, the remaining families had yet to receive the payments due to disputes over the beneficiary and, in one case, problems with establishing a bank account.

A fact-finding mission carried out by INCIDIN after the Spectrum disaster identified the importance of providing pensions to the families of the deceased, in order to compensate for the loss of ongoing income resulting from the death of their family member, this was also a key demand from the unions and the workers themselves. Pensions were to be provided based on 50% of the minimum wage in the garment sector, adjusted for inflation. The lump sum payment would be deducted from this. The implementation of the pension scheme envisaged ran into difficulties early on, and three and half years after the disaster the families had still not received any of the projected pension payments. In June 2009 a meeting of families indicated that the proposed plan for pension payments should be scrapped and should instead be paid in the form of a lump sum. These payments have now

been completed^{xviii}.

Six months after the fire at “That's It Sportswear” a coalition of national trade unions and NGOs, supported by international organisations presented a set of demands for compensation. For the families of deceased workers it called for a payment of 500,000 Taka for loss and suffering and a loss of income payment based on 50% of the minimum wage multiplied by 25 years for each workers, adjusted for inflation. This would bring the total payment to each family to an estimated 1.7 million TK (17,000 euros). The unions decided that the lump sum payment would be preferable as it could be enacted quickly and the amount would anyway be sufficient to provide monthly interest payments. Payments to the families of the dead workers have been made in two installments and they have now received the amounts owed.

Families of the workers killed at Garib and Garib in February 2010 were given a lump sum of 200,000 Taka a month after the incident took place, but have not been offered compensation for loss of income. Unions continue to demand that each family be provided with a minimum of 500,000Taka.

The family of a worker who was killed during a stampede at Matrix Sweaters in 2010 has been provided with a lump sum payment based on loss of earnings calculations.

Families of the dead workers from Eurotex and Continental have now received 1.6 million TK per family. The outstanding amount should be provided once the BGMEA insurance (see above: section 2 III) is paid out.

V Compensation for injured workers

Work done to prepare the model for the Spectrum relief fund also included identifying injured workers, classifying the level of injuries sustained and in turn calculating compensation due on this basis. Following medical assessments fifty four workers were classified as injured and were divided into four separate categories based on the permanence and severity of their injuries. These were:

- Group I: Injuries that leave permanent, very severe after-effects that prevent the employee from carrying out any type of professional activity. (9 workers)
- Group II: Injuries from which partial recovery is possible but which reduce the victim's capacity for future work. (13 workers)
- Group III: Temporary injuries of undefined severity which do not hamper normal occupational activity for a prolonged period of time. (9 workers)
- Group IV: Temporary superficial injuries of minor importance that do not prevent the employee from carrying out his/her normal occupational activity. (23 workers)

All injured workers were to receive a lump sum, equal to 10% of their final compensation amount, which in turn was based on the severity of their injury. Workers from Groups I – III would also be provided with a pension to be paid at 50% of the national minimum wage adjusted for inflation. Group I workers would receive a pension for life, Group II workers would receive a pension for five years, with the possibility of extension if they were not medically fit enough to resume employment and Group III workers would receive a pension for six months. Workers would be required to attend annual medical check ups.

The actual payments commenced in August 2005. Two of the most seriously injured received two years wages in the first instance (paid for by the owner's contribution) and a further 20 workers were given a 6,000 TK lump sum. In April 2007, just days before the second anniversary of the disaster, payments were made based on the terms of the scheme and medical assessments, when €20,757 was distributed to twenty workers. In December 2008 40 of the injured workers were paid what they were owed for compensation and pension from 2005 -2008 in the form of a lump sum payment. For this period adjustments were made to the initial assessments of the seriousness of the injuries following medical reassessments that had taken place in December 2007. By June 2009 only 6 of the injured workers remained in Category 1. In June and July 2009 these six seriously injured workers received pension payments and thirty injured workers were given their full payments. A further 4 workers in category 2 were returning to work and were expected to leave the scheme within a short time. On April 16, 2011, all injured workers^{xix} who remained in the scheme received their final payments.

Following the That's It Sportswear fire the unions demanded that compensation be paid to injured workers to cover medical costs, compensation for pain and suffering plus an amount depending on the seriousness of the injuries. The formula for defining categories and workers and for defining the amount each would receive is the same as that developed for Spectrum, although it is likely workers will be paid in a lump sum rather than in the form of pensions. To date most workers have had immediate medical costs paid by the employer. Some amounts of compensation have been provided by the owner, but no details of the breakdown or the recipients have been provided. There remains a lot of work to be done to document the levels of injury sustained by workers, determine and pay the full compensation to the injured workers and ensure that process is transparent and involves all stakeholders including the local trade unions.

At Garib and Garib none of the injured workers have been offered loss of earnings compensation. H&M, the main buyer at the factory, is assessing family circumstances of those injured to ascertain what support they are willing to give but continue to refuse to provide compensation for loss of income. Such a stance undermines the achievements of recent year in attempting to provide adequate compensation for injury.

Trade unions made the same demands for the families of the dead and for injured workers following fatal accidents at Eurotex and Continental. Injured workers received support from the factory owner to cover immediate medical costs and received wages during the period they were unable to work. More work needs to be done to establish medical need for those workers more seriously injured.

4 Issues arising in the establishment of compensation schemes

I Pressure on stakeholders to fulfil responsibilities

The first hurdle for establishing all the compensation schemes has been to push buyers, employers and the government to acknowledge and fulfil their responsibilities in regard to provision of compensation.

Many brands and retailers have resisted taking such action, concerned about the idea of accepting responsibility or setting precedents. Years of concerted campaigning after Spectrum forced two of the biggest buyers, Inditex and KarstadtQuelle, to contribute

significant amounts, others also contributed smaller amounts. Other large buyers, in particular Carrefour continued to resist such calls, preferring instead to set up their own schemes based more on the principles of humanitarian relief rather than on reparations for injury caused by their action. In Garib and Garib (G&G) none of the buyers have so far proved willing to provide compensation. H&M, the main buyer at G&G has followed Carrefour's example and attempted to set up their own scheme that falls well short of best practice and fails to recognise victims right to redress. Most of the buyers at That's It Sportswear have contributed to compensation schemes for the families of the dead, but refused so far to compensate the injured workers for loss of income.

The Bangladesh garment industry has also been slow in living up to their responsibilities. Employers have, to some extent, legal obligations to provide some compensation, but at inadequate levels. In all cases the owners did have to pay monies to workers in regards to back pay, severance pay, burial costs and initial compensation, but in no cases have they paid out the full amounts owed to compensation schemes. The Government of Bangladesh has provided almost no payments towards compensation schemes apart from small amounts toward burial costs.

II Lump sum vs ongoing payments

One principle that lay at the heart of the initial Spectrum Relief fund was the question regarding the forms of payment. ILO specifies that best practice in terms of compensation provision for loss of life and serious injury is to provide ongoing payments. This provides security to those affected and reduces the risk that lump sums are eroded through debt, bad investment or other problems. In practice such a scheme proved impossible to set up and implement, and the administrative problems that beset the scheme were numerous. This left families, particularly those of the killed workers, desperate and without income for as long as five years.

Barriers to getting the scheme to operate included the lack of and difficulty in obtaining bank accounts for workers; setting up a structure which could oversee the scheme over the long term including difficulties in transferring money from Europe to Bangladesh, reluctance for stakeholders to nominate or provide trustees, agreements over decision making and control of the fund and complications with the transferring of money to workers themselves. In the absence of any group in Bangladesh being able and willing to directly administer such a scheme the money ended up being disbursed on an ad hoc basis, dependent on the occasional presence of ITGLWF/Inditex representatives.

Finally it was decided that the provision of ongoing pensions was not functioning sufficiently well to provide genuine relief for victims families and an agreement was made to transfer all monies owed in the form of a lump sum. In later cases, including That's It Sportswear, the unions have continued to support a preference for pension payments in principle, but recognise that the priority is swift payment to the victims. Therefore they have been willing to negotiate the payment of a lump sum instead on the basis of a quick payment process.

III Identification of beneficiaries

Another issue that led to considerable delay in the case of Spectrum payments was the identification of beneficiaries. The initial fact finding mission to identify families was carried out in February 2006 and encountered a number of barriers in identifying who should be the beneficiary of each payout. Many had returned to their villages across Bangladesh and needed to be traced, a task hindered by poor documentation of workers' details. There were

also cultural barriers to identifying appropriate beneficiaries. For example under the Spectrum scheme the beneficiaries of married male workers were defined as their widows, but under Bangladesh law the beneficiaries would more likely to be defined as the parents. In cases where the widow remains living with in-laws it was easy to trace and identify these women. In the case of Spectrum however a number of whom were no longer living with their in-laws and were difficult to trace. In these cases the widows stood a high likelihood of being disenfranchised entirely by parents of the dead workers. In the end the beneficiaries of all 64 killed workers were identified, but several remain outstanding following legal challenges in regard to who is identified as the beneficiary.

Part of this could be prevented when factories keep accurate records of employees, and all stakeholders work on immediate recording of victims and family members in the aftermath of accidents and disasters. There should be agreement with worker representatives on how to ensure a transparent and credible process of establishing beneficiaries.

IV Parallel programmes

The final impediment to the establishment of a credible compensation scheme has been the setting up of parallel programmes, largely focusing on humanitarian relief. Most of these have been instigated by buyers themselves as a way of bypassing trade union led processes and establishing schemes that are less costly, don't set precedents and suggest an acknowledgement of liability to the company involved. By excluding workers and their trade unions from involvement in negotiating the parameters and development of the programme they take such efforts out of the framework of labour rights (where abuses have occurred and need to be rectified) and into the realm of "disaster relief" (a no-fault tragedy where victims must be "helped").

In the case of Spectrum a parallel initiative was set up by a disaster relief organisation, Friendship, and funded initially by Carrefour. Over the course of the programme Friendship provided equipment for income generation activities, some lump sum payments of between 2000 – 3000 Taka per worker along with extra payments for medical fees, money for investment in land, businesses and animal husbandry, assistance with employment and training and assistance with medical costs.

Although such activities undoubtedly brought some relief to the families involved, none was sufficient to provide long term relief. This is not a problem in itself so long as it is done alongside rather than instead of a genuine compensation scheme. The danger of the programme was that it offered an easily alternative for brands to jump into if they were uncomfortable with the compensation fund. Indeed by the end of 2005 KarstadtQuelle, Scapino, Steilmann and Cotton Group abandoned the relief fund in favour of the Friendship programme. Another concern regarding the programme was the lack of long term provision. Once families were deemed to have been provided sufficient support they were removed from the programme. The scheme also relied on the long term commitment of funders, i.e. the brands. The education programme Friendship had proposed as a third phase was dropped after the brands decided to withdraw from the programme in 2007.

In the case of Garib and Garib H&M has taken a similar stance to Carrefour, employing an outside agency, Save the Children Denmark, to develop the parameters of their programme and excluding national, representative organisations. The danger of their scheme is that it undermines the gains won in recent years, which have firmly established the principle of compensation over relief, responsibility of multiple stakeholders and calculations based on loss of earnings and pain and suffering rather than "need" as evaluated by external parties.

5 Other actions for remedy

I Transparent investigations and improvements to factories

In all of the cases the accident could have been avoided and serious injuries avoided if proper safety checks had been done. Therefore in each case trade unions have demanded full and transparent investigations into the causes of the accident and, where the factory remains open, immediate checks and improvements to be made. The case of Garib and Garib is clear example of why such actions are required. Months prior to the fatal accident in February 2010 a fire had killed on worker and a fire fighter. Just weeks after the February fire a third fire broke out, although luckily in this instance nobody was seriously injured.

II Accountability and prosecutions

There is also a need for prosecutions of negligent factory owners to be taken by the government. Such prosecutions could act as a spur for other factory owners to take more preventative action.

III Ensuring ongoing employment for survivors

For accident survivors, the worst case scenario is that they find themselves unemployed. For this reason it is vital that brands continue to put orders into the factory and work closely with the owner and with trade unions to closely monitor safety conditions at the factory.

IV Support for trade union organising

Finally, in many of the cases the presence of a trade union may have helped to prevent the accident. In Spectrum workers had been raising concerns about cracks in the wall for weeks prior to the collapse. Those workers who raised their concerns were simply told to shut up, stop frightening their colleagues and get back to work. The presence of a trade union may have provided a channel for these concerns to have been raised collectively and pressure for early action to be taken. Trade unions could also have a role in ensuring proper safety equipment is supplied, a check on safety permits and a method for ongoing monitoring of safety issues.

6 Recommendations for future action

Government:

- Provide emergency short-term compensation and adequate disability or survivors' benefits to the families of workers who are killed or permanently disabled because of workplace accidents.
- Provide free medical treatment to workers injured in workplace incidents.
- In the case that factories are closed due to accidents or a failure to meet safety standards, ensure workers are provided income support, equivalent to their former average earnings, for the duration of the closure or, in cases where factories are closed permanently or for an extended time, a reasonable period in which to secure alternative employment.
- Set up a high-level investigative committee to conduct inquiries into accidents at factories involving worker fatalities or multiple serious injuries.
- Pursue all applicable criminal charges against the employer in the case of negligence.

BGMEA/BKMEA:

- Provide emergency short-term compensation and adequate disability or survivors' benefits to the families of workers who are killed or permanently disabled because of workplace accidents.
- Provide free medical treatment to workers injured in workplace incidents.
- Ensure payments made to workers from insurance fund are made in a timely and transparent manner.
- Ensure that contributions to the compensation fund are made in accordance with principles established in the Hameem model.
- Cooperate with investigations into the root causes of the accident and push for any improvements recommended as a result.

Brands and retailers:

- Work with other buyers, factory owners and the BGMEA to quickly establish a compensation fund that at a minimum meets the standards already laid out under the "Hameem" model.
- Negotiate directly with labour groups representing affected workers to establish exact calculation and implementation of compensation agreements.
- Work with trade unions and the BGMEA to support workers affected by sudden factory closure to find other work or in the case of temporary closure, to ensure income is maintained during that period.
- Work with the authorities to establish the cause of any incident and support and resulting improvements required.

Section C Conclusion

It is clear that the safety problems facing the Bangladesh garment industry are both serious and widespread. Unless immediate and coordinated action takes place more of the 3 million Bangladeshi women employed to make our clothes will continue to needlessly risk their lives.

However to date there has been a lot of talk and very little action. More meetings where everyone blames each other for the industries failings will not achieve anything. In this briefing we have outlined where improvements have and can be made; all of those involved in the industry have their part to play in making factories safe.

Brands and retailers must also accept responsibility – although they don't directly own the factories producing their goods, they can and should do more to prevent more deaths from taking place. Although many brands and retailers acknowledge the right to a safe workplace for workers in their corporate codes of conduct, they continue to look to others for action, and use the inaction of the government and industry as an excuse for failing to engage with issue properly. No plan currently on the table is perfect, but we cannot wait for more workers to die before we act.

The Building and Fire Safety MoU that has been signed by PVH Corp. and Tchibo, responds to the duty of brands and retailers to do due diligence. It is built upon the principles of transparency, credibility, stakeholder involvement and worker participation. Since suppliers are shared, brands and retailers should not operate in isolation or try to develop their own plans. It is vital that brands and retailers sourcing from Bangladesh work with those representing workers on the ground to establish a programme of work based on the principles of the current MoU as soon as possible. The first step is to sign on to the MoU already in place.

Over recent years much has been achieved in establishing a model for provision of compensation to affected workers when tragedies inevitably happen. This has been vital in ensuring justice for workers and their families who have lost their lives, livelihoods and health as a result of negligence on the part of owners and buyers. This work must continue forward and should not be undermined by individual brands who prefer to offer charity over respect for the rights of these workers. Therefore all brands and retailers operating in Bangladesh should adopt the principles of the Hameem compensation model in all safety incidents and agree to negotiation exact amounts and implementation with those groups representing workers and their families.

Appendix I Safety incidents in Bangladesh since 2005

NB: This is by no means a comprehensive list of factory incidents since 2005, but an overview of the main cases received by the Clean Clothes Campaign.

April 11, 2005 Spectrum Factory collapse

64 dead, at least 74 injured, including several workers who sustained permanent disablement

Buyers: Inditex (Spain), Carrefour, Solo Invest, CMT Windfield (France), Cotton Group (Belgium), KarstadtQuelle, New Yorker, Bluhmod (Germany), Scapino (Netherlands), and New Wave Group (Sweden).

Incident details: Shortly before 1 am. on the morning of April 11th workers in the Spectrum-Sweater factory built on top of a flood-prone former swamp in Savar, 30 km north-east of Dhaka, found their workplace, suddenly crashing down upon them. On the night of the collapse, factory officials have stated that approximately 184 workers were at the factory. However, workers' who were present that night maintain that there were at least 400 employees on the night shift. This would indicate that the other workers were able to escape from the building.

On several occasions before the collapse workers had tried to report concerns regarding the safety of their building, including one worker who saw cracks in the factory wall five days prior to the collapse. He was told to keep his mouth shut and work. Spectrum was in violation not only of its construction permit, but also of many labour laws and code of conduct provisions prior to the collapse, such as violation of the minimum wage and of the legal right to one day off per week.

February 23, 2006 Fire at KTS Textile Industries, Chittagong

61 dead, approximately 100 injured

Buyers: Uni Hosiery, Mermain International, ATT Enterprise, VIDA Enterprise, Leslee Scott Inc, Ambiance, Andrew Scott

Incident details: A fire, caused by an electrical short circuit, broke out at the factory killing 64 workers, including three girls of 12,13 and 14. At the time of the incident workers estimate that some 400-500 people were working in the building. Locked exits prevented workers from escaping from the facility; at least one local media source reported that it was possible the main gate was intentionally locked at the time of the fire to prevent theft from the factory; sources report that there was no fire safety equipment at the factory, nor had there ever been a fire drill. The factory, was reportedly in violation of numerous additional serious labour rights including: forced overtime, seven-day work weeks, payment of below subsistence level wages (seven to 14 cents per hour) , denial of legal maternity rights, physical abuse of workers, suppression of workers rights to freedom of association and bargain collectively. Factory owner Wahidul Kabir reportedly lives in the United States, in California, where many of the factory's clients are based.

February 25, 2006 Phoenix Building, Dhaka

22 dead, 50 injured

Buyers: unknown but reportedly produced clothing for export to Germany, Switzerland, Norway, Finland and Denmark

Incident details: The five-story building in the Tejgaon industrial area collapsed following unauthorized renovations to convert the upper stories of the building into a 500-bed private hospital. The building had housed Phoenix Garments, but production was being phased out and relocated. At the time of the collapse one line of the garment factory was reportedly still running. Many of the dead appear to have been construction workers involved in the renovation, as well as people who were on an adjoining road at the time of the collapse, and those who lived in the slum nearby. The owner, Deen Mohammad, is also the owner of the City Bank of Bangladesh.

February 25, 2006 Imam Group, Chittagong

57 injured

Buyers: Clients reportedly include US retail giant Kmart and US-based Folsom Corporation.

Incident details: A transformer explosion caused workers to rush for the exits, dozens were injured when they were unable to get out the narrow exists, at this facility housing Moon Fashion Limited, Imam Fashion, Moon Textile, Leading Fashion and Bimon Inda garment factories.

March 6, 2006 Sayem Fashions, Gazipur

3 dead, approximately 50 injured:

Buyers: Inditex, Charles F. Berg, Wet, Ada Gatti, Bershka Company, BSK Garments, X-Mail, Kreisy, Persival (not confirmed).

Incident details: A fire triggered by an electrical short circuit at the building housing Sayem Fashions, SK Sweater and Radiance Sweater 35 kilometres from Dhaka lead to a stampede when workers attempting to exit the premises were blocked from doing so by boxes stored in the area. Workers' organizations report that other workers' rights violations at the facility included long working hours and seven-day work weeks. The building was reportedly owned by Monir Hossain, also the owner of Radiance Sweater and Sayem Fashions (the three women who died were all working at Sayem Fashion)

February 25, 2010 Garib and Garib

21 dead, approximately 50 injured.

Buyers: H&M, Otto, Teddy (brand Terranova), El Corte Ingles, Ulla Popken, Taha Group (brand LC Waikiki), Provera and Mark's Work Warehouse,

Incident details: The fire, seemingly caused by an electrical short circuit, started on the first floor of the seven story building at 9.30pm on Thursday February 25. It quickly spread to the other floors filled with inflammable materials such as wool threads and other goods. Lasting nearly two hours, the fire created a thick black smoke and consumed the oxygen in

the air, suffocating the workers. The smoke could not escape because of poor ventilation and the presence of unauthorized sheet metal structures that were being used for storage of highly inflammable materials on the roof of the building. It appears, from witness statements and press reports, that emergency exits were blocked, the front gate was locked and fire extinguishing equipment was either missing or inappropriate. According to one survivor, rescue efforts were further hampered by the fact that firemen had to cut the window grills to access the building and rescue the trapped workers. No-one on the scene could tell fire fighters how many workers were in the factory at the time the fire began.

This fire followed a previous fire incident at the factory in 2009, which killed one worker and one fire fighter. A third fire broke out at the factory in April 2010. This time the fire broke out during a lunch break and no workers were killed. Two workers were injured.

December 14 2010 That's It Sportswear (Hameem Group)

29 dead, injured 11 seriously along with numerous minor injuries.

Buyers: Gap, PVH Corp., VF Corporation, Target, JC Penney, Carter's (Oshkosh), Abercrombie and Fitch, Kohl's

Description of incident: The fire, which broke out in what was considered a modern building, was, like so many others, caused by an electrical short-circuit and substandard wiring. It was reported that proper fire drills were not carried out, that the exits were blocked and that the workplace was not properly supervised. When the fire broke out on the ninth floor, fire fighters were powerless to help because their ladders couldn't reach beyond the fifth floor and helicopters were unable to land because the rooftop had illegally been turned into a canteen. Moreover, the workers were effectively denied the right of freedom of association which would have allowed them to play a role in addressing some of these violations in advance of the tragedy. Many who tried to escape from the windows fell to their deaths.

December 3 2011 Eurotex (Continental)

2 dead, 64 injured

Buyers: Tommy Hilfiger (owned by the US company PVH Corp.), Zara (owned by the Spanish company Inditex), Gap (US), Kappahl (Sweden), C&A (Belgium) and Groupe Dynamite Boutique Inc (Canadian) - either directly or via subcontracting.

Description of incident: Jesmin Akter, 20 years old and employed as a helper, and Taslima Akter, 22 years old and employed as an operator, were trampled to death after a panic broke out following a boiler explosion on the second floor of the Eurotex Ltd factory in Old Dhaka. Eye witness reports state that one the day of the incident, around 1:15 pm workers reported a problem with the boiler on the second floor. Reports vary on exactly what happened, some witnesses reported seeing vapour escaping from the boiler, others say they heard an explosion. Workers were employed on the second to sixth floor of the factory and as rumours spread through the factory that a fire had broken out many panicked and rushed to leave the building. Workers report that the stampede led to overcrowding on the stairs down to the first floor, resulting in the collapse of a stair rail and a number of workers falling. Reports suggest that the fire doors at the bottom of the stairs were locked, contributing to the stampede and over-crowding on the stair case. One worker reported that at first the gates were open, but were closed by a factory manager, who was urging people to return to work saying that nothing had happened. This witness claims the injuries and deaths were caused when workers started to rush back up the stairs pushing back against those coming down. Several international buyers had already identified concerns in regard

to safety risks at the factory.

20 days after the exploding boiler at Eurotex, a lift cable broke in parent company Continental. This accident killed another worker and injured 2 workers.

Appendix II Health and Safety Action Points for Buyers sourcing from Bangladesh

The following demands were developed and published on April 11th 2010, on the fifth anniversary of the Spectrum disaster and just two months after the tragedy at Garib and Garib. Few if any of these demands have been met, although the recent MoU signed by PVH Corp. and Tchibo goes some way to meeting the major elements in these demands.

1) Apparel buyers should press the government of Bangladesh and the BGMEA to:

a) Undertake an urgent review of all multi-story buildings currently housing garment production facilities to ensure they may be safely used for this purpose. This review should be conducted by a committee consisting of representatives from all government departments directly involved in the observance of the relevant laws and regulations, labour groups, and international buyers.

Ensure that the factory inspectorate is equipped with the necessary resources to conduct regular inspections for adherence to workplace safety and labour legislation, including Bangladesh's National Building Code and Factory Act.

b) Such inspections must ensure that each factory:

i) Has a sufficient number of emergency exits and keeps such exits unlocked and unobstructed during working hours, so that workers can swiftly and safely evacuate in case of emergency and rescue and fire fighting teams and equipment can quickly enter.

ii) Meets regulations for gas lines and electrical wiring, fire retardant materials in walls and roofs, the safe use in multi story buildings of the machinery being operated, and maintenance of working public address systems, emergency lighting, and other warning and response mechanisms.

iii) Has a professionally-developed fire emergency policy, which is tested through regular, monthly fire drills with all workers.

iv) Has a designated manager responsible for structural and fire safety, and an adequate number of employees who are trained to respond appropriately to fires and other emergency situations.

v) Has well-maintained fire prevention materials and fire fighting equipment on the premises.

vi) Has a factory health and safety committee comprised of representatives of management and workers, which meets regularly to review and address health and safety issues, including fire safety.

vii) In the case of factories operating in buildings housing more than one enterprise, in addition to the measures outlined above, has a coordinated fire emergency policy and procedures, accessible fire fighting equipment, designated and trained personnel, and a program of regular fire drills for the entire building.

c) Issue – on a quarterly basis – a public list of all factories that do not meet the standards outlined above and revoke the export license and BGMEA membership of each factory on

this list until compliance is demonstrated.

d) Set up a high-level investigative committee to conduct inquiries into accidents at factories involving worker fatalities or multiple serious injuries. Such a committee should conduct a thorough investigation into the causes of each such incident and issue a public report of its investigation. The government should pursue all applicable criminal charges against the employer in the case of negligence.

e) Provide emergency short-term compensation and adequate disability or survivors' benefits to the families of workers who are killed or permanently disabled because of workplace accidents. Provide free medical treatment to workers injured in such incidents. The amount of compensation should be determined through negotiations with worker rights organisations, including the unions representing the workers.

f) In the case that factories are closed due to accidents or a failure to meet safety standards, ensure workers are provided income support, equivalent to their former average earnings, for the duration of the closure or, in cases where factories are closed permanently or for an extended time, a reasonable period in which to secure alternative employment.

g) Ensure respect for workers' internationally recognised rights of freedom of association and collective bargaining. Trade unions can and should play a central role in promoting workplace health and safety by ensuring workers a voice in identifying and addressing hazards, and providing collective representation to workers who are injured in workplace accidents. Government (in particular the Joint Director of Labor) and factory management should ensure the removal of all unlawful or unreasonable obstacles to the registration of factory-level unions.

2) Buyers should do the following with respect to each of their own supplier factories:

a) Conduct regular audits of factories to ensure the facilities are compliant with applicable structural and fire safety standards, including in each area discussed in item 1.C above.

b) Develop a system that includes meaningful engagement with labour groups at each stage of the audit process, including pre-audit planning, arrangements for labour groups to accompany brand representatives to observe inspections at certain facilities, and review of audit findings.

c) Notify the Bangladesh government and BGMEA when factory audits identify health and safety hazards, and publicly disclose the results of such audits.

d) Ensure that workers have information about and access to credible grievance mechanisms in order to report information about health and safety hazards.

e) Ensure respect for workers' internationally recognised rights of freedom of association and collective bargaining. As discussed above, trade unions can and should play a central role in promoting workplace health and safety.

Appendix III Joint Memorandum of Understanding on Fire and Building Safety

Bangladesh's garment sector is a significant economic power; it generates 75% of the country's total export earnings and has become the most significant source of domestic employment for the country's fast-growing workforce, currently employing an estimated 3.5 million workers. Yet there are serious concerns about workplace safety. The Bangladeshi government reported that 414 apparel workers died in fires between 2006 and 2009. In 2010, two large fires resulted in the deaths of 50 workers.

The problem of unsafe conditions in Bangladesh's apparel factories must be addressed at multiple levels by a variety of different stakeholders. The Government of Bangladesh must play a critical role in long-term, sustainable change by updating laws and implementing regulations, improving factory inspections, and establishing the tripartite framework necessary for appropriate relations between employer and labor stakeholders. Other governments and multilateral organizations should encourage these changes. Factory owners and operators ("factories" or "suppliers") must commit to facilitate and support a continuing cycle of safety management based on ongoing dialogue between management and trade unions or workers' elected representatives.

Brand owners and retailers (also referred to as the "companies" or "company") must verify that the factories they use comply with applicable safety standards and must ensure that their pricing and sourcing practices make this feasible. In this context, the undersigned parties have agreed to work together building trust and consensus, to facilitate immediate improvements that will create safer workplaces and demonstrate to the wider industry requirements for protecting workers.

The undersigned parties are committed to the goal of a safe and sustainable Bangladeshi Ready-Made Garment ("RMG") industry in which no worker needs to fear fires, building collapses, or other accidents that could be prevented with reasonable health and safety measures. The following program, designed for a two-year period, is a pragmatic first step towards this end goal. Local ownership is key to long term sustainability and the active participation of the government and industry associations is foreseen. The program will be evaluated continuously to help participants improve it and design future steps to create a safe and sustainable Bangladeshi RMG industry.

The following are the elements of the program:

TASK FORCE

- 1) The establishment of a multi-stakeholder Task Force, led by an Oversight Committee (OC) comprised of a subset of Task Force members, to lead a time-bound program of two years to improve fire and building safety and for the purpose of undertaking the items listed below.
- 2) The Task Force will be comprised of nine total members, who will be designated in the following manner: The labour signatories to this MOU will designate four Task Force members and will designate two of those members to also serve on the OC; the company signatories to this MOU will designate four Task Force members and will designate two of those members to also serve on the OC; one person will be designated jointly by the company and labour signatories to serve on the Task

Force and the OC. The ideal Task Force will include labour representatives selected from Bangladeshi trade unions, international trade unions and labour non-governmental organizations (“NGOs”), and business representatives selected by the companies from Bangladeshi suppliers and brand owners and retailers sourcing from Bangladesh.

OVERSIGHT COMMITTEE

- 3) The OC shall be the body that has ultimate authority to administer this fire and building safety program, including, but not limited to: the selection, contracting, compensation and review of the performance of the Chief Inspector and Training Coordinator; overseeing and approving the program budget; overseeing financial reporting and hiring auditors; and such other management duties as may be required. The OC shall exercise this authority in consultation with the full Task Force.

CHIEF INSPECTOR

- 4) A qualified Chief Inspector, with fire safety expertise, who is independent of and not employed by companies, trade unions or factories, will be unanimously appointed by the OC.
- 5) The appointment will be made from a list of one or more candidates that will be provided to the OC by Garrett Brown (Maquiladora Health & Safety Support Network), who shall develop this list in consultation with relevant stakeholders in Bangladesh and internationally. The OC will appoint one of the candidates from the list presented by Garret Brown unless there is clear evidence that all of the candidates on the list are unqualified due to demonstrated incompetence and/or bias, in which case the OC will ask Garrett Brown to provide a list of additional candidates, which list shall be treated in the same manner as the original list, and so on until a Chief Inspector is appointed.
- 6) The Chief Inspector will design and implement a fire safety inspection program that is credible and effective and based on internationally recognized workplace safety standards.
- 7) As long as the Chief Inspector acts in a manner consistent with the provisions of this MOU and unless there is clear evidence of malfeasance or incompetence on his or her part, the OC shall not restrict or otherwise interfere with the Chief Inspector’s performance of the duties set forth in this MOU as he or she sees fit, including the scheduling of inspections and the publishing of reports.

FACTORY LISTS

- 8) In order to facilitate implementation of this program, the companies participating in the program will provide to the Chief Inspector accurate and regularly updated lists of their approved suppliers (including sub-contractors) in Bangladesh, organized by tiers as set forth in point 11.
- 9) The Chief Inspector will create a single aggregated list of all suppliers in Bangladesh (including sub-contractors) used by the companies, with an indication as to which factories on this list have been designated by one or more companies as Tier 1 factories and which have been designated by one or more companies as

Tier 2 factories, and shall make this list available to the public and shall update this public list as needed.

- 10) All participating companies will submit a list of factories to the Chief Inspector that accounts for not less than 65% of their orders by volume, irrespective of their size as a customer at each facility. These lists containing volume data and linking specific companies to specific factories will be kept confidential.

FACTORY TIERS

- 11) The primary facilities for inspection, remediation and training will be those identified by each participating brand owner or retailer as representing, in the aggregate, approximately 30% of that company's annual production in Bangladesh by volume ("Tier 1 factories"). The secondary facilities for inspection and remediation (but not training) will be any remaining major or long-term suppliers to the company ("Tier 2 factories").
- 12) Together, Tier 1 and Tier 2 factories must represent approximately 65% of the company's production in Bangladesh by volume.
- 13) The tertiary facilities will be those with occasional orders, one-time orders or those for which a company's orders represent less than 10% of the factory's production in Bangladesh by volume ("Tier 3 factories"). Tier 3 factories will be the subject of initial inspections under the program led by the Chief Inspector. These will be more limited than the inspections conducted for Tier 1 and Tier 2 factories. Their main purpose will be to identify facilities among Tier 3 where safety risks are high. In cases where high risks are identified at a Tier 3 factory, the applicable companies will agree to cause the factory to be subjected to the same inspection as performed on Tier 1 and Tier 2 factories. At the remaining Tier 3 factories, participating companies will work to ensure that the suppliers are addressing fire and building safety issues in the facilities.

INSPECTIONS

- 14) A thorough, independent safety inspection of multi-story RMG production facilities that supply to the undersigned companies will be carried out by skilled personnel acting under the direction of the Chief Inspector. Individual inspectors or inspection organizations will be appointed by the Chief Inspector to conduct said inspections, with priority for factories where workers have submitted complaints regarding fire and electrical safety, where initial evaluations confirm a priority need, where management is willing to participate, and/ or with which any participating company has reasonably significant influence.

REMEDIATION

- 15) The Chief Inspector's recommendations concerning corrective actions necessary to bring factories into compliance with building, fire and electrical safety standards shall be mandatory and time-bound, with sufficient time allotted for all major renovations.
- 16) Each company will make a good faith effort with each factory in which it has production to have the factory (a) remediate violations discovered upon inspection; (b) implement all other aspects of this MOU applicable to the factory

(e.g., submission to inspections, implementation of a worker complaint process and creation of health and safety committees, it being understood that only Tier 1 factories need to implement fire safety training programs).

- 17) The signatory companies will also work in conjunction with the OC in seeking financial and related assistance from governments and private funders from around the world in an effort to help factory owners secure the resources to remediate discovered violations and implement other aspects of the MOU as described above. The efforts of the companies to secure assistance shall not be interpreted as a reason to delay any actions in clause 16 above.
- 18) The trade unions and NGOs that are signatories to this MOU shall be consulted at an early stage in the remediation process if progress is not being made. Early notice shall be given by the applicable company to the applicable supplier regarding its non-compliance and/or failure to remediate, its risk of the loss of orders for continued failure to comply or remediate and its need to ensure compliance with labour standards in the event orders are discontinued as a result of the failure to remediate and the employment of any workers is terminated as a result.
- 19) As a final resort, if the factory fails to remediate any high risk or implement other applicable terms of this MOU, the companies producing there will cease doing business with the factory.

RESPONSIBLE TRANSITIONS

- 20) During any period that a factory (or portion of a factory) is closed for renovation, workers' employment relationship shall be maintained and workers shall not suffer any loss of pay.
- 21) In case business is ceased with any factory pursuant to Paragraph 19, orders from that factory shall be consolidated in qualified Tier 1 and Tier 2 factories identified as safe, unless the orders being relocated are not suitable for production in any safe Tier 1 or Tier 2 factory, in which case the responsible brand or retailer may relocate the orders to any factory where high safety risks have not been identified, provided that the brand or retailer shall ensure that the total volume of its production in Bangladesh is not reduced as a result.
- 22) In such cases, all reasonable effort shall be made to ensure that any workers whose employment is terminated as a result of the loss of orders are offered employment with safe suppliers, including actively working with suppliers to provide hiring preferences to these workers.

COMPLAINTS PROCESS

- 23) The Task Force will develop a worker complaint process and mechanism that ensures workers from Tier 1, 2 and 3 factories can complain about health and safety risks safely and confidentially to the Chief Inspector.
- 24) All complaints will be followed up in a timely fashion and factories that are the subject of complaints will be given high priority in the scheduling of inspections.

REVIEW OF BUILDING STANDARDS

- 25) One or more qualified experts appointed and supervised by the Task Force shall complete a full and rigorous review of current building standards and regulations for RMG enterprises. There shall be sufficient resources for the review to ensure it is credible and effective.
- 26) The parties to this MOU intend to provide guidance to the Government of Bangladesh on adequate and effective fire and building safety regulation in industrial environments, including benchmarks for compliance.
- 27) Such standards shall include agreed procedures to ensure the right of a worker to refuse dangerous work or shut down work that he or she believes in good faith is unsafe, without suffering discrimination or loss of pay.

REPORTING

- 28) The Chief Inspector will regularly provide detailed information to the OC regarding the inspection process and design and will promptly convey all Inspection Reports to the OC.
- 29) The Chief Inspector will immediately disclose to the public Inspection Reports for factories in which s/he has identified imminent and severe threats to health and safety.
- 30) Inspection reports for factories not containing imminent and severe threats will be made public in the following manner:
 - i. Factory management, the factory's health and safety committee, and worker representatives, if there are one or more unions with members in the factory, will be briefed verbally by the Chief Inspector as to his/her findings upon completion of the inspection,
 - ii. factory management, the health and safety committee and worker representatives will be presented with the Chief Inspector's written report as soon as it is completed;
 - iii. three weeks from the date on which the Chief Inspector provides factory management the written report, the Chief Inspector will disclose the report to the public, accompanied by the factory's remediation plan, if the latter has been provided to the Chief Inspector and has been deemed adequate by the Chief Inspector prior to publication of the inspection report.
 - iv. If, in the judgment of the Chief Inspector, the factory does not, at the time the inspection is completed, have a properly functioning health and safety committee with worker participation, as required by Bangladeshi law, the Chief Inspector will disclose the inspection report, upon its completion, to the Bangladeshi labor unions that are signatories to this MOU.
- 31) The purpose of providing the inspection report to the health and safety committee, to worker representatives in the factory, and/or to the Bangladeshi union signatories is to ensure that workers are informed promptly as to inspection findings and are able to provide input through worker representatives in the development of the remediation plan.
- 32) If the Chief Inspector determines at any point that a factory is not acting expeditiously to implement remedial recommendations, the Chief Inspector will issue a public statement reporting his or her concerns.

- 33) In addition, the Chief Inspector will publish quarterly Aggregate Reports which summarize the inspection and remediation activity of the prior quarter. All Aggregate Reports will include both aggregated industry compliance data as well as a detailed review of findings, remedial recommendations, and progress on remediation to date for all factories at which inspections have been completed.
- 34) The Task Force will explore how compliance could be made a prerequisite for factories to receive an export license.

TRAINING PROGRAMS

- 35) The OC will appoint a Training Coordinator who will establish and deliver extensive workplace-based fire safety training programs for workers, managers and security staff to be delivered with involvement of trade unions and specialized local experts.
- 36) The Tier 1 factories will participate in intensive training in which the Training Coordinator and designated training teams, including union representatives, will be ensured access to the factories to provide training to workers and management on a regular basis.
- 37) This training program will include guidance in how workers can proactively participate in advancing workplace fire safety and health through the exercise of their rights.

HEALTH AND SAFETY COMMITTEES

- 38) The participating brand owners and retailers shall require the creation of health and safety committees in all Bangladesh factories that supply to them.
- 39) Functioning in accordance with Bangladeshi law, each committee will be comprised of workers and managers, with workers representing no less than 50% of the members, and with selection of workers to be made by the factory's trade union, if present, and by democratic election among the workers where there is no trade union.
- 40) The role of the committee is to reduce illness and injury by identifying health and safety risks, making recommendations for reduction of risks, and educating managers and workers about health and safety issues, with the goal of making health and safety activities an integral part of the organization's operating procedures and culture.
- 41) The committee will meet regularly and maintain records of its proceedings and activities.

SUPPLIER PARTICIPATION

- 42) Each of the parties to this MOU will make reasonable efforts to fulfill the terms of this MOU and support the successful completion of the project.
- 43) Each of the signatory brand owners and retailers shall require all of its suppliers in Bangladesh to participate fully in the inspection, remediation, training

and health and safety committee activities, corresponding to their designated status as Tier 1, 2 or 3 factories, as described above in this MOU.

SUPPLIER INCENTIVES

- 44) In order to induce Tier 1 and Tier 2 factories to comply with upgrade and remediation requirements of the program, participating brands and retailers will not offer prices to, or accept prices from, factories such that the factories would be without the financial wherewithal to maintain safe workplaces and comply with upgrade and remediation requirements instituted by the Chief Inspector.
- 45) As further inducement to Tier 1 and Tier 2 factories to comply with upgrade and remediation requirements, as determined by the Chief Inspector, the participating companies will continue business at comparable or greater order volumes with such factories at least through the initial two-year term of this program, provided that (a) such business is commercially viable for each company, and (b) the factory continues to substantially meet the company's terms.

FINANCIAL SUPPORT

- 46) Financial support during the two-year term of the program will be provided by the participating brand owners, retailers and suppliers. The brand owners and retailers will share equitably among themselves the financial burden of funding this program, taking into account their respective financial resources, and will ensure the complete funding of this program.

PROGRAM DURATION

- 47) The implementation of the program shall begin on the date when at least four well-known international apparel brand owners and retailers that source from Bangladesh have become signatories to this MOU (the "effective date"), and shall continue from that date for a period of twenty-four months.

PROGRAM LAUNCH

- 48) The labour unions, NGOs, brand owners and retailers that are the signatories to this MOU as of its effective date shall, within 30 days of that date,
- a) Appoint their respective members of the Task Force pursuant to Paragraph 2.
 - b) Appoint, and (in the case of the brand owners and retailers) provide funds to compensate, a person who shall serve as an Interim Administrative Coordinator for a period of no less than 90 days. The Interim Administrative Coordinator shall assist the signatories in establishing the Task Force, and assist the OC, once appointed, in completing its initial tasks, as provided in Paragraphs 1, 2, 4, 5 and 50.

ADDITIONS OR CHANGES

- 49) By mutual agreement, the signatories, either before or after the effective date, may make such changes to the administrative, leadership, and/or oversight mechanisms of the program that the signatories may feel are in the best interests

of the program.

IMPLEMENTATION PLAN

50) The OC will, within 45 days of all its members being appointed, agree upon, in consultation with all other relevant stakeholders, a plan for the implementation and administration of the Bangladesh RMG fire and building safety program described above that will include, at minimum:

a) The schedule for implementing the program activities described above, including, but not limited to, the review of current building standards and regulations referred to in Paragraph 25; the factory inspection program discussed in Paragraph 14; the fire and building safety training program discussed in Paragraphs 35-37; and the implementation of health and safety committees, as discussed in Paragraphs 38-41.

b) A process for binding and legally enforceable arbitration of disputes between parties to this MOU with respect to this MOU and the program, including, but not limited to the allocation of costs relating to any arbitration.

c) A full budget for the expenses of the Task Force, the OC and the administration of the program, and budgeted compensation and reimbursement for expenses of:

- i. a qualified Chief Inspector and sufficient skilled personnel to assist in carrying out the factory inspection program;
- ii. one or more experts to carry out the review of current building standards and regulations;
- iii. a qualified Training Coordinator and an appropriate number of skilled assistants needed to carry out the fire safety training program and activities related to the health and safety committees;
- iv. an Administrative Coordinator to provide administrative support and coordination for all aspects of the program; and the person(s) with financial, accounting and other relevant experience to oversee and account for the expenditure of the contributed funds.

d) A formula for establishing the amount of funds each party will contribute to the budget. Each company will contribute in proportion to the annual volume of its garment production in Bangladesh relative to the respective annual volumes of garment production of the other companies, subject to a maximum contribution of \$500,000 per year for each of the two years of the program and, for companies with annual corporate revenue in excess of \$1 billion, a minimum contribution of \$250,000 per year for each of the two years of the program, with a sliding scale minimum contribution based on revenue to be determined for smaller corporations.

e) Credible, robust, and transparent procedures for the accounting and oversight of all contributed funds.

51) Once the accounting and oversight procedures referenced in Paragraph 50(e) are agreed upon, the undersigned companies shall be obligated to contribute funds in accordance with the formula established pursuant to Paragraph 50(d).

52) Once agreed upon by the Oversight Committee, the implementation plan established pursuant to Paragraph 50 shall be documented in writing, immediately become incorporated by reference into this MOU and be binding on all current and

future signatories to this MOU.

DISPUTE RESOLUTION

- 53) Actions to resolve any dispute among the signatories hereto prior to the establishment of the arbitration procedures under the implementation plan relating to the interpretation, application or implementation of this MOU may be brought in any court of law having jurisdiction over the subject matter and the necessary parties.

The foregoing is agreed to by the undersigned parties.

Appendix IV explanatory note Hameem compensation model

MULTI STAKEHOLDER ROUND-TABLE MEETING ON COMPENSATION FOR VICTIMS OF THE THAT'S IT SPORSWEAR (HAMEEM GROUP) FIRE

Dhaka, 16 and 18 April 2011

DEMANDS ON COMPENSATION (Version amended following the meeting)

PREAMBLE

The aim of this document is to set down the demands for compensation for the 9 workers who were seriously injured and the families of the 29 workers who died as a result of the fire at That's It Sportswear on December 14 2010.

These demands were formally agreed at a meeting of the members unions of the Bangladesh National Council (BNC) and other unions and are supported by the organisations listed at the bottom of the document.

The implementation of these demands shall constitute a good example of meaningful social dialogue and shall contribute towards an ethical and sustainable standard for dealing with industrial accidents, thus helping to protect the image of the RMG industry and helping to prevent damage to the reputations of responsible buyers doing business in Bangladesh.

This signatories of the present document acknowledge that some funds have already been pledged or paid by the Hameem Group, BGMEA and the government. Amounts already paid shall be deducted from the demands outlined below.

It is further recognised that provisions have been made in respect of funeral costs, payment of medical costs, and the education of the children of deceased workers.

However, the signatories of the present document believe that the current compensation arrangements are insufficient to meet the needs of those affected by the disaster and to mitigate the negative impacts on their lives.

The present demands are based on the learnings from the Spectrum case and from other recent compensation cases in the RMG sector.

The demands include compensation for general damages (compensation for pain and suffering and adjusting to life following the tragedy) as well as loss of future earnings (compensation for the long-term effects of losing a breadwinner in the family).

The signatories of the present document firmly believe that while it is essential to ensure that those affected by industrial disasters are adequately compensated, the emphasis must be on the prevention. Measures are needed to ensure that the government and employers take effective action on fire prevention and that the brands have adequate systems in place

to monitor safety and address any deficiencies. The issue of prevention shall be dealt with separately.

LIST OF DECEASED AND INJURED WORKERS

The names of the deceased workers shall be listed in an annex to the agreement, including their ages and the names and details of their beneficiaries. [List to be provided by the factory owner]

The list of injured workers shall be listed in an annex to the agreement along with a description of their injuries as per their medical reports. [List to be provided by the factory owner]

FUNERAL COSTS

It is noted that the Hameem Group has covered the the funeral costs of the deceased with additional assistance provided by the government [details to be provided].

COMPENSATION PAYABLE TO THE FAMILIES OF THE DECEASED WORKERS

Compensation for pain and suffering

The families of the deceased workers shall receive 500,000 takas (five hundred thousand) as compensation for pain and suffering.

Compensation for lost wages

Compensation for loss of earnings shall be calculated as follows:

50% of the minimum wage in the garment sector x 25 years with an adjustment for the projected average annual inflation rate.

The annual minimum wage is currently $3,000 \times 12 + 4000$ (festival bonus) = 40,000 taka.

COMPENSATION FOR INJURED WORKERS

Compensation for general damages

Compensation for general damages (pain and suffering) for those who sustained serious injuries shall be determined taking into account the nature of the injuries and their psychological impact.

Compensation for loss of income based on severity of injury

The injured shall be independently assessed and awarded compensation based on loss of earnings for a length of time determined by the severity of their injuries and their incapacity to work.

Those with lasting injuries shall be awarded compensation as follows:

- Permanent disability: compensation based on 50% of the minimum wage in the garment sector in Bangladesh x number of years till the age of retirement.
- Serious damage but with the possibility of recovering: compensation based on 50% of minimum wage in the garment sector in Bangladesh for an indefinite duration until a

- medical assessment deems they are capable of re-employment;
- Temporary injuries: compensation based on 50% of the minimum wage in the garment sector in Bangladesh for six months;
- Superficial injuries of a temporary nature and low level of seriousness, which do not prevent common labour activities from being carried out: no compensation for loss of income.

MEDICAL COSTS

It is noted that the Hameem Group is already covering all the costs of providing adequate medical attention to the injured workers. Details of costs anticipated for the future shall be noted in the agreement. [Details to be provided]

EDUCATION OF THE CHILDREN OF DECEASED WORKERS

It is noted that the Hameem Group has committed to the paying the education costs of the children of the deceased workers. Details of costs anticipated for the future shall be noted in the agreement. [Details to be provided]

DETERMINING THE BENEFICIARIES

We note that to date the Hameem Group has paid compensation in accordance with the following guidelines:

- If the deceased worker was married with dependent children: 100% of compensation paid to the surviving spouse.
- If the deceased worker was married with no dependent children: 50% paid to the surviving spouse, 50% paid to the parents of the deceased worker.
- In the event of the death of both husband and wife with dependent children: 100% paid to the children.
- In the event of the death of both husband and wife with no children: 50% paid to the parents of the wife, 50% paid to the parents of the husband.

EMPLOYMENT OPPORTUNITIES FOR FAMILY MEMBERS OF THE DECEASED

The Hameem Group shall make every effort to provide employment to family members of the deceased workers in its facilities.

The brands shall make every effort to help family members of the deceased workers to find employment with their suppliers in Bangladesh.

ADMINISTRATION AND DISBURSEMENT OF FUNDS

The Hameem Group shall contract with a bank in Bangladesh to establish a Compensation

Fund for those affected by the That's It Sportswear fire. The bank shall be responsible for transferring compensation to the bank accounts of the beneficiaries.

Contributions by brands shall be deposited to this account.

Agreement shall be reached at the meeting in Dhaka on whether the payments shall be made in a lump-sum or in the form of instalments. Issues to consider include how to ensure that payments are made in a timely manner; how to ensure that women are not denied access to their entitlement; and how to ensure that the long-term needs of dependants are provided for.

If payments are made in instalments then the amounts owed shall be adjusted to reflect the accrued rate of interest.

If necessary the Hameem Group shall assist the beneficiaries in opening a bank account.

RESPONSIBILITY FOR THE PAYMENT OF COMPENSATION

While the present document deals with the immediate needs of the those affected by the That's It Sportswear tragedy, the signatories to these demands recognise the need for longer-terms solutions to deal with compensation. We strongly support the urgent creation of an industry fund aimed at facilitating the payment of compensation in the event of fatal accidents in the sector.

In the meantime, however, in the absence of such a scheme, and taking into account the fact that buyers in general do not at present have adequate systems for detecting and addressing deficiencies in worker safety, the liability for compensation for general damages and lost wages shall be shared between Hameem, BGMEA, the government and the brands as follows:

Brands	45% of the total compensation amount
Hameem	28% of the total compensation amount
BGMEA	18% of the total compensation amount
Government	9% of the total compensation amount

Amounts already paid shall be deducted from the amounts owed.

The contribution of the brands shall be pro-rated based on their percentage of orders from brands that had a regular sourcing relationship with That's It Sportswear in the lead-up to the accident.

JOINT REVIEW PROCEDURE

Agreement shall be reached at the meeting in Dhaka on the establishment of a joint group to review on a regular basis the implementation of this agreement and any related issues.

REACHING A TIME-BOUND AGREEMENT

(...) the agreed provisions as well as the specific responsibilities and commitments of

Hameem, BGMEA and the brands shall be set down in a signed agreement along with a timetable for implementation aimed at ensuring that compensation payments are finalised as early as possible and no later than (...)

These demands have been agreed by the member unions of the Bangladesh National Council and Unity Council unions as follows:

(a) Bangladesh National Council members:

- Bangladesh Jute & Textile Workers Federation (BJTWF)
- United Federation of Garment Workers (UFGW)
- Federation of Garment Workers (FGW)
- Bangladesh Textile & Garment Workers League (BTGWL)
- Garments Tailors Workers League (GTWL)
- Bangladesh Independent Garment Workers Union Federation (BIGUF)
- National Garments Workers Federation (NGWF)
- Bangladesh Garments, Textile & Leather Workers Federation (BGTLF)
- Shadin Bangla Garments Sramik Karmachari Federation
- SEWA Handicrafts Employees Federation (SEWA)
- Bangladesh Jatiyo Sramik Karmachari Federation (BJSKF)
- Bangladesh Shoe & Leather Workers Federation (BSLWF)

(b) Unity Council members:

- National Garments Workers Federation (NGWF)
- Sommilito Garments Sramik Federation (SGSF)
- Bangladesh Garments Sramik Jote (BGSJ)

The demands are supported by the following unions and labour rights groups in Bangladesh:

- Alternative Movement for Resources and Freedom Society (AMRF) [NGO]
- Bangladesh Garment and Industrial Workers Federation (BGIWF) [trade Union]

The demands are also supported at international level the following organisations:

- International Textile, Garment and Leather Workers' Federation (ITGLWF)
- Clean Clothes Campaign (CCC)
- International Labour Rights Forum (ILRF)
- Workers' Rights' Consortium (WRC)

EXPLANATORY NOTE ON THE UNION DEMANDS

Comparison with other compensation settlements

a) Spectrum

In April 2005, the Spectrum factory collapse killed 64 workers and left 80 injured. The Hameem compensation package is based on the learnings of the Spectrum case.

The Spectrum formula for the families of the deceased was as follows:

- a lump-sum payment for pain and suffering of 168,000 Taka per worker; and
- a pension for life for the surviving spouse or in the absence thereof for the surviving head of family, calculated at 50% of the average of the minimum earnings in the textile sector in Bangladesh and the employee's consolidated earnings at the date of the accident, with a minimum of 1,500 Taka per month.

In the case of the injured workers, compensation was paid partly as a lump sum and partly as a pension based on the severity of the injury, as follows:

50% of the average of the minimum earnings in the textile sector in Bangladesh and the employee's consolidated salary at the date of the accident (as a minimum 1,500 Taka) for life, in the case Group 1 victims (permanent disability); for 10 years for group II (serious damage but with possibility of recovery), 6 months for Group III (temporary injuries) and nothing if included in Group IV (superficial injuries).

b) Garib & Garib

In February 2010, 21 workers were killed when a fire broke out at the Garib & Garib factory.

The employer, the BGMEA and the government provided the following assistance:

- Garib and Garib provided 15,000 taka to each family for funeral costs
- Garib and Garib provided 200,000 to the family of each deceased worker (or 100,000 according to some reports);
- BGMEA paid 100,000 to the family of each deceased worker.

H&M provided a 'voluntary support programme' which benefited the families of 13 of the 21 workers who died in the fire (i.e. families with under-age or old-age dependants), as follows:

- Payment of 2,000 Taka per month to the nineteen under-age children of those that died, until they reach the age of 18.
- One-off payment of 100,000 Taka (plus interest) to the above-mentioned children when they turn eighteen.
- Payment of a 100,000 Taka lump sum to parents who are unable to work due to old age and are thus dependent on the income of the workers who died in the fire.
- Assistance to the relatives (over the age of 18) of the deceased or injured workers who are currently out of work to find employment with an H&M supplier or to provide them with training at the H&M centre in Bangladesh.
- Care, if needed for the six injured workers. All six received support for physical medical treatment.

The Garib & Garib scheme did not have the support of trade unions or labour rights groups

Details of Hameem formula for the families of the deceased

- The families of the deceased workers shall receive 500,000 Taka (five hundred thousand) as compensation for pain and suffering.
- Compensation for loss of earnings shall be calculated as 50% of the minimum wage in the garment sector x 25 years with an adjustment for the projected average annual inflation rate.

500,000 Taka, which is described as 'general damages' corresponds to what was described as a 'lump sum payment' in the Spectrum settlement. The amount has been increased to reflect the fact that the minimum wage has increased from 930 Taka at the time of the Spectrum collapse to 3,000 Taka today.

The annual minimum wage is calculated as 3,000 Taka (current minimum wage grade 7) x 12 months + 4000 (festival bonus) = 40,000 Taka.

Lost wages are paid over 25 years. In comparison, at Spectrum compensation for loss of earnings was paid over the lifetime of the beneficiary. The average projected life expectancy of the Spectrum beneficiaries was 25 years.

An average annual inflation rate will need to be calculated from reliable sources and in an agreed manner. Our calculations have been based on the figures provided on the Index Mundi website

[[http://www.indexmundi.com/bangladesh/inflation_rate_\(consumer_prices\).html](http://www.indexmundi.com/bangladesh/inflation_rate_(consumer_prices).html)]

which lists the consumer price increase inflation index since 2003 as follows (source: CIA fact book).

2003 (date of information 2002) 3.10%
2004 (date of information 2003) 5.6%
2005 (date of information 2004) 6%
2006 (date of information 2005) 7%
2007 (date of information 2006) 7.2%
2008 (date of information 2007) 9.10%
2009 (date of information 2008) 8.9%
2010 (date of information 2009) 5.4%
2011 (date of information 2010) 8.1%

This gives an average inflation rate of 6.7%.

Starting with an annual amount of 20,000 (50% of the minimum) the figures are as follows over 25 years:

20,000
21,340
22,770
24,295
25,923
27,660
29,513
31,491
33,600

35,852
 38,254
 40,817
 43,551
 46,469
 49,583
 52,905
 56,450
 60,232
 64,267
 68,573
 73,168
 78,070
 83,300
 88,882
 94,837
**1,211,
 801**

Thus on the basis of 6.7 % inflation per annum the total would amount to:

$$500,000 + 1,211,801 = 1,711,801 \text{ Taka}$$

Compensation for injured workers

Workers who suffered permanent or serious injuries or severe psychological trauma should receive compensation for pain and suffering (500,000 Taka; based upon the same calculation as for the families of the dead workers) in addition to the compensation for loss of earnings according to the severity of their injuries, as set down below:

Those with lasting injuries shall be awarded compensation as follows:

- Permanent disability: compensation based on 50% of the minimum wage in the garment sector in Bangladesh x number of years till the age of retirement.
- Serious damage but with the possibility of recovering: compensation based on 50% of minimum wage in the garment sector in Bangladesh for an indefinite duration until a medical assessment deems they are capable of re-employment;
- Temporary injuries: compensation based on 50% of the minimum wage in the garment sector in Bangladesh for six months;
- Superficial injuries of a temporary nature and low level of seriousness, which do not prevent common labour activities from being carried out: no compensation for loss of income.

Please note that article 19 of ILO Convention 121 on Employment Injury Benefits states that the rate of benefits shall be such as to attain for the standard beneficiary at least the following percentage of the total of the previous earnings of the beneficiary or the breadwinner and of the amount of any family allowances payable:

<i>Category</i>	<i>Standard beneficiary</i>	<i>Percentage</i>

1. Temporary or initial incapacity for work	Man with wife and two children	60
2. Total loss of earning capacity or corresponding loss of faculty	Man with wife and two children	60
3. Death of breadwinner	Widow with two children	50

Endnotes

- i Written by Sam Maher, with special thanks to AKM Nasim, Liz Parker, Tessel Pauli and Ineke Zeldenrust for comments.
- ii <http://www.thedailystar.net/magazine/2010/12/04/special.htm>
- iii Based on an analysis of English-language newspapers (LexisNexis) by ILRF and Clean Clothes Campaign (2012)
- iv Clean Clothes Campaign (2012). *Deadly Denim: sandblasting in the Bangladesh Garment Industry*, p 41
- v <http://www.workersrights.org/university/memo/040210.html>
- vi ILO Report of the Committee of Experts on the Application of Conventions and Recommendations (2011) p 504
- vii ILO Report of the Committee of Experts on the Application of Conventions and Recommendations (2011) p 501 - 505
- viii Based on a list of demands compiled for the 5th Anniversary of the Spectrum disaster: see www.cleanclothes.org/news/action-for-safe-factories-in-bangladesh-on-5th-anniversary-of-spectrum-disaster#1
- ix BSCI (2006). *Annual report*. p 21 [cited in Miller, D (2012). *Last night shift in Savar: the story of the Spectrum sweater factory collapse*. Alnwick: McNidder & Grace]
- x Ruggie, J (2011). *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*. UN Human Rights Council, para 6
- xi ILO (2010). *Employment Injury Benefits*. ILO Moscow, p 5.
- xii Ibid p 6
- xiii Centre for Corporate Accountability (2009). *Obtaining Compensation for Workplace Death or Injury in Bangladesh*. Dhaka.
- xiv The Bangladesh Government enacted a law in 2006, called Bangladesh Labour Welfare Foundation Act 2006, under which a Welfare Foundation Fund has been created for the welfare of all the workers of the country. The function of the Board, which is to administer the fund, among others, is to provide assistance to the family of the worker who died of an accident. However, to date the Board has not undertaken any concrete action.
- xv Bangladesh Labour Act (2006) section 161
- xvi Bangladesh Labour Act (2006) section 155
- xvii Severance pay is the money workers are entitled to receive if made redundant. Given the extent of the damage to the Spectrum factory many workers lost their employment and as a result should have been provided with severance pay based upon their length of service. A previous briefing on severance in cases of Factory Closures is available from <http://www.cleanclothes.org/news/new-resources-clean-clothes-newsletter-nr24/115>
- xviii It was estimated by worker representatives that eventually 58 to 64 families received all outstanding compensation payments on April 16, 2011. Unfortunately Inditex has not provided the exact numbers despite numerous requests from CCC.
- xix Worker representatives estimate this number at 8 workers, unfortunately CCC has not received the exact number from Inditex despite numerous requests over the last years.

