



October 2018

Statement of the Bangladesh Accord’s Witness Signatories on the Imminent Expulsion of Bangladesh’s Only Credible Factory Inspection Program

Less than two months remain until the Bangladesh High Court’s decision to lift the restraining order against the Accord is set to expire, which would force the premature cessation of the Accord’s inspection program in Bangladesh.¹ The purpose of this statement is to outline our expectations for company signatories should this occur and actions we believe can and should be immediately taken by company signatories, even at this late stage, to prevent this from happening.

Various lobbying and advocacy efforts aimed at the Bangladesh government, the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), and intergovernmental organizations have been taken by the Accord’s Steering Committee (SC), among others, to prevent the expulsion of the Accord’s inspection program from Bangladesh. However, it is clear that, thus far, this lobbying alone has been insufficient in securing the Accord’s future in Bangladesh.

If the Accord’s safety inspection program, the only credible one in the country, is expelled from Bangladesh, responsible brands and retailers will suspend placing orders with Bangladeshi suppliers until the government reverses its decision and the Accord’s normal work is allowed to resume. There will no longer be any assurance that factories in the country are safe or on their way to becoming safe. Rewarding the Bangladeshi government and business elite for an act of recklessness that has no precedent in the history of the garment industry will make a mockery of every buyer code of conduct that purports to protect worker safety.

Some buyers will ignore their moral responsibilities and stay, choosing to prioritize Bangladesh’s ultra-low wages over the safety of workers and the integrity of their own business standards – but they may well end up regretting this decision. These buyers will have to explain to their customers why they are endangering the lives of workers by sourcing from a country whose government expels the only organization equipped to prevent mass fatality factory

¹ The restraining order issued by the Supreme Court in Bangladesh, ruling that the Accord will no longer be allowed to operate in Bangladesh after November 30, 2018, resulted from a decision in a case filed by a factory against the Accord. The factory did not agree with the Accord’s decision to exclude it from production for Accord signatory companies due to falsification of concrete strength test results at the factory.

disasters. Furthermore, they will remain legally bound by an Accord that will simultaneously be more expensive for buyers (with big fee increases necessitated by the cost of replacing locally-employed inspectors with contracted international engineering firms) and less effective.²

The only way to prevent the premature departure of the Accord's inspection program from Bangladesh – *and the dangerous consequences to worker safety as well as brands' own finances and reputation it would bring* – is for signatory brands to take immediate action. Details of the above-mentioned scenario, as well as our recommendations for how to avoid it, are outlined below.

Why Responsible Brands Will Suspend Orders in Bangladesh if the Accord's Inspectorate is Expelled

To Do Otherwise Would Violate Their Due Diligence Requirements and Codes

Notwithstanding the unprecedented improvements to worker safety that have been achieved over the past five years, workers remain exposed to potentially deadly hazards in many factories. At present, over 50% of the factories covered by the Accord do not yet have adequate fire detection and fire protection systems in place and 40% of the factories have not completed all necessary structural renovations. In many cases, these safety deficiencies were identified more than three years ago. Brands are fully aware of the safety hazards that exist at their suppliers and, in the absence of the Accord's fully functional inspection program, they will knowingly be leaving workers' lives at risk if they choose to stay at these factories.

Indeed, even factories that have eliminated all initial safety hazards require regular monitoring, maintenance, and in-factory safety systems and practices in order to prevent the hazardous practices of the past, such as locking emergency exits and obstructing escape routes.

To knowingly source from factories that have identified safety hazards, without an adequate program to address them, not only violates most companies' own policies but also their due diligence obligations under the United Nations Guiding Principles on Business and Human Rights, the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises, the OECD Due Diligence Guidance for Responsible Business Conduct, the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector and, in some cases, domestic legislation.

Rewarding an Irresponsible Government

² The Witness Signatories recognize the existence of the [Remediation Coordination Cell \(RCC\)](#), the Government of Bangladesh's program for managing the remediation process for garment factories. However, [as has been widely recognized](#), the program is ill-prepared to assume the responsibilities of the Accord's inspection program at this point in time.

Governments of garment producing countries across the world are watching events in Bangladesh to see what the government does and how global brands react. Brands have been telling all of us for years that labor rights and worker safety matter to them, that it isn't all about low wages and low prices, that countries that make a real commitment to workers' rights will be rewarded and those that don't punished. The government of Bangladesh, a country with a long history of worker death and injury due to lax regulation, is threatening to make the unprecedented decision to expel the country's only credible worker safety program, a program officially embraced by most of the country's leading buyers. If the government is so reckless as to follow through on this threat and expel the Accord's safety inspectorate, then brands will have two choices: 1) they can respond appropriately and suspend orders until the government reverses course and the Accord's normal work is allowed to resume or 2) they can send an unmistakable message, to every apparel exporting country in the world, that worrying about workers' rights and worker safety is a waste of time and money, that buyers' labor rights pretensions are empty rhetoric, that a country can do anything it wants to workers and the buyers will keep buying, as long as the price is right.

What Brands Will Face If They Choose to Stay Despite the Accord Being Forced to Leave

Should the Accord be forced to prematurely cease operations in Bangladesh, the brands will have to answer why and how – despite their collective economic power in a country where garments generate 85% of exports earnings – they allowed this to happen. Brands use their economic leverage to squeeze suppliers mercilessly on price. They will have to account for why they declined to use this power to protect a life-saving safety program. Further, those brands that choose to continue sourcing from Bangladesh will be forced to explain why they are continuing to source from a country where the world's leading building safety initiative is officially reporting that buyers no longer have the tools to keep workers safe.

Some buyers may be operating under the assumption that the expulsion of the Accord inspection program will mean the end of their Accord obligations. They are wrong. All Accord signatory buyers that continue sourcing from Bangladesh will be legally bound to the agreement until 2021. The Accord will continue to operate from its Amsterdam headquarters and will do the best it can to mitigate the damage by doing whatever inspections it can (via contract firms) and by holding buyers that stay fully accountable to their Accord commitments – including the commitment to pay for safety renovations at any factories that still choose to undertake such renovations and need financial help. While this might offer another option for signatory companies that want to continue sourcing from Bangladesh, it would have far-reaching consequences, not only for workers and suppliers but, as outlined below, for company signatories as well.

Less Effective Inspection Program

In the absence of its own Bangladesh based staff of engineers, the Accord would be forced to contract its inspection program to international engineering firms that would send teams to Bangladesh to conduct factory inspections. While this approach will deliver some protection to workers, that protection will be partial. Engineers traveling in and out of Bangladesh, and quite possibly facing government harassment, would not have the capacity to provide a high level of scrutiny the number of factories the Accord now covers, leaving many factories without effective monitoring.

More Terminated Factories

Because of limitations of a remotely-run factory inspection program, the Accord's Chief Safety Inspector (CSI), who decides whether and when to terminate suppliers (i.e., direct Accord signatories to stop doing business with them), would have to terminate a lot more suppliers. He would be unable to adequately verify progress at some factories, especially those that are far behind on renovations and have been given a short timeline to come into compliance. In the absence of sufficient assurance that these suppliers are on track toward safety, termination would be the only option.

Budgetary Consequences

Operating the Accord inspection program from Amsterdam would have budgetary consequences for signatory brands as well, as it would require significant additional staff to be hired in the Netherlands (in particular case handlers) and the contracting of high-cost international engineering firms. The yearly budget of the Accord would be similar to the 2014 budget, when the Accord contracted international engineering firms to conduct initial inspections, namely approximately 20 million USD per year. This would be a large fee increase (in some cases, 100% or more) for those brands that do not already pay the 300,000 Euro maximum annual fee.

In sum, Accord buyers that stay in Bangladesh in the wake of the expulsion of the Accord inspectorate will face an Accord that is more expensive, less effective, and more likely to force the severing of supplier relationships.

Brands Have Failed to Take Strong Action to Date but the Crisis Can Still Be Averted

On several occasions over the past year, the witness and labor signatories have urged signatory brands to utilize their commercial leverage to compel the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) and Bangladesh Government to ensure that the Accord inspection program can continue to operate in the country. To exert such commercial leverage, buyers could:

- Require all future contracts with suppliers to be conditional upon the presence of the Accord inspection program in Bangladesh, until the Government's own regulatory body,

the Remediation Coordination Cell (RCC), has proven to the Transition Monitoring Committee (TMC),³ that it is ready and able to assume the responsibilities of the Accord program; and,

- Refrain from opening Letters of Credits (LCs) for any existing or future orders beyond November 30, 2018 until the restraining order against the Accord is lifted.

We are unaware of any signatory brand that has brought its full economic leverage to bear and many brands have done next to nothing. In June 2018, the Accord Steering Committee agreed to recommend that signatory companies communicate to their suppliers – *in writing* – that there would be business consequences if the Accord were to be forced to prematurely close its Bangladesh office. The purpose of the letter is to motivate suppliers, and the BGMEA, to help reverse the court’s ruling. To date, less than 25 brands have reported sending such a communication to any of their suppliers. In about half of those cases, the language used was weakened from the version recommended by the Steering Committee and did not include specific references to potential business consequences.

It is clear to everyone observing the safety situation in Bangladesh that the collective body of brands has immense leverage over their suppliers and the BGMEA. The Accord brands represent the majority of all garment production in Bangladesh, a country where garments represent 85% of the exports. The time to leverage this power is now.

Conclusion

The premature cessation of the Accord’s operations in Bangladesh will sully the reputations of those buyers that continue to source from the country and will leave them bound by an Accord that is, at once, more expensive, more cumbersome, and less effective at protecting the safety of the nation’s garment workers. The time for brands to use their leverage over suppliers is now. As prevention is better than retaliation, we suggest that brands make as clear as possible to their suppliers the consequences that the expulsion of the Accord would have – before the restraining order moves back into place on November 30 – in order to prevent the need for more drastic measures later.

³ The Transition Monitoring Committee (TMC) of the Bangladesh Accord consists of the government, the employer organization, trade unions, and brand and retail companies participating in the Accord, which together have agreed on several objective criteria, which must be fulfilled in order to commence the transition of the Accord to a national institution.