

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:
 - a. 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,
 - b. 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;
 - c. 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.
 - d. 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.