



# The History behind the Bangladesh Fire and Safety Accord

July 8, 2013

## 1. Introduction

The **Accord for Fire and Building Safety in Bangladesh** (otherwise known as the “Bangladesh Fire and Safety Accord”, the “Bangladesh Accord” or the “Accord”) was formally signed by more than 40 apparel companies, two global unions and four Bangladeshi union federations – with four labour rights NGOs signing as witnesses – on May 23, 2013. As of July 4, 2013, a total of 67 companies have signed the Accord.

The Accord sets out the framework for a comprehensive program of independent and transparent inspections, health and safety training and worker empowerment, time-bound and financially-supported remediation of health and safety risks, and real repercussions for suppliers that refuse to comply. The Accord has been endorsed by the Secretary-General of the United Nations, the International Labour Organization, and the Organization for Economic Cooperation and Development, amongst others.

The Accord represents the culmination of years of work by trade union and labour rights organizations to develop and gain agreement on

enforceable and effective safety standards for the Bangladesh ready-made garment industry. It is the result of widespread consultations and discussions with various stakeholders both within Bangladesh and internationally, involving buyers, suppliers, worker representatives and governments.

This brief account of the story behind the Bangladesh Fire and Safety Accord was prepared by the **Clean Clothes Campaign** (CCC) and the **Maquila Solidarity Network** (MSN), two of the labour rights NGOs that were closely involved in the process of creating a strong and binding agreement on fire and building safety in Bangladesh. The purpose of this paper is to clarify the precedent-setting nature of the agreement, its key provisions and their antecedents, and to explain how participants in the process from all sides – both in Bangladesh and internationally – contributed to the substance and successful achievement of the final Accord.

## 2. History

The *Accord for Fire and Building Safety in Bangladesh* is a response by international and Bangladeshi trade union and labour rights organizations to bitter experience with a series of factory fires and two building collapses in Bangladesh and the failure of voluntary efforts by international brands and retailers to prevent further disasters.

It first began to take form in February 2010 in the wake of a fire at the Garib & Garib Sweater Factory

in Dhaka, which killed 21 workers. The International Textile, Garment and Leatherworkers Federation (ITGLWF – now a part of IndustriALL) worked with Bangladeshi unions on a set of proposals to improve fire and building safety. These were codified into a set of [Health and Safety Action Points for Buyers](#) by the Clean Clothes Campaign (CCC), the International Labor Rights Forum (ILRF), the Maquila Solidarity Network (MSN) and the Worker Rights Consortium (WRC), which was released in

April 2010, on the fifth anniversary of the collapse of the Spectrum Factory.

The *Health and Safety Action Points* included many of the provisions now addressed by the Bangladesh Accord, including a thorough review of all multi-story garment production facilities, expert fire and building safety inspections, public disclosure of audit reports and a list of factories that do not meet standards, income support for workers displaced during renovations, and provisions for workers to report and challenge health and safety violations with fear of retaliation.

Following the publication of the Action Points, the ITGLWF and Bangladeshi unions convened a meeting in Dhaka with major buyers including Gap, TEMA, Nike, Walmart, H&M, Levis, Tesco, Primark and Inditex to discuss brand approaches to health and safety in Bangladeshi factories.

A follow-up meeting took place in December 2010, and was attended by representatives of buyers, the garment industry, trade unions and labour rights groups. The Bangladeshi government failed to send a representative to the meeting. 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.

Less than two weeks later, a major fire engulfed the "That's It Sportswear" factory, killing 29 more workers. The factory was producing for JC Penney, VF Corporation, Gap, Phillips-Van Heusen (now known as PVH Corp), Abercrombie & Fitch, Carters, Kohls and Target.

The disaster – followed closely by more deaths at other factories – prompted another meeting between Bangladeshi and international unions and NGOs, international brands and retailers, and the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) in Dhaka, April 2011. The government was represented by officials from the Fire Safety Department and the Building and Factories Department. Participants discussed the signing of a Memorandum of Understanding (MoU) that would establish a program of work aimed to prevent future tragedies. The program would be overseen by a multi-stakeholder task force. Negotiations on a MoU were expected to continue until the summer of 2011, with the hope that a final MoU could be signed within months.

Although a draft MoU was presented at that meeting and a committee struck that was tasked with its further development, the BGMEA, BKMEA and brand representatives failed to follow up on this commitment to participate in the redrafting of the MoU. However, the ITGLWF, CCC, ILRF, MSN and WRC continued to discuss a possible MoU separately with two companies – Gap and PVH – and then later with Tchibo.

Discussions with Gap Inc. proceeded over the remainder of 2011, and the company contributed to what eventually became the final text of the MoU. However the company eventually proved unwilling to sign the proposed MoU. Instead, Gap announced in October 2012 that it would go it alone with the same self-regulatory approach that it and other brands have used for two decades, but which has failed to protect the safety of workers in Bangladesh: company-controlled factory monitoring with no transparency, no role for workers or their trade unions, no commitment to pay prices to suppliers that make it feasible for them operate responsibly, and no binding commitments of any kind.

Discussions with PVH Corp. (owners of Tommy Hilfiger and Calvin Klein brands, amongst others), began in late 2011 parallel to the discussions with Gap. Unlike Gap, however, PVH Corp. signed a MoU with Bangladeshi and international labour rights groups and trade unions, including the ITGLWF, CCC, ILRF, WRC and MSN on March 15, 2012. The MoU contained most of the provisions now found in the Bangladesh Accord, including independent building inspections, worker rights training, public disclosure and a long-overdue review of safety standards.

On September 14, 2012, the German retailer Tchibo signed a similar MoU with the labour same organizations. By that time, the provisions of the MoU had been elaborated and governance structures improved, although the program itself as defined in the original MOU had not changed substantially. In the interim the ITGLWF had merged with the International Federation of Chemical, Energy, Mine and General Workers' Unions (ICEM) and the International Metalworkers Federation (IMF) and formed the global union IndustriALL, which then became a key signatory to the new MoU with Tchibo.

PVH Corp eventually agreed to the same terms as Tchibo, but the MoU still required at least four major buyers to sign before its provisions would be implemented. The MoU was re-christened the

*Bangladesh Fire and Building Safety Agreement* (BFBSA), and between September 2012 and April 2013, the BFBSA signatories urged other global companies to also sign the agreement in order to help prevent further tragedies from occurring. None were willing to do so.

On November 24, 2012, a catastrophic fire at the nine-story Tazreen Fashion garment factory in Dhaka took the lives of over 112 workers. What was reportedly an electrical malfunction appears to have been compounded by the factory's lack of basic safety measures like unobstructed exits, external emergency exits, functioning fire extinguishers, and worker training.

Rather than recognizing the Tazreen disaster as a wake-up call to coalesce around the BFBSA's clear program of work on fire and building safety, in December 2012 a separate and vague proposal was floated by Wal-Mart, Tesco, Carrefour and Migros under the auspices of the Global Social Compliance Program (GSCP), an industry-led organization. The proposal called for a collective approach to fire and building safety and the development of a program that would include some of the same components as those of the BFBSA, including (according to the proposal):

- Better regulation and stronger enforcement
- Investment in safer facilities and infrastructure
- Closure of unsafe premises
- Engagement of workers and their representatives in promoting safe working practices with management and reporting of issues to competent authorities
- Effective training and emergency preparedness of all staff
- Assessment of buyers' responsibilities and necessary improvement of practices

The companies involved in this new initiative looked to the German development agency GIZ (Deutsche Gesellschaft für Internationale Zusammenarbeit) to coordinate the program.

At the national level in Bangladesh, the BGMEA, trade unions and the Government of Bangladesh agreed to develop a tripartite National Action Plan on January 15<sup>th</sup>, 2013. The NAP, as it became known, set out a plan of work including a review of national safety standards, improvements to inspection capacities, fire safety training for managers and workers, and establishment of a fire

safety hotline, amongst other things. The NAP was welcomed by IndustriALL and others as a means toward strengthening national-level actions on fire safety. However it did not specifically address the means by which international buyers could support the process of ensuring fire and building safety in their supplier factories.

Over the months that followed, the GIZ convened conference calls and meetings with numerous global companies and solicited interest in the possibility of developing a parallel program to the PVH/Tchibo MoU.

Outlines of what the GIZ program might entail, and who would be involved, suggested there might be some similarities to the provisions in the BFBSA. However there was a lack of clarity concerning a number of elements, and some fundamental provisions were not addressed at all in the GSCP/GIZ proposal, including, but not limited to:

- The transparency of factory lists, remediation efforts and inspection reports – both to the public and to workers and their organizations – was not assured;
- The consequences of failure to comply with remediation plans was not spelled out, nor were the supports to be made available to workers who may be displaced either by significant renovations or by any loss of orders resulting from a supplier's failure to remediate high-risk violations;
- Buyers were not required to commit to either prices or continued orders at comparable volumes to incentivize suppliers;
- There was no binding dispute resolution process.

IndustriALL expressed a willingness to meet with GIZ to find a way to merge the two processes and seek common ground on a program of work for Bangladesh. Together with the CCC, WRC, ILRF and MSN, they outlined the key principles of a program that would be acceptable to trade union and NGO representatives and agreed to discuss the possibility of developing a single, unified proposal that would address those key principles at a meeting of brands, IndustriALL and some labour rights NGOs on April 29, 2013 in Geneva.

On April 24, the Rana Plaza factory building collapsed, killing over 1,100 workers and injuring approximately 2,500 more. The urgency of the need

to develop a unitary and comprehensive fire and building safety program was clear to all.

The April 29, 2013 GIZ-sponsored meeting brought together representatives from IndustriALL, GIZ, many major European and North American apparel brands and retailers, the International Labour Organization (ILO), Ethical Trading Initiative (ETI), CCC, WRC, and others.

The participants reviewed two program proposals – the key principles of the BFBSA and the GIZ proposal – and established a committee to draft a new, joint agreement by May 5<sup>th</sup>, which would be circulated for final approval by May 15, 2013.

Although the drafting committee began its work shortly after the meeting, it quickly became clear that agreement on the key principles put forward by IndustriALL et al was not going to be possible. On May 5<sup>th</sup>, IndustriALL and the global union UNI, jointly with NGO partners issued a new version of the BFBSA – now called the *Accord on Fire and Building Safety in Bangladesh* – and asked major brands and retailers to endorse the Accord by May 15<sup>th</sup>. The key provisions of the Accord were closely

based on those in the earlier BFBSA, but some of the language and structure was modified to take into account concerns and suggestions for improvement expressed by companies with whom the Global Unions had consulted. It also explicitly endorsed the NAP (which had not existed when the earlier BFBSA was signed) and pledged to dovetail its efforts with the actions being undertaken under the NAP.

A comparison of the components of the BFBSA and the final Bangladesh Accord is set out in the following section.

On the morning of May 13<sup>th</sup>, H&M (the largest buyer of apparel from Bangladesh) announced that it would sign the Accord with IndustriALL and UNI. In the hours and days that followed, almost forty companies announced their intention to sign the Accord. It was formally signed between the international brand buyers, the global unions and Bangladeshi unions on May 23, 2013, with the NGOs CCC, ILRF, MSN and WRC signing as witnesses.

### 3. Key components of the Accord

The Bangladesh Accord has 25 clauses setting out its core components. The main principles and components of the Accord are consistent with those of the earlier BFBSA with PVH Corp and Tchibo. These principles and components are based on discussions among and proposals from unions, NGOs, suppliers in Bangladesh and international brands and retailers. They are informed by over a decade of experience by unions and labour rights NGOs in documenting and responding to a series of preventable factory disasters, as well as the experiences and limitations of the factory monitoring and safety programs of the Bangladeshi government, local suppliers and international buyers.

The most important components of both the BFBSA and the Accord, as well as the differences in the provisions in the two agreements, are as follows:

#### **Independent inspector:**

Over more than a decade, numerous factories in Bangladesh that later proved to be deathtraps were deemed by company auditors or commercial auditing firms to be sufficiently compliant with company codes and national law for the

international buyer to continue sourcing from the facilities without requiring upgrading.

Recognizing the weaknesses of current company-controlled monitoring programs, as well as the failure of the Bangladeshi government to enforce its own laws, the Accord, as well as the earlier BFBSA, provide for an independent inspector with the authority to report publicly on the results of his/her findings and to issue remediation orders. This is to ensure the quality of factory inspections, to provide stakeholders information on the results of those inspections, and to ensure that remediation takes place without interference.

*Differences between the Accord and BFBSA:* In the BFBSA, the inspector was to be chosen from a list provided by the Coordinator of the Maquiladora Health and Safety Support Network (MHSSN), a credible independent OSH expert. In the Accord, a three-person committee selects the independent inspector. (The MHSSN Coordinator has since been appointed to that committee.)

**Tiered factory structure:**

Under both Accord and the BFBSA, supplier factories are grouped in tiers based on the volume of production placed in those factories by participating buyers. This structure was suggested by company signatories to recognize that additional measures are more likely to be implemented where buyer influence is stronger. Factories with a higher volume of production are subjected to the full program of inspections and training, while factories in the lowest of the three tiers receive a full inspection but no training. If a lowest tier factory is found to have serious health and safety issues, however, it will be placed in a higher tier and subjected to additional measures.

**Transparency:**

Some brand buyers had claimed that prior to the fire at the Garib & Garib factory in 2010 they had identified safety risks and therefore had discontinued orders to the factory. However they failed to publicize or share these findings with other buyers or governmental authorities. As a result, the factory was allowed to continue operating without addressing these serious risks, with fatal consequences.

Under the Accord, as was the case under the BFBSA, the results of factory inspections and any remediation plans and efforts will be made public, adding incentive for factories to improve safety conditions in a timely manner and ensuring that serious risks are not left unaddressed. In addition, a full list of factories subjected to the program will be made publicly available, although in neither the BFBSA nor the Accord would the names of factories be linked to individual buyers.

**Training program with union involvement:**

Worker empowerment is a critical element of worker safety training – without the power and confidence to voice complaints, knowledge of potential risks is of little use. Further, in order to establish sustainable compliance in the Bangladeshi industry, trade unions must be seen by suppliers as partners in health and safety matters, not as enemies.

Under the Accord, health and safety training for workers and management personnel will be coordinated by a Training Coordinator appointed by the Steering Committee, and Bangladeshi trade unions will have the right to participate in worker training efforts.

The provisions for health and safety training in the Accord are consistent with those in the BFBSA.

**Right to refuse unsafe work:**

When Tchibo signed the initial MoU, a clause was added (at the request of labour rights signatories) that guaranteed the right of workers to refuse unsafe work without fear of retaliation. If this right had been recognized at Rana Plaza, workers would have been able to refuse to go back into the unsafe building after it was initially closed, preventing more than 1,100 deaths and thousands of injuries.

This is now a central element in the Accord.

**Worker health and safety committees:**

An active health and safety committee in the workplace can identify and act on health and safety risks on a day-to-day basis, in a way that occasional buyer or third-party auditing cannot. Such committees are required by Bangladeshi law, but seldom exist in practice.

Under both the BFBSA and the Accord, factories are required to establish joint worker-management health and safety committees which will operate in compliance with Bangladeshi law.

**Buyer support for remediation:**

The BFBSA and the Accord both forbid buyers from establishing prices “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”.

*Differences in Accord and BFBSA:* The Accord provides further guidance, stating, “Each signatory company may, at its option, use alternative means to ensure factories have the financial capacity to comply with remediation requirements, including but not limited to joint investments, providing loans, accessing donor or government support, through offering business incentives or through paying for renovations directly.” These options were requested by early signatory companies to recognize other possible means of funding improvements to factories. For labour rights stakeholders, the precise method of paying for remediation is not important, but it is important that commercial terms do not undermine efforts to provide safe workplaces and decent working conditions.

**Commitment to continued sourcing:**

As a further incentive to suppliers in Bangladesh, the company signatories to the Accord have agreed to maintain order volumes with Tier 1 and 2 suppliers for at least the first two years of the

program provided it is commercially viable and the factory continues to meet its obligations under the Accord.

*Differences in Accord and BFBSA:* Under the BFBSA, if a factory was cut off for non-compliance under the agreement, those orders were also to be shifted to another factory in Bangladesh, if possible. This requirement was removed in the Accord at the request of early company signatories, under the condition that they agreed to a five-year program of work rather than a two-year program.

#### **Support for workers displaced by remediation:**

Similarly, where workers are displaced as a result of renovation efforts, the signatory companies will require suppliers to maintain their employment and incomes during the renovations. At the request of early company signatories, the Accord clarifies that this shall be done for up to six months. If a non-compliant factory closes, the signatory companies are to make reasonable efforts to find workers employment at other, compliant factories, and to establish preferential hiring for those workers. This provision ensures that workers are not made to suffer for the failures of the employer.

#### **Governance structure:**

In both the BFBSA and the Accord, the safety program is to be overseen by a committee, called the Steering Committee under the Accord, made up of equal representation from labour and company signatories, with a neutral Chair. The fact that trade union partners have an equal say in governance of the factory inspection program is a critical difference between the Accord and company-controlled monitoring programs. Under the Accord, there is also an Advisory Board that includes other brands and retailers, suppliers, unions, governmental and non-governmental organizations, to ensure that a wide range of stakeholders' views are represented in the implementation of the program.

*Differences in Accord and BFBSA:* The BFBSA included NGOs as signatories, and as part of the governance structure. By mutual agreement, the Accord was signed between trade unions and companies, with NGOs signing as witnesses. In line with that decision, and the Steering Committee consists of an equal number of union and company representatives, the neutral Chair is chosen by the ILO, and the members of the Advisory Board are appointed by the signatories to the Accord.

#### **Dispute resolution:**

Signatories to both the BFBSA and the Accord agreed to establish a binding and legally-enforceable dispute resolution process, based on standard international commercial arbitration models. Under the Accord, the process was further clarified. Disputes are first referred to the Steering Committee for resolution, and only referred to binding arbitration (using the United Nations Commission on International Trade Law – UNCITRAL – Model Rules) if agreement is not reached at the Steering Committee. Arbitral awards (under the New York Convention) can be enforced by a court in any applicable jurisdiction. Although the Accord spelled out the process in more detail, legally-binding arbitration was an essential element of each agreement. For labour signatories, a binding agreement is necessary after eight years of voluntary programs failed to make any progress in eliminating life-threatening safety violations in Bangladeshi factories.

#### **Additional differences in the Accord:**

- **Coordination with the National Action Plan (NAP):** Because the NAP had been developed in January, 2013, after the signing of the BFBSA, the signatories to the Accord all agreed that efforts should be made to coordinate with the parties involved in the NAP. For example, a worker complaint system is to be established under the Accord (and also under the BFBSA), but this is now to be aligned with a worker complaint hotline that is being created under the NAP.
- **Five year timeline:** The final Accord extended the fire and building safety program to five years (from the original two). This was requested by the companies that attended the April 29<sup>th</sup> GIZ meeting, and agreed to by all signatories to the Accord.
- **Recognition of company inspection programmes:** In order to avoid unnecessary duplication of efforts, the Accord allows the Safety Inspector to recognize and incorporate company inspection programs if they meet or exceed the program's standards. However, every factory supplying one or more signatories to the Accord will be subject to at least one independent inspection under the Accord.

## 4. Conclusion

Following the signing of the Accord, negotiations began between signatories on a full Implementation Plan. Those negotiations will define in greater detail its administrative structures, staffing, data collection, financial commitments and other procedures necessary to put the Accord's comprehensive program into practice.

Now that a comprehensive, enforceable and widely-supported agreement is in place, it is critical that:

- a) all buyers sourcing garments in Bangladesh sign on to the Accord and deliver a consistent message to their suppliers; and
- b) the parties to the Accord deliver on the promise made to Bangladeshi workers in the Accord – that they will no longer be forced to risk their lives every time they enter their place of work.

Lastly, while the Bangladesh Accord's program applies only to Bangladesh, there is an urgent need for buyers, suppliers, trade unions and NGOs working in other countries like Pakistan, Cambodia, and India (all of which have experienced their own fatal factory disasters) to learn from this experience and develop effective, comprehensive and binding agreements in their own countries in order to improve workplace safety and other conditions for workers in all garment export factories in those countries.

**Clean Clothes Campaign**

[www.cleanclothes.org](http://www.cleanclothes.org)

**Maquila Solidarity Network**

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