



## WORKER RIGHTS CONSORTIUM

### Questions and Answers on the Alliance for Bangladesh Worker Safety

#### **Why does the WRC not view the “Alliance” as a viable alternative to the Bangladesh Safety Accord?**

The Alliance is not a viable alternative to the Accord because it does not include the provisions essential for an inspection and remediation program in Bangladesh to be effective. In order for a safety program to work...

- It must be a binding agreement between apparel brands/retailers and worker representatives, with the latter enjoying both legal enforcement power and decision-making authority in day-to-day matters that is equal to the brands.
- It must require all factories to undergo safety inspections that are carried out independently of the brands – without the brands choosing the inspectors, paying the inspectors, or controlling the information the inspectors generate.
- It must require brands and retailers to provide all needed financial assistance to factories to cover the cost of safety renovations.
- It must require brands to remain in most factories for an extended length of time, if those factories agree to undertake necessary renovations and operate safely.
- It must require brands to leave any factory that independent inspectors determine is unsafe and has failed to take the necessary steps to become safe; the brand must be obligated to leave even if it disagrees with the independent inspectors' decision.
- It must require that public reports be issued for all factory inspections, which must include detailed information on the hazards identified and the actions that must be taken to eliminate them.

These provisions are essential because they ensure that the brands and retailers can be held accountable to their commitments, that they are obligated to help pay for crucial safety renovations, and that workers and the public (and universities) will know what is, and isn't, happening. Without these provisions, no program can succeed. We know this because brands and retailers for years carried out inspection programs in Bangladesh that lack these provisions and, as we all know, those programs did not protect workers.

The Accord contains all of these provisions. The Alliance includes none of them.

This does not mean that none of the Alliance brands will make any improvements in their factories or that its inspections are no better than those utilized by the brands in the past. Some brands will likely take at least partial steps. Some aspects of the Alliance are an advance over past failed inspection regimes. However, modest improvements, in the context of an unenforceable agreement, are not nearly enough, given the history we have all observed and the enormous dangers workers still face.

### **But don't the Alliance brands claim their agreement is "legally binding"?**

They do, but this claim is extremely misleading. First, on the issues that really matter, their agreement is not binding on the brands. For example, the Alliance brands claim they have a loan program to help factories finance renovations. However, the Alliance agreement explicitly exempts all member brands from any binding obligation to participate in this program. The following is from the Alliance Bylaws (note that the loan program is referred to by the acronym ACBS and that "Members" refers to the Alliance member brands): "ACBS funds will be administered solely by the Member who makes such funds available to Factories, on terms and conditions to be established solely by that Member... **Participation in ACBS is not a condition of membership in the Alliance**" (emphasis added). The Alliance has not even published a list of which companies are participating; it is our understanding that many are not. This means that there is no binding requirement, anywhere in the Alliance agreement, that brands provide any funds to help the factory owners to pay for essential renovation costs. Another example is the lack of any binding obligation under the Alliance to leave a factory that is unsafe and refuses to become safe. The Alliance Bylaws only require a brand to leave a factory if *the brand itself* – in its sole discretion – concludes that the factory is unsafe. Any brand can relieve itself of the obligation to leave a factory simply by claiming that the factory is safe, regardless of the reality.

In addition to the fact that the Alliance is entirely non-binding in the areas that matter most, even the aspects that are technically binding are unenforceable – for the simple reason that there is no third party to enforce them. The Alliance is an agreement exclusively among companies. It involves no commitments of any kind to worker representatives or to any other third party (including universities). This means that the only entities with enforcement rights are the brands themselves. If the Alliance brands decide that they don't want to do something, there is nothing any worker group or non-governmental organization (NGO) or university can do about it. Since there are legitimate doubts about the extent of the brands' commitment to improve the factories that makes a binding agreement necessary in the first place, an agreement that deprives anyone other than the brands of the right to enforce the terms is effectively meaningless.

Finally, even in the unlikely event that any brand tries to enforce some provision against another brand, the sole available penalty is to remove the offending company from the program, with forfeiture of its modest annual fees. The brand cannot under any circumstances be compelled to do anything it does not want to do.

This is why the Alliance's Managing Director (its most senior staff person), refers to the Alliance as a "gentleman's" agreement, in contrast to a legally binding contract. See: PBS News Hour, April 9, 2014, available [here](#).

The Alliance calls its program “legally binding” because its leaders know that, in the wake of Rana Plaza, a voluntary program has little credibility. However, in all relevant respects, the Alliance is a non-binding, voluntary initiative.

**The Alliance says it has done a lot of inspections. Has the Alliance completed more inspections than the Accord?**

No. The Alliance claims to have completed inspections at 400 factories. However, included in this number are more than 200 inspections carried out by Walmart, under its exclusive control, before the Alliance began operations, and many dozens more carried out by Gap and other Alliance brands, also under these brands’ exclusive control. These do not remotely qualify as independent inspections, yet they constitute the great majority of all inspections the Alliance claims it has conducted. It is important to understand that many Accord brands also conducted their own safety inspections after the Rana Plaza collapse and before the Accord inspection program began – in more than 500 factories. The Accord, however, does not include any of these when reporting on the number of official Accord inspections completed, because they were not independent inspections. In other words, the Accord has far higher standards for what it considers to be an independent safety assessment. The only thing that allows the Alliance to make such expansive claims about the number of inspections completed is its loose definition of the term.

The Accord has now inspected 280 factories for fire and electrical safety and 240 for structural safety. Every one of these inspections was carried out independently of the brands, by professional engineers from leading international engineering firms, under the direction of the Accord’s Chief Inspector. The Accord is now conducting inspections at 45 factories per week.

**Who runs these two organizations?**

The Accord is overseen by its signatories – worker representatives and brands – who share equal decision-making power on the Accord’s Steering Committee. The labor representatives on the Steering Committee are chosen by the signatory labor groups and include two Bangladeshi worker representatives and four representatives of global union federations. The WRC serves as an observer and participates in Steering Committee deliberations. The most senior staff person at the Accord is its independent Chief Inspector, Brad Loewen.

The Alliance is overseen by its signatories, which are exclusively brands and retailers. Its Board includes executives of Walmart, Target, Gap and VF. The board also includes the head of the Bangladeshi factory owners’ association; thus, a *majority* of the Alliance Board members represent brands and factory owners. The Board also includes an NGO official, a former member of Congress, and others from outside the corporate world. However, all of these Board members are appointed by, and serve at the pleasure of, the signatory brands and retailers. The most senior staff person at the Alliance is the Managing Director, Mesbah Rabin. He is a former factory manager at a factory in Bangladesh, Kwung Tong Apparels.

The labor-management partnership that is at the heart of the Accord is the reason why the Director of the International Labour Organization agreed to appoint an ILO official to chair the

Accord Steering Committee. The Alliance made the same request of the ILO. The ILO refused, because the Alliance is a unilateral corporate initiative, not a partnership with worker representatives.

**Why has the WRC said that the Alliance is actually a step *backward* for corporate social responsibility?**

On the central issue of governance, we have compared the Alliance structure to that of leading industry-supported labor rights monitoring organizations, like the Fair Labor Association and the Ethical Trading Initiative (ETI), and the Alliance falls far short. While the FLA does not have worker representatives on its board, it has NGO and university representatives, who are chosen by their respective constituencies, not appointed by the FLA's member companies. Thus, the FLA companies do not have exclusive control of the Board. This means that there is some sharing of governance power. This power-sharing is also a feature of other comparable organizations, like Ethical Trading Initiative in the UK, the Fair Wear Foundation in the Netherlands, etc. While the WRC, as universities know, sees significant problems and limitations in the model represented by FLA and ETI, it is nonetheless the case that non-corporate entities have a real role in these organizations. At the Alliance, by contrast, brand and factory representatives are the outright *majority* of the Board and, most importantly, *every* Board member is chosen by the companies and serves at the pleasure of the companies. This is clearly a big step backwards.

**What happened in terms of workers' wages at Softex, the first factory to be evacuated at the behest of the Accord?**

Softex was evacuated on March 8, after structural engineers working for the Accord determined that the building in which it is housed was structurally unsound and in danger of collapse. Twelve days later, on March 20, workers were paid their wages for work completed to that date, plus an additional three months' wages, in anticipation of a significant period of closure. On the day of the evacuation, the factory owner initially made ambiguous public statements about what would happen with wages, which led, understandably, to fear on the part of workers. The Accord intervened, as the agreement requires, to ensure payment, which was then made. Representatives of the Alliance have claimed publicly that the Accord did not pay the workers. This is a non-sequitur: under the Accord, it is the *factory owner* that pays the workers and the Accord brands using the factory are required to make sure this happens. This is what occurred in the Softex case. The Accord is working, in all other cases of total or partial emergency evacuation, to ensure that wages are paid as required.

**What does the Alliance do about wages in case of an emergency closure and how does this compare to the Accord's approach?**

The Alliance policy is that the Alliance itself pays 50% of the wages. It has created a fund for this purpose. It is not clear what happens with the other 50% of workers' wages or what happens if the modest fund runs out. In any case, the WRC's concern here is that there is no guarantee of full payment and that the commitments the Alliance has made cannot be enforced by worker representatives. The Accord requires 100% payment for up to six months, with no cap. If an

Accord factory fails to comply, worker representatives can compel action by the Accord to correct the problem. This is what happened at Softex. Workers at Alliance factories have no such recourse.

### **Why are there two organizations in the first place?**

There weren't, initially. After the Rana Plaza collapse, the majority of the leading brands and retailers producing in Bangladesh signed the Accord. Those slowest to sign were some of the biggest US players, including Walmart and Gap. Everyone involved with the Accord welcomed these companies to join and invited them to do so. In the end, Walmart, Gap, Target and some others said no, choosing not to work with the other brands and with Bangladeshi and international labor unions and NGOs. They were simply not willing to accept the obligations of the Accord – even though other big brands and retailers, based in the US or with extensive US operations, had done so, along with many other companies producing in Bangladesh (the Accord now has 158 signatory brands and retailers). These companies instead created a separate organization, the Alliance, whose distinguishing feature is that it asks much less of its member brands (on transparency, on cost sharing for renovations, etc.) and that the obligations it does create can't be enforced by worker representatives or any other third party (instead, we have to trust Walmart to hold Gap accountable on worker safety, and vice-versa). This is a choice that Walmart, Gap, VF, Target and others made – very unfortunately in our view.

### **Has the Accord agreed to recognize the Alliance's inspection reports?**

No. There is no such agreement.

### **How come the recent report by the Stern Center for Business and Human Rights says that the Accord doesn't obligate brands to help pay for factory renovations?**

This one is a puzzler. The Accord very clearly requires this and the authors of the Stern report surely understand that. Enforcement of this requirement will not be easy, given that this is the first time brands have ever accepted such an obligation and given the substantial sums that are in many cases required. It is certainly understandable that the authors of the Stern report might raise concerns about the challenges involved in operationalizing this obligation at a vast number of factories in an extremely complicated country. However, claiming the obligation does not exist is so clearly factually wrong that it is very difficult to understand how it made its way into the Stern document. It should be noted that there is one other huge mistake in the Stern report: the claim that the real problem in Bangladesh is "unauthorized" subcontracting. As we have noted before, every factory where workers have died en masse in recent years in Bangladesh was an acknowledged and authorized supplier to major Western brands and retailers. Moreover, many of the hazards that have killed workers, including the lack of fire exits, are virtually universal in the industry. These deficiencies are not a product of sub-contracting. They are a product of a total failure by the Bangladesh government, and by Western brands and retailers, over many years, to impose any meaningful safety obligations on any of the country's factory owners. Unauthorized subcontracting is an issue, but very much a secondary one. To suggest that it is the primary driver of unsafe workplaces is to fundamentally misunderstand the Bangladeshi apparel industry

and the systemic regulatory failures that created the current mess. We will be providing further analysis of the Stern report.

**Walmart, VF and other Alliance representatives say they are just as committed to worker safety as the Accord. Why not give them the benefit of the doubt?**

Because we know what happens when the brands are left to their own devices. In 2005 and 2006, more than 200 workers died in Bangladeshi garment factories, in seven different fires and building collapses. Labor rights groups implored the brands to act at that time – the WRC, for example, wrote to all university licensees producing in Bangladesh – in 2006, seven years before Rana Plaza – urging them to establish serious safety inspection regimes and to clean up the factories. Nothing changed; the brands continued with their own inspection and training programs, insisting that these were adequate. In February 2010, when 21 workers died at the Garib & Garib factory, another vigorous push for change was made. Again, nothing changed. Early in 2011, after 29 workers were killed in a fire at a factory called That’s It Sportswear, which produced for Gap, VF and many other major US brands, the WRC worked with a range of other organizations to convene a meeting in Bangladesh of all stakeholders. At the meeting, the labor rights groups again implored the brands to act, by committing to genuinely independent inspections and to help factories cover the cost of safety renovations. The groups warned the brands that far worse catastrophes could occur if the industry did not finally change its approach. The brands, led by Walmart, again refused. (See: New York Times, [“Walmart Fought Safety Push in Bangladesh, Files Show”](#).) In view of this history, we believe it is both reasonable and necessary to ask the brands for binding commitments that worker representatives can enforce. This is why the WRC has recommended that universities require licensees to sign the Accord.