

# LABOR ISSUES IN BANGLADESH

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## HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS

UNITED STATES SENATE

ONE HUNDRED THIRTEENTH CONGRESS

FIRST SESSION

—————  
JUNE 6, 2013  
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THURSDAY, JUNE 6, 2013

U.S. SENATE,  
COMMITTEE ON FOREIGN RELATIONS,  
*Washington, DC.*

The committee met, pursuant to notice, at 11:01 a.m., in room SD-419, Dirksen Senate Office Building, Hon. Robert Menendez (chairman of the committee) presiding.

Present: Senators Menendez, Casey, Murphy, Kaine, Corker, and McCain.

### OPENING STATEMENT OF HON. ROBERT MENENDEZ, U.S. SENATOR FROM NEW JERSEY

The CHAIRMAN. This hearing of the Senate Foreign Relations Committee will come to order.

I know that the ranking member, who was just with me on the floor voting, will be here any minute. My apologies to our witnesses for the delay, but there were several votes on the Senate floor, and that is one thing we do not control the timing of.

It is not often that the Foreign Relations Committee holds a hearing like this. In fact, the last labor hearing this committee chaired was the debate giving PNTR status to China in 2000, so it has been a while. But as I said in an op-ed that was published today, the tragedy at Rana Plaza—the deadliest accident of the global apparel industry—should be a wake-up call for all of us.

We have a range of witnesses in our two panels this morning, from the State Department, the Department of Labor, the Office of the U.S. Trade Representative, the AFL-CIO, and a representative from the American retail and apparel manufacturers.

We have also received written testimony from outside groups, and I ask unanimous consent that their testimony be included for the record. And without objection, it will be.

The CHAIRMAN. I also want to recognize the Bangladeshi Ambassador to the United States who is with us in the audience today. Welcome, Ambassador Qader, and thank you for being here.

Let me say how much the United States values its relationship with Bangladesh, a moderate, Muslim-majority democracy and a trade partner with annual flows topping \$6 billion and supporting 10,000 American jobs.

As the world's seventh most populous country, Bangladesh has made dramatic strides on everything from global food security to gender equality to maternal and child health, and we applaud those elements. But, not unlike other apparel exporters, Bangladesh is a poor, developing country with lots of economic challenges.

What sets it apart from other countries is the sheer size of the industry and the rate of growth. In my view, what happens in Bangladesh will have a dramatic ripple effect on the global apparel industry. A change in working conditions there has the potential to change conditions for workers everywhere.

That is one reason why we want global retailers to stay in Bangladesh, to work together and adopt industrywide standards to do everything possible to improve working conditions and make sure another Rana Plaza never happens again, anywhere in the world.

The fact is, most of us in this room own clothing that was made in Bangladesh, the second-largest supplier of clothes. Major American retailers—Target, Gap, Tommy Hilfiger, Calvin Klein, and Walmart—all buy apparel from Bangladesh.

The reasons are clear: labor is cheaper in Bangladesh; the regulatory process is more flexible in Bangladesh; hours, working conditions, and building safety concerns clearly are less cumbersome in Bangladesh; and that means products are cheaper and profit margins are higher.

The Bangladeshi apparel industry now employs about 4 million, at least 80 percent of whom are women. It finances the government and influences its politics. It is no coincidence that numerous members of Parliament have ties to the garment industry. The question is, Are we seeing a global race to the bottom?

Bangladesh offers some of the cheapest labor in the world with limited workers' rights and protections. As a result, global retailers enjoy high profits, and global consumers delight in low costs. So how can we improve conditions without prices going up and manufacturers moving on to the next Bangladesh?

Today, with the Rana Plaza collapse that killed at least 1,127, and the Tazreen factory fire in November which killed at least 112 workers in conditions similar to the Triangle Shirtwaist Factory fire, and 44 more factory fires since, the brand "Made in Bangladesh" is in jeopardy.

Just as the Triangle Shirtwaist fire galvanized the labor movement in the United States over 100 years ago, Rana Plaza and Tazreen should be a turning point toward real systematic change in Bangladesh, and we can only hope.

As the son of a seamstress who worked in the factories of northern New Jersey, and worked very hard under some very difficult conditions but far better than in Bangladesh, I know firsthand how difficult this work can be, but it should never be fatal.

Since Rana Plaza, the Bangladeshi Government has committed to a number of steps to improve conditions, including amending its labor laws, raising the minimum wage for garment workers, registering more trade unions, and increasing the number of building inspectors. But unfortunately, past promises have gone largely unfulfilled.

Bangladesh has a long way to go in shifting from a culture favoring corruption to one that is friendlier to workers, enforcing pro-labor legislation, allowing for the freedom of association without repercussion, and enforcing building and fire inspection codes.

But factory owners must do their part, as well, to bring the workplace up to code. A recent survey by Bangladeshi engineers found that 60 percent of the factories it inspected are vulnerable

to collapse. With somewhere between 3,000 and 5,000 factories, the sheer scale of the problem is mind-boggling.

Global retailers have a real role to play. Major European retailers have signed a binding building and fire safety agreement, but American retailers and manufacturers now need to cooperate on a similar industrywide plan that includes workplace safety standards, cost-sharing for improvements, and compensation for injured workers. It is time for collective action if there is going to be any systemic change. Absent significant collective changes that improve labor conditions and worker safety, the administration should seriously consider suspending, with conditions, the Generalized System of Preferences benefits to Bangladesh.

While only a small fraction of Bangladesh's exports would be affected, given ongoing violations of the GSP workers' rights criteria, GSP suspension would send a strong signal that the United States is serious about protecting workers and improving workplace safety.

With that, let me turn to the ranking member, Senator Corker, for his remarks.

**OPENING STATEMENT OF HON. BOB CORKER,  
U.S. SENATOR FROM TENNESSEE**

Senator CORKER. Thank you, Mr. Chairman. I appreciate you having the hearing; and the two panels of witnesses we have, we thank you for coming today.

I think all of us have seen the images of what happened in Bangladesh, and our heart goes out to people who are trying to make a living and working in conditions obviously that were not safe. So I appreciate you having this hearing.

I think the most important objective that we can accomplish today is to determine how all the stakeholders can figure out how to move ahead in a way that is far more safe and keeps this kind of thing from happening again. Obviously, there are a lot of stakeholders. I mean, it is not just the people that have been mentioned but the Government of Bangladesh, the unions, the workers, the United States, the European Union, and many other governments, and also the garment industry factory owners and others.

It is my understanding that here in the United States, retailers are working together toward something that I hope is going to be sustainable. I think the goal is to have that done by the end of the month, and I think this hearing will help us toward that end.

So I appreciate the witnesses being here. I know that all of us want to see a sustainable, long-term solution. There are a lot of stakeholders involved here, and I think the goal of this hearing should be to come up with a solution that we know is in the long-term interests of all involved.

So I appreciate you being here, and I appreciate the chairman calling this hearing.

The CHAIRMAN. Thank you, Senator Corker.

Let me introduce our first panel.

Assistant Secretary of State for South and Central Asian Affairs, Robert Blake.

Eric Biel, who must have one of the longest business cards in Washington, is the Acting Associate Deputy Under Secretary for

International Affairs, Bureau of International Affairs in the Department of Labor.

That is quite a title, Eric. I hope you get compensated commensurate with that title.

And Mr. Lewis Karesh, who does not have quite as long a title but plays a very important role as the Assistant U.S. Trade Representative for the Labor Office of the U.S. Trade Representative.

Thank you all for being here.

Mr. Secretary, we will start off with you. Your full statements will be included in the record, without objection. We ask you to synthesize it to around 5 minutes so that we can then have a good conversation.

**STATEMENT OF HON. ROBERT BLAKE, ASSISTANT SECRETARY OF STATE FOR SOUTH AND CENTRAL ASIAN AFFAIRS, U.S. DEPARTMENT OF STATE, WASHINGTON, DC**

Mr. BLAKE. Well, thank you, Chairman Menendez and Ranking Member Corker, and all the other members of this committee, for this opportunity to speak to you today about labor issues in Bangladesh. I am very honored to join my colleagues Eric Biel and Lewis Karesh before this committee today.

Mr. Chairman, as you said, engagement on labor issues is part of our broad and expanding partnership with Bangladesh's Government and its people. Bangladesh works closely with us on all of the President's signature development initiatives in climate, health, and food security, and in encouraging greater regional integration and connectivity.

In the past two decades, as you remarked in your very constructive op-ed, Bangladesh has made remarkable development progress, in part because of the growth of its ready-made garment sector. Despite the benefits the industry has brought, however, the tragedies at Rana Plaza and Tazreen Fashions have made clear that significant challenges remain.

Our goal is to help Bangladesh continue to build on its economic achievements but to do so in a way that ensures the growth of its export sector, does not come at the expense of safe and healthy working conditions.

We believe three key reforms are particularly important to improving labor rights and conditions in Bangladesh, guaranteeing workers' rights to organize, guaranteeing fire safety, and ensuring structural soundness of factories and other facilities.

Last month, Secretary Kerry underscored to Bangladeshi Foreign Minister Moni that the recent tragedies and weak progress on labor rights and safety had undermined the Bangladesh brand and placed the country's future development at risk. He urged Bangladesh to make transformative and sustainable improvements in worker rights and working conditions. He pressed for further labor union registrations and the enactment of amendments to the labor law that will address freedom of association and worker safety.

These changes would enable the International Labor Organization and the International Finance Corporation to launch a better work program for the garment industry in Bangladesh that would lead to still more improvements. We hope that these changes will be enacted by Parliament before the end of this month.



We are seeing some results of our advocacy, 27 trade unions registered since September 2012, the signing of a comprehensive fire safety plan, and a Bangladeshi commitment to dramatically increase the number of government labor inspectors.

We have also engaged United States companies sourcing from Bangladesh. On May 8, Special Representative for International Labor Affairs, Barbara Shailor, and I, along with colleagues from USTR and the Department of Labor, organized a conference call with United States buyers, and we urged them to coordinate efforts with each other and with European counterparts to communicate their concerns about labor conditions to key officials in Bangladesh, and to provide assistance to independent safety and fire inspectors. We shared our best practices for companies operating in Bangladesh, which I have submitted along with my written statement.

Mr. Chairman, Bangladesh is now at a critical moment in its history. Last week, Ambassador Mozena met with leaders in a recently formed union in the garment industry, one of the 27 unions that I mentioned. These workers highlighted their successful efforts since forming the union to improve factory floor conditions such as obtaining potable water, a clean lunch room, the removal of electrical hazards, and the unblocking of exit stairwells. Their efforts show the potential for a broader sea change in Bangladesh's approach to labor issues, but much more work needs to be done.

Our hope is that Bangladesh will seize the current moment to strengthen labor rights and improve working conditions. This administration wants to see Bangladesh succeed, and we will remain engaged with all the relevant actors, both here and overseas, to support those efforts.

So again, I thank you, Mr. Chairman, for your interest in this important endeavor, and I look forward to taking your questions.

[The prepared statement of Mr. Blake follows:]

PREPARED STATEMENT OF ASSISTANT SECRETARY ROBERT BLAKE

Good morning. Thank you Chairman Menendez, Ranking Member Corker, and all the members of the committee for this opportunity to speak with you today regarding labor issues in Bangladesh. Your interest and engagement will play a vital role as the Government of Bangladesh moves to address important labor rights issues.

The tragic collapse of the Rana Plaza building in April and the deadly fire at the Tazreen clothing factory last November have resulted in unprecedented public concern about labor conditions in Bangladesh. Since long before these tragedies, we have been working hard on the fundamental labor rights concerns that these events have highlighted. We are continuing and expanding our efforts.

Before delving into our efforts on the labor front, I would like to note that our engagement with the government and people of Bangladesh is broad—and it is growing still broader, reflecting the important strides that Bangladesh has made over the past decades. The policy choices Bangladesh has made have led it to a path of economic growth, impressive gains for women and children, successful work combating terrorist networks, and an increasingly prominent role in multilateral organizations.

Indeed, over the past two decades, Bangladesh has made remarkable development progress. Life expectancy has increased by 10 years, infant mortality has declined by nearly two-thirds, female literacy has doubled, and economic growth has averaged over 5 percent annually. A vibrant democracy has taken root in the world's third-largest Muslim-majority nation and seventh most populous country. Bangladesh offers a moderate, tolerant, secular, democratic alternative to violent extremism. As the largest contributor of forces to U.N. peacekeeping missions in some of the world's most dangerous conflicts, Bangladesh is committed to sharing its experiences with the world. Bangladesh also is a focus country for all of the Presi-

dent's signature development initiatives, including Global Health, Global Climate Change, and Feed the Future.

Over Memorial Day weekend, Under Secretary of State Sherman travelled to Dhaka to lead the U.S. delegation at the second annual U.S.-Bangladesh Partnership Dialogue. The dialogue highlighted the robust ties between the United States and Bangladesh and reaffirmed our commitment to further broaden, deepen, and strengthen the partnership. The discussions focused heavily on labor rights and working conditions, but they also covered the full range of our relations, including our close cooperation on security issues, Bangladesh's leading role supporting regional integration, and our growing trade relationship. The United States and Bangladesh cooperate closely on security issues ranging from counterterrorism to counterpiracy and the mitigation of natural disasters. The Government of Bangladesh has also consistently prioritized improved relations with India and greater regional economic integration—a key U.S. interest in a region that remains among the least integrated in the world.

As Under Secretary Sherman said in Dhaka, “The success of the Bangladesh story has implications not just for Bangladeshis, but for the entire global community. Millions around the globe see Bangladesh as a powerful model for democratic and economic development and seek to replicate its success.”

Bangladesh's development gains have come in part because of the growth of its ready-made garment sector, now the second-largest in the world behind China, a sector that employs between 2 and 3 million Bangladeshi women, helping to lift them out of poverty and empowering them socially and economically. Despite the benefits the industry has brought, however, the tragedies at Rana Plaza and the Tazreen Fashions have made clear that significant challenges remain to ensure that workers fully benefit from this growth.

In interactions with the Government of Bangladesh, with U.S. companies sourcing from Bangladesh, with factory owners in the country, with labor rights groups, and with our partners in Europe, our goal is to help Bangladesh continue to build on its economic achievements, but to do so in a way that ensures that the growth of its export sector does not come at the expense of safe and healthy working conditions and respect for worker rights. Success will depend on the will and commitment of Bangladeshis in government, in industry, and in the labor community to come together to change the culture of workplace safety and worker rights in Bangladesh.

We believe three key reforms are particularly important to improve workers' lives in the near term: guaranteeing workers' rights to organize, guaranteeing fire safety, and ensuring structural soundness of factories and other facilities. I would like to briefly highlight some of the actions the State Department, working closely with colleagues from the Department of Labor and the United States Trade Representative (USTR) have been taking to achieve these and other important goals in Bangladesh:

- Last month, during a meeting at the State Department, Secretary Kerry underscored to Bangladeshi Foreign Minister Dipu Moni that the recent tragedies and weak progress on labor rights and working conditions are contrary to Bangladesh's own expressed goal of improving workers' lives, have undermined the Bangladesh brand, and have placed the country's future development at risk. Secretary Kerry encouraged the Bangladeshi Government to respond to these tragedies by making transformative and sustainable improvements in workers' rights and working conditions.
- Secretary Kerry pressed for continued labor union registrations as well as enactment of amendments to the country's labor law that will allow for the creation of a “Better Work” program, backed by the International Labor Organization (ILO) and the International Finance Corporation. Proposed in 2010 and funded in part by the U.S. Department of Labor, this program would strive to achieve sustainable improvements in working conditions in the garment sector. The labor law amendments we seek, which have been negotiated by stakeholders with help from a related ILO project, would strengthen the rights of workers to organize and negotiate with their employers and would improve some aspects of workplace safety. Specifically, they would (1) abolish a requirement that the Ministry of Labor inform factory owners of the names of workers applying for union registrations; and (2) allow unions access to outside expertise during collective bargaining negotiations. These amendments have been approved by the Bangladeshi Cabinet, and we have been working to make sure they are adopted by Parliament by the end of the month.
- Under Secretary Sherman carried the same messages in her discussions in Dhaka as part of the Partnership Dialogue and in her meetings with Prime Minister Hasina and Foreign Minister Moni over the Memorial Day weekend.
- U.S. Ambassador to Bangladesh Dan Mozena has met repeatedly with industry leaders, including the Bangladesh Garment Manufacturers & Exporters Asso-

ciation, and with the Bangladeshi Government to emphasize the need for concrete action following the Rana Plaza tragedy. Our Embassy worked with the ILO and industry, labor, and government representatives to secure a pledge to recruit 200 additional building safety inspectors within 6 months, with the eventual goal of adding another 800 inspectors. Separately Bangladesh manufacturers are also working with the German development organization GIZ and BRAC, a leading Bangladeshi NGO, to create a 300-person inspectorate focused on fire safety.

These engagements come after many months of efforts, predating the Rana Plaza collapse, in which we have sought to effect change on a range of labor rights and workplace safety concerns. We are seeing some results: our advocacy has been an important factor leading to the registration of 27 trade unions since September 2012 (compared to 3 in the previous 5 years); signing of a comprehensive fire safety plan; and a significant Bangladeshi commitment to dramatically increase the number of government labor inspectors. However, there are areas where we still need to see progress and we will continue to press the Government of Bangladesh to address our concerns in these areas. Some of these concerns could be resolved relatively quickly—such as registration of labor-related nongovernment organizations and court cases against labor activists, while others will require sustained, long-term investment—such as building the capacity of government inspectorates.

We have also engaged with U.S. manufacturers and retailers sourcing from Bangladesh. On a regular basis, our officers are briefed by major U.S. buyers so we have a good sense of their unfolding concerns. Over the past year, as our concerns about workplace safety and labor conditions continued, I and my colleagues in State and across the U.S. Government began to convene larger conference calls open to all U.S. companies to share with them the steps we were taking, and hear from them about theirs. Most recently, on May 8, Special Representative for International Labor Affairs Barbara Shailor and I, along with colleagues from USTR and the Department of Labor, led a conference call with U.S. buyers that source from Bangladesh's garment industry. We urged them to coordinate efforts with each other, with the Government of Bangladesh and BGMEA, and with civil society and labor groups on factory safety and fire initiatives, including helping pay for independent safety and fire inspectors. We encouraged the buyers to communicate their concerns about labor conditions to the BGMEA and the Bangladeshi Government, and to urge prompt passage of the labor law amendments I referenced earlier.

In calls with buyers in March and again in May we reviewed our expectations of U.S. companies' engagement and shared a "Best Practices for Companies Operating in Bangladesh" document (attached).

As many of you know, more than 40 brands, mostly from Europe but including U.S. companies PVH, Abercrombie & Fitch, and now Sean John, have coalesced around an accord developed in coordination with the global union IndustriALL that is intended to improve working conditions and respect for worker rights in Bangladesh, while also making clear the brands' commitment to continue to source from Bangladesh. The Accord involves worker organizations, brings multiple retailers together behind one initiative, fosters information sharing, and commits retailers to invest in improving workplace safety and other labor standards. We recognize that U.S. companies must make their own judgment about whether or not to sign the Accord, but we have encouraged them to carefully examine what they can do to support improved working conditions in Bangladesh.

I should also note that at the same time we are engaging with the Government of Bangladesh, industry, and labor groups, USTR is leading the administration's review of Bangladesh's Generalized System of Preferences (GSP) trade benefits. My colleague from USTR, Lewis Karesh, will discuss more about the GSP review in a moment.

Bangladesh is now at a critical moment in its history. Over a century ago, our country confronted a similar challenge. After the 1911 Triangle Shirtwaist Factory fire in New York killed 129 workers, political momentum was created from that tragedy to transform our approach to workplace safety and building codes. Within Bangladesh, the Tazreen and Rana Plaza tragedies may create a similar impetus for significant and lasting improvements in worker rights and working conditions.

Last week Ambassador Mozena met with leaders in a recently formed union in the garment industry, one of the 27 new unions which have been registered since last fall that I mentioned earlier. These workers highlighted to the Ambassador their successful efforts, since forming the union, to improve factory floor conditions, such as obtaining potable water, a clean lunchroom, the removal of electrical hazards, and the unblocking of exit stairwells. This one case shows the potential of a broader sea change in Bangladesh's approach to labor issues. Still, more work needs to be done, and more unions need to be registered.

Our hope is that Bangladesh will seize the current moment to strengthen its protection of labor rights and improve working conditions. We want to see Bangladesh succeed, and we will remain engaged with all the relevant actors to support those efforts.

Attachment:

U.S. GOVERNMENT RECOMMENDATIONS ON BEST PRACTICES FOR  
COMPANIES WITH OPERATIONS IN BANGLADESH

On Tuesday, March 5, 2013, Assistant Secretary of State for Democracy, Human Rights, and Labor Michael Posner and Assistant Secretary of State for South and Central Asia Robert Blake hosted a conference call with over 70 U.S. brands and civil society groups to discuss fire safety issues in manufacturing facilities in Bangladesh. On the call, Assistant Secretary Posner and Assistant Secretary Blake summarized important labor rights issues, including the status of the Aminul Islam case, union registrations, and legal reforms. They also outlined what the U.S. Government views as best practices for companies with operations in Bangladesh. Eric Biel, Acting Associate Deputy Under Secretary for International Affairs at the Department of Labor, discussed his recent trip to Bangladesh, including numerous meetings on fire safety and labor law reform, and possible areas for bilateral technical assistance.

Unsafe working conditions in Bangladesh were brought into the international spotlight by the Tazreen factory fire of November 2012, the worst of many deadly manufacturing fires in the country in recent years. The ILO has been engaged with the Government of Bangladesh on a Tripartite National Action Plan on Fire Safety to address this issue, and as of today the Plan is being finalized by the Ministry of Labor and Employment. They also have worked with the Government to identify necessary steps, including reforms to labor law and an improved and more transparent union registration process, to create an “enabling environment” for the establishment of a Better Work program.

The National Action Plan and Better Work program both offer opportunities to sustainably improve labor standards in Bangladesh and could both benefit from the support and cooperation of international buyers, including in coordination with buyers’ own initiatives. The practices outlined below are recommendations from the U.S. Government to U.S. brands as they promote respect for human rights and international labor standards, as well as encourage engagement with the Government of Bangladesh and other stakeholders on these issues.

1. *Act Collectively*: Companies should work together to figure out how they can make a difference collectively. And it’s important that responses meet three criteria: they’re credible; they’re relevant; and they’re effective. There are several ongoing collaborative initiatives in various stages of development. We encourage companies to link efforts on labor and human rights with collaborative work being done through multi-stakeholder initiatives, third-party auditors, industry associations, and cooperative agreements. The Tripartite National Action Plan on fire safety may offer entry points for buyers and civil society to support and enhance a Bangladesh-owned process to improve fire safety.

2. *Develop Broad Principles and Policies and Procedures for Implementation*: Companies should have clearly defined labor and human rights principles, policies and procedures that guide their behavior and that of their suppliers and subcontractors. Such policies should be based on internationally recognized human rights and international labor standards and there should be effective and transparent means of monitoring compliance. Senior leadership of the companies should visibly support such efforts and encourage implementation throughout the entire supply chain.

3. *Develop Credible Internal Benchmarks*: In order to assess progress and effectiveness, companies should have internal metrics to manage and measure performance on labor and human rights.

4. *Conduct Independent Third-Party Verification*: Third-party verifiers should assess performance of company policies and procedures. Inspections by verifiers should be thorough, timely, unannounced, independent, and include confidential interviews and consultations with workers about workplace conditions. Inspections should look at serious and common hazards, implementation of the local law and respect for internationally recognized human rights and international labor standards, and mechanisms for tracking non-compliance with company policies and procedures.

5. *Corrective Actions and Penalties*: Corrective action may be necessary to address non-compliance with company policies and procedures at any point in the supply chain. When suppliers are found to be in non-compliance, there should be timely identification and financial or technical assistance to help address hazards in fac-

tories. There should be contractual penalties for non-compliance that are clear and meaningful. Also, when non-compliance is discovered, corrective actions should be shared with stakeholders to the extent possible and appropriate to disseminate lessons learned and best practices for avoiding or mitigating future incidents.

6. *Cultivate Worker Voice and Education:* In manufacturing facilities within a company's supply chain, buyers should seek to engage with workers to (a) promote education; (b) prevent retaliation against those reporting hazards; and (c) compensate workers, including those put out of work during corrective actions. Companies should communicate with workers through legitimate representatives selected by the workers themselves, and should avoid factories where no such representative mechanism exists.

7. *Share Information:* Companies should share information with each other, stakeholders, and relevant host government officials about factories that fail to comply with policies and procedures or corrective measures, so as to bring the greatest leverage to bear with the greatest effect, and to avoid undercutting each other's efforts. Information-sharing will ensure maximum coordination and knowledge.

8. *Work with Stakeholders:* Draw on the expertise and experiences of other companies, NGOs, unions, the ILO, the Government of Bangladesh, and others to develop sophisticated responses to the current human rights challenges.

The CHAIRMAN. Mr. Biel.

**STATEMENT OF ERIC BIEL, ACTING ASSOCIATE DEPUTY  
UNDER SECRETARY FOR INTERNATIONAL AFFAIRS, BUREAU  
OF INTERNATIONAL LABOR AFFAIRS, U.S. DEPARTMENT OF  
LABOR, WASHINGTON, DC**

Mr. BIEL. Mr. Chairman, thank you for the kind introduction. I know the job title is a mouthful, and I appreciate your getting all the words in there. I am delighted to be here with my friends and colleagues, Assistant Secretary Blake and Assistant USTR Karesh. Thank you, Ranking Member Corker, and Senators Casey, Kaine, and Murphy as well. We are pleased on behalf of the Department of Labor to be able to participate in this important and timely committee hearing on Bangladesh.

We have been deeply engaged at the Department, working with our colleagues at State, USTR, and elsewhere in the Government, with the Government of Bangladesh, with workers and other civil society organizations, with United States buyers and retailers, and with other stakeholders on a range of crucial labor-related issues, both legal and policy.

Now, this is not something new, by any means. The engagement has gone on for some time. But certainly it has increased and intensified in recent months in the wake of the Tazreen fire at the end of November that you, Mr. Chairman, mentioned, and then the terrible Rana Plaza building collapse in late April.

We have pressed the Government of Bangladesh to address issues in areas ranging from the ready-made garment sector, which we have already focused on, to the shrimp processing sector, to the governance of Bangladesh's export processing zones. We have also pressed on a number of other labor rights concerns, including but not limited to the investigation of the murder some 14 months ago of labor organizer, Aminul Islam.

In this regard, we are also working closely with the International Labor Organization, the ILO, on a number of fronts in Bangladesh, having funded—when I speak of having funded, the Department of Labor having funded—different ILO projects to promote labor rights and workplace safety in Bangladesh.

Our coordination with the ILO includes, as Assistant Secretary of State Blake already mentioned, close engagement with the ILO-International Finance Corporation-run Better Work Program. Last fall, Better Work's management team set out several labor issues that it expected the Government of Bangladesh to address prior to any launch of a new Better Work Program in the ready-made garment sector in Bangladesh.

Now, if the Better Work leadership team determines that the time has come to launch a program there, it will be a major program given the size of the sector, and we will be closely engaged in the implementation process of that program moving forward.

We are also working with parties in Bangladesh and with the ILO with respect to commitments specifically on fire and building safety made under the umbrella of the ILO-Facilitated National Tripartite Plan of Action that was announced by the Government of Bangladesh and other stakeholders in mid-March.

Finally, the Department of Labor is prepared and ready to play a direct role in helping to address these fire and building safety concerns and other workers' rights concerns that were illustrated so dramatically and tragically by the Tazreen fire and the Rana Plaza building collapse. We have crafted a detailed plan to provide funding to one or more grantees to help strengthen the capacity of both the Government of Bangladesh and workers' organizations within the country to improve fire and building safety in the ready-made garment sector as part of our overall technical assistance programs, and we have posted notice of that, what we call a Notice of Intent, and will be issuing the full project proposal very shortly.

Finally, in my remaining time, a few words about the role that the private sector can and must play to help advance positive change, Mr. Chairman, as you mentioned, for workers in Bangladesh.

Within Bangladesh, it is essential that the powerful garment industry do more to ensure workplace safety and greater respect for worker rights. In addition, buyers and retailers need to play a more active role in addressing labor concerns in their supply chains from Bangladesh, as you also talked about in both your op-ed and opening statement.

Assistant Secretary Blake's testimony referenced what has come to be known in the last few weeks as the IndustriALL Accord; the agreement between several workers' organizations and more than 40 brands, including three from the United States, primarily Europe, but also three from the United States and one from Canada. As important as any particular element of that agreement, and I know you will be hearing more details of that agreement in the second panel from different perspectives, but as important as any particular element of that agreement is its likely impact on workers. It creates a clear and enforceable plan for sustained buyer engagement, as well as financial obligations and commitments to continued sourcing from Bangladesh, something that is of critical importance to those who depend on the garment sector, as you mentioned, largely young women, 80 percent of the workforce, as a stepping stone to a better life.

So in sum, Mr. Chairman, members of the committee, our goal in all of this is not to stifle Bangladesh's remarkable story of

growth and development, but rather to work with the government, industry, workers and other civil society groups, and others to ensure that job creation and economic development go hand in hand with increased respect for worker rights and improved workplace health and safety.

Thank you again for the opportunity to testify, and following Mr. Karesh's testimony, we look forward to your questions and dialogue.

[The prepared statement of Mr. Biel follows:]

PREPARED STATEMENT OF ERIC R. BIEL

Good morning, Chairman Menendez, Ranking Member Corker, and members of the committee, thank you for inviting the Department of Labor to participate in this important and timely hearing concerning labor issues in Bangladesh. I am honored to join my colleague, Assistant Secretary of State Blake, in appearing before you this morning. We look forward to working closely with you and other Members of Congress in the days and weeks ahead to improve the protection of workers' rights and strengthen workplace safety in Bangladesh.

The Departments of State and Labor, the Office of the U.S. Trade Representative, and others in the U.S. Government are deeply engaged with the Government of Bangladesh, workers' and other civil society organizations, U.S. buyers and retailers, and other stakeholders both in the United States and Bangladesh on a range of critical labor-related legal and policy issues.

This is not something new by any means; indeed, last summer, Assistant Secretary Blake and I appeared together before a House panel to discuss a number of longstanding labor and trade policy challenges in Bangladesh—nearly all of which remain front and center for us today.

At the same time, the focus on Bangladesh has increased considerably over the past several months in the wake of the tragic Tazreen Fashions factory fire last November, subsequent garment factory fires that fortunately caused less loss of life, and then the horrific Rana Plaza building collapse about 6 weeks ago.

We are continuing to move forward with the interagency process, chaired by our colleagues at the Office of the U.S. Trade Representative, to determine the appropriate actions under our Generalized System of Preferences (GSP) trade preference program. Different options remain under consideration, and a decision will be announced before the end of this month.

Through regular engagement with the Government of Bangladesh—including during a weeklong trip I made to Dhaka in late February that included meetings with senior officials across different ministries and leaders from industry and workers' and civil society organizations—we have pressed the government to address issues in areas ranging from workers' rights and working conditions in the ready-made garment and shrimp processing sectors to the governance of Bangladesh's Export Processing Zones.

We have also pressed on a number of other labor rights concerns, including with respect to the investigation of the murder 14 months ago of labor organizer, Aminul Islam, and the treatment of the Bangladesh Center for Workers Solidarity (BCWS)—the workers' advocacy organization with which he was affiliated—and its leadership, as well as the organization Simple Action for the Environment (SAFE). While modest measures have been taken, much more remains to be done on both fronts. We will continue to press the Government for greater transparency, accountability, and justice with respect to both the murder investigation and the treatment of BCWS and its leaders.

We also are working closely with the International Labor Organization (ILO) on a number of fronts in Bangladesh, having funded different ILO projects to promote labor rights by strengthening the capacity of workers' organizations to advance workplace health and safety and by ensuring that workers' voices are heard.

Our coordination with the ILO includes close engagement with the ILO-International Finance Corporation Better Work Program, including through our participation on the Better Work advisory and donor committees. Several months ago, Better Work's management team set out several labor issues that it expected the Government of Bangladesh to address prior to any launch of a Better Work program in the ready-made garment sector. We have seen progress on one of those fronts, the registration of unions, which has increased significantly—with, as Assistant Secretary Blake noted in his testimony, 27 registrations since September compared with 3 in the previous 5 years.

That is certainly welcome and encouraging, although important challenges remain to workers' ability to exercise their right to freedom of association and collective bargaining in practice, once a union is registered. At the same time, Better Work is still waiting on several changes to Bangladesh's Labor Code, which are part of the larger labor law package awaiting action by the Parliament.

If those amendments are enacted and the Better Work leadership team then determines that the time has come to launch the program there, we at the Department of Labor will be closely engaged in that process moving forward. To be sure, Better Work will not be a panacea; even after 5 years, it will only cover a relatively small part of the huge garment sector. But it will be another important measure in advancing worker rights and workplace safety in that sector.

We are also working with parties in Bangladesh and the ILO with respect to the commitments on fire and building safety made by the Government of Bangladesh and its industry and workers' organizations under the umbrella of the ILO-facilitated National Tripartite Plan of Action launched in March. We welcome the lead role being played by the ILO in that regard, as underscored by Deputy Director General for Field Operations and Partnerships Hougbo in early May following the Rana Plaza collapse, and in the "road map" he outlined at the end of that high-level mission.

That "roadmap" recognizes the need for an action plan to implement several specific short- and medium-term measures. These include labor law reform, expedited action on fire and building safety under the National Action Plan, and, as Assistant Secretary Blake noted in his testimony, the recruitment of 200 new labor inspectors in 6 months—with plans for a minimum of 800 new inspectors.

We at the Department of Labor are prepared to play a direct role in helping advance the effort to make tangible progress in addressing the fire and building safety and other workers' rights-related concerns highlighted by the Tazreen and Rana Plaza tragedies.

As promised by our Department leadership soon after Tazreen, we have crafted a detailed plan to provide funding to one or more grantees to help strengthen the capacity of both the Government of Bangladesh and workers' organizations within the country to improve fire and building safety in the ready-made garment sector. We have published the Notice of Intent with respect to this technical assistance project and shortly will be issuing the detailed solicitation document.

We recognize that this funding will only be a small piece of the puzzle, but hope that, along with the support of other donors within the U.S. Government and from around the world, it will play an important role in helping to remedy the shortcomings that have impeded effective enforcement of laws and regulations and the protection of workers' rights in the garment sector—often with terrible consequences.

Finally, a few words about the role that the private sector can and must play to leverage its market power to help advance positive change for workers in Bangladesh.

Within Bangladesh, it is essential that the powerful garment industry, including the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), step up and do more to ensure workplace safety and greater respect for the rights of the largely young, female garment sector workforce. In addition, buyers and retailers based in the United States and elsewhere need to play a more active role in addressing labor concerns in their supply chains from Bangladesh.

Assistant Secretary Blake's testimony referenced what has come to be known as the Accord, the agreement reached between several workers' organizations and more than 30 brands—mainly from Europe but including PVH (the first to sign on), Abercrombie & Fitch, and as of last week Sean John from the United States. There is much to commend in that agreement, including commitments to ensure that fire and building safety improvements are made and greater respect for worker rights is achieved in the garment sector.

As important as any particular element of that agreement, however, is its likely impact on the workers of Bangladesh: it creates a clear and enforceable roadmap for sustained buyer engagement, financial obligations, and commitments to sourcing from Bangladesh—something of critical importance, especially to those young workers who have come to depend on garment sector jobs as a steppingstone to a better life.

Our goal in all of this is not to stifle Bangladesh's remarkable growth and development, but rather to work with the Government, industry, workers' and other civil society groups, and other stakeholders to ensure that job creation and economic growth occur hand in hand with increased respect for worker rights and improved workplace health and safety.



Tazreen and Rana Plaza have helped highlight the shortcomings in labor law, policy, and enforcement that we have discussed with our counterparts during meetings in Dhaka and Washington, and they have demonstrated, in the most tragic way imaginable, how essential it is that we all urgently address labor rights and workplace safety issues in Bangladesh with an unprecedented degree of commitment and vigor.

Thank you again for this opportunity to testify, and I would be pleased to take your questions.

The CHAIRMAN. Thank you.  
Mr. Karesh.

**STATEMENT OF LEWIS KARESH, ASSISTANT U.S. TRADE REPRESENTATIVE FOR LABOR, OFFICE OF THE U.S. TRADE REPRESENTATIVE, WASHINGTON, DC**

Mr. KARESH. Good morning. Chairman Menendez, Ranking Member Corker and other members of the committee, thank you for the opportunity to testify at this hearing. I am very pleased to be here with my colleagues from the Departments of Labor and State.

As the recent tragedies involving building and fire safety demonstrate, this is a critical time to work with Bangladesh to ensure that workers' rights and safety are protected. Today I will talk about our trade relationship with Bangladesh and in particular our ongoing review of worker rights under the Generalized System of Preferences, or GSP, Trade Preference Program.

Bangladesh is an important trade partner of the United States, and we have a strong and growing trade relationship. We, the United States, are the largest single-country market for Bangladesh's chief export of apparel products. One of the ways we are seeking to strengthen that trade relationship is through a regular mechanism for dialogue and cooperation. In this regard, we have proposed to establish a U.S.-Bangladesh Trade and Investment Cooperation Framework Agreement and are awaiting Bangladesh's response to that request.

Bangladesh currently receives special duty-free access to the United States market through GSP. The GSP program has several eligibility criteria, including worker rights. To maintain its GSP benefits, a country must be taking steps to afford internationally recognized worker rights. In 2007, the AFL-CIO submitted a petition to USTR under GSP alleging serious shortcomings in Bangladesh's recognition of worker rights. The AFL-CIO petition described a wide array of worker rights issues, including serious obstacles to freedom of association and collective bargaining, particularly in export processing zones, the ready-made garment industry, and the shrimp processing sector.

The petition also alleged a pattern of harassment and violence against trade unionists and nongovernmental organizations that work on labor rights issues, and a neglect of worker protections in the areas of fire safety and health.

We at USTR and other government agencies have taken and continue to take these allegations very seriously. From the moment we accepted the AFL-CIO petition, and indeed prior to the petition because many of the issues have been longstanding, USTR has worked with all stakeholders to address the many concerns. While we have seen progress in some areas over time, we are concerned

that the situation in other areas has deteriorated, particularly in the past year.

United States officials have been explicit with the Government of Bangladesh concerning specific actions it should take to provide greater freedom of association and to ensure that workers have safe factories in which to work. Despite our many efforts with Bangladesh, beginning in late 2012 we grew increasingly concerned that the worker rights situation was, in fact, deteriorating. We concluded that the situation warranted consideration of possible withdrawal, suspension, or limitation of Bangladesh's trade benefits under GSP.

We issued a Federal Register notice in January of this year to make stakeholders aware of the seriousness of our concerns, and then held a hearing on the issue in March. The Tazreen fire in November 2012 and the Rana Plaza building collapse that others have spoken about this past April demonstrated the deadly implications of the failure to address the underlying issues of worker rights and safety, especially in the garment sector.

Over the past several months, the administration has intensified its engagement with the Government of Bangladesh and relevant stakeholders. We have stressed the importance of seizing this moment to make concrete and lasting change. The GSP review has given us a much better understanding of the range of labor issues workers face in Bangladesh and provides a specific mechanism to engage the government. The administration will announce a decision on next steps in the GSP review of Bangladesh by the end of June. All options remain under consideration, including possible suspension, limitation, or withdrawal of GSP benefits.

The challenges Bangladesh faces require both short-term and long-term actions. Overcoming these challenges will take the efforts of all parties—the Government of Bangladesh, factory owners, workers, nongovernmental organizations, international buyers, and, of course, the United States and other governments—that have an interest in the growth and development of Bangladesh. We recognize that now is the time, and we need to see meaningful and sustained change on these matters in Bangladesh.

Thank you again, Chairman and this committee, for the opportunity to testify, and I look forward to your questions.

[The prepared statement of Mr. Karesh follows:]

PREPARED STATEMENT OF LEWIS KARESH

Good morning. Chairman Menendez, Ranking Member Corker, and members of the committee, thank you for the opportunity to testify at this hearing concerning labor issues in Bangladesh. As the recent tragedies involving building and fire safety demonstrate, this is a critical time for our Government, U.S. companies, and American consumers to understand the challenges presented, and work with Bangladesh to ensure that workers' rights and safety are protected. Today, I would like to touch on our overall trade relationship with Bangladesh, but discuss in much greater detail our ongoing review of worker rights in Bangladesh, under one of our trade preference programs, the Generalized System of Preferences (GSP).

The United States and Bangladesh have a strong and growing trade relationship. The United States is a key market for Bangladesh, importing nearly \$5 billion in goods from Bangladesh in 2012. We are also the largest single-country market for Bangladesh's chief export, apparel products. The United States engages with Bangladesh on trade and investment-related matters in bilateral and multilateral settings, including at the World Trade Organization (WTO). In an effort to bolster our engagement in these areas, the U.S. Government has proposed a Trade and Invest-

ment Cooperation Framework Agreement (TICFA), which would provide a regular mechanism for dialogue and cooperation. We would like to complete the agreement with Bangladesh soon and are awaiting a response to our proposal.

As a least-developed beneficiary developing country under the U.S. GSP trade preference program, Bangladesh is eligible to export duty-free nearly 5,000 otherwise-dutiable products to the United States. In 2012, the United States imported nearly \$35 million in products from Bangladesh under GSP, across almost 150 different Harmonized Tariff Schedule (HTS) categories. Leading GSP-covered imports from Bangladesh include tobacco, ceramics, plastic products, sporting equipment, and nonapparel textiles such as national flags and rugs. However, because most apparel products are excluded from the GSP program by statute, GSP imports represented less than 1 percent of total U.S. imports from Bangladesh last year.

The statute governing the GSP program lists several eligibility criteria, including some related to worker rights,<sup>1</sup> which beneficiaries must meet in order to maintain their benefits. USTR, based on the advice of the GSP Subcommittee of the inter-agency Trade Policy Staff Committee, accepted for review a GSP country practice petition filed by the AFL-CIO in 2007 alleging serious shortcomings in the Government of Bangladesh's recognition of worker rights. The AFL-CIO petition described a wide array of worker rights issues in Bangladesh, including serious obstacles to freedom of association and collective bargaining, especially in Export Processing Zones (EPZs), the ready-made garment and the shrimp processing sectors. The petition and subsequent updates also allege a pattern of harassment and violence against trade unionists and nongovernmental organizations (NGOs) working on labor rights issues, and a neglect of worker protections in the areas of fire safety and health.

We have taken, and continue to take, these allegations seriously. From the moment we accepted the AFL-CIO petition—and indeed prior to accepting the petition because many of the issues have been longstanding—USTR has worked to address these issues. We worked with the petitioners, other U.S. Government agencies, the Government of Bangladesh, and stakeholders in Bangladesh to achieve progress and resolve the concerns that the petition raised. While we have seen progress in some areas over time, the situation in other areas has deteriorated, particularly in the past year. U.S. officials have been explicit with the GOB concerning the specific actions they should take to allow greater freedom of association, including to enable workers to form and operate unions of their choosing and for labor NGO's to assist them, and to ensure workers have safe factories in which to work. Parallel to these efforts, as is also our practice, the GSP Subcommittee continued to invite public comments on the petition on several occasions and has held four public hearings on the case, most recently on March 28, 2013.

Despite our many efforts with Bangladesh, beginning in late 2012 the USTR-led GSP Subcommittee grew increasingly concerned that the worker rights situation in Bangladesh was in fact deteriorating and concluded that the situation warranted consideration of possible withdrawal, suspension, or limitation of Bangladesh's trade benefits under GSP. Consequently, on January 8, 2013, USTR published a notice in the Federal Register seeking comments on the possible withdrawal, suspension or limitation of Bangladesh's GSP benefits. The primary purpose of the notice was to make stakeholders aware of the seriousness of our concerns and the need for action by the government of Bangladesh.<sup>2</sup> At the same time, we communicated our concerns to senior officials of the Government of Bangladesh that we would be making a decision on next steps in the GSP review by mid-2013, that the country's GSP trade benefits were at stake, and that we would be looking for evidence of substantive progress by the government in improving the worker rights situation.

As noted, on March 28, 2013, the GSP Subcommittee held a public hearing on the Bangladesh review at which Bangladeshi officials, representatives of the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), the Bangladesh Export Processing Zone Authority (BEPZA), and the AFL-CIO testified. The Bangladesh officials and the BGMEA cited a number of measures they had taken or committed to undertake to address the worker rights and worker safety concerns that the U.S. Government had raised.

The AFL-CIO testified that while the Government of Bangladesh and the Bangladesh garment industry had begun to address fire safety issues, little had been done to address the core worker rights issues cited in the original petition and subsequent updates.

The Rana Plaza building collapse in April demonstrated the deadly implications of the failure to address the underlying issues of worker safety and worker rights, especially in the garment sector.

In response to widespread criticism following the Rana Plaza collapse, the Government of Bangladesh has announced several initiatives, mostly related to building

and fire safety. At the same time, many U.S. and European apparel brands have committed to additional initiatives designed to improve compliance with fire and safety standards among their Bangladeshi suppliers. In addition, the European Union (EU) announced that it is considering a review of Bangladesh's benefits under its own trade preference program.

The administration has also intensified its engagement with the Government of Bangladesh and other stakeholders. In particular, the three agencies represented at this hearing—USTR, State, and Labor—have each been using the particular venues and contacts we have with the government to stress the importance of seizing this moment to make concrete and lasting change. The GSP review has given us a much better understanding of the range of labor issues workers face in Bangladesh as well as a specific mechanism to engage their government. The administration will announce a decision on the petition by the end of June; and all options remain under consideration, including possible suspension, limitation, or withdrawal of Bangladesh's GSP benefits.

Based on our experience from the GSP review, let me provide you with a few observations on the challenges related to ensuring worker rights and safety in Bangladesh.

First, the issues are broad, but interrelated. One of the most tragic aspects of the Rana Plaza disaster was that workers were allegedly coerced into returning to work in a building with known structural risks. Had these workers been able to effectively organize themselves, it is possible that they would have felt less intimidated. An important tool to ensure worker safety is the voice of the workers themselves, which comes from their ability to freely associate.

Second, the challenges facing Bangladesh require both short- and long-term action. The government can take several steps now to strengthen freedom of association, including ensuring that labor activists are able to operate freely and to support the development of independent unions that effectively represent their workers. At the same time, the government needs to devote resources to developing its own capacity to regulate and enforce labor laws and building and fire safety codes. This is a longer term endeavor that will require sustained focus.

Third, all stakeholders involved in Bangladesh have a responsibility to work together to address labor issues effectively and sustainably. The government has a primary responsibility to ensure enforcement of its laws and to create an environment in which workers can exercise their rights and work in safe and healthy factories. But factory owners, workers, international buyers, and consumers each have a responsibility and role to play as well. There are a large number of initiatives underway to address these challenges; we welcome these as a strong sign both of stakeholders' recognition that change is necessary, as well as their willingness to be a positive part of that change. It will be critical that these initiatives work in tandem and not at cross purposes.

Finally, the United States, through our trade relationship and trade programs, and through our diplomatic and development policies, has an important interest in seeing Bangladesh succeed in addressing the labor challenges it faces and continuing to grow and prosper economically. The administration is committed to working with the Government of Bangladesh and other stakeholders to achieve these goals.

Thank you again for this opportunity to testify, and I would be pleased to take your questions.

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#### End Notes

<sup>1</sup>Section 502(b)(2)(G) of the Trade Act of 1974, as amended, ("the Trade Act") provides that the President "shall not designate any country a beneficiary developing country" under GSP if "such country has not taken or is not taking steps to afford internationally recognized worker rights in the country (including any designated zone in that country)." Section 507(4) of the Trade Act provides a definition of "internationally recognized worker rights," which includes "the right of association," "the right to organize and bargain collectively," and "acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health."

<sup>2</sup>The Government of Bangladesh (opposing any change to its GSP benefits) and the AFL-CIO (supporting suspension) were among the 30 individuals and organizations that submitted comments.

The CHAIRMAN. Well, thank you all for your testimony. Let me, however, characterize what I heard, which is that we have been sabre rattling, but that has not produced the results that we collectively want to see.

Mr. Karesh, you said that we have been very explicit about what we think needs to be done. Obviously, on freedom of association, it is pretty clear that if the workers at Rana Plaza had had the right to associate, they very well might not have been forced to work in an unsafe building, and they would not have died.

So in my mind, the question is, When do we go from saber rattling to some action? Because while we have seen some movement in laws that have been proposed and/or passed, we have seen very little, if any, enforcement at the end of the day.

So the question is, How many more people have to die before we decide that, in fact, that is not something that we can morally sustain?

Do not all jump to answer the question. [Laughter.]

Mr. BLAKE. Let me start, Mr. Chairman. First of all, let me agree with what you just said, and that is the message that we have been sending all along to our friends in Bangladesh and to all the other stakeholders, is that this is a defining moment now for action.

I think there has been some action, as I said in my testimony, in terms of 27 new unions registered, in terms of the new fire safety plan, in terms of quite substantial progress on these labor law amendments which we have been assured by the Government of Bangladesh will be passed by the end of this month. So that will be a very important step, I think.

But we are also working, as I said, with all buyers and with BGMEA—the Bangladesh Garment Manufacturers and Exporters Association—because they too have a very important role to play in terms of hiring new inspectors both on the fire safety side and on the structural soundness side. And then we need to bring all of these efforts together in a coherent fashion so that there is a plan that everybody agrees on, that all the stakeholders can agree upon.

The CHAIRMAN. Well, I appreciate that. But, Mr. Secretary, as we know here in our own country, passing laws and putting them on the books versus enforcing them is a huge gulf.

Mr. BLAKE. Right.

The CHAIRMAN. And to be honest with you, every law that we pass that gets signed into law but that does not get enforced is meaningless. It is a toothless tiger. So my concern is not that we continue to see a plethora of laws passed, which I applaud, of course. But what is it that we are seeking in enforcement activities to make sure that the laws are pursued and the message is sent to the industry?

So, Mr. Karesh, why not, considering I recognize we have a very significant bilateral agenda with Bangladesh. As I said, I have applauded many of their successes. But that does not mean that we should sit by and watch workers die, and to permit American companies to, in essence, exploit conditions under which labor is cheap but safety is none. So, why not, when basically you have a very limited opportunity in terms of maybe the impact on Bangladesh but an opportunity to send a very clear message, why not suspend the GSP benefits here as a global message? Because it is not about having manufacturers leave Bangladesh to the next lowest priced place. That does not accomplish the goal.

The question is, How do we send a message and work to create a universal standard that at the end of the day can allow Ban-

gladesh to continue to thrive, but to make sure that it is not done on the death of individuals who work for these industries?

Mr. KARESH. Thank you, Chairman. I think you have hit on really the key question that we are facing ourselves right now. GSP offers one mechanism to engage countries, and we are currently reviewing that, as I expressed, because we have concerns about whether there has been continuing progress. As I said and as Assistant Secretary Blake mentioned, there have been some actions that have occurred in Bangladesh, and we have worked with the government over a sustained period of time to try to make sure that those are meaningful steps and that they are sustained. We have recently become more concerned that there has not been sustained improvement in addressing these issues.

What we search for is what is the best way to achieve the result that I think we all want to achieve, which is safer workplaces where workers can exercise their rights and where they can go to work and come home from work safe and healthy. We are searching for the best ways to engage with the Bangladeshi Government and other stakeholders to do that.

We are taking a serious look at GSP because it is one way—

The CHAIRMAN. What they send under GSP is less than 1 percent of GDP for them, right?

Mr. KARESH. Less than 1 percent of their exports to the United States come in under GSP. That is correct, sir.

The CHAIRMAN. So, while not an insignificant action, the damage is relatively small. The message, however, universally is very strong. I am going to ask Senator Kaine in a little while to chair the hearing as I step out to go to the Finance Committee, where the new U.S. Trade Ambassador's nomination is, and I am going to ask him the same questions, and I am hoping that he gives me the right answers.

Mr. Biel, let me ask you, why is it that only a handful of American retailers are signed on, but the Europeans have largely signed on to the IndustriALL Accord? I wonder—you know, some businesses are debating whether to leave Bangladesh. That is not our purpose here, to relocate elsewhere. Otherwise, we are just chasing this process. But only Disney so far has stated that it will no longer source from Bangladesh. Forty-one companies have signed on to the IndustriALL Accord on fire safety and building improvements, which is hailed by labor and consumer groups as a major breakthrough, since global brands have often sought to deflect any direct responsibility of the problems. But there are only three American retailers who have signed the Accord so far.

So what confidence can you give me, or any of you who may be dealing with the industry, that there are serious efforts underway by American retailers to help improve labor conditions?

Mr. BIEL. Thank you for the question, Mr. Chairman, and my colleagues may want to jump in as well. Obviously, the industry which is represented on the second panel will have to explain for themselves their decision collectively to pursue a different route than the Accord. As you mentioned, only three U.S.-based companies—PVH, which was the very first to sign on some time ago, and more recently two additional ones, as you mentioned, have signed on, but that is a small number compared to the number from

Europe. They have outlined, including in the written testimony, their legal and policy reasons; and, of course, the AFL-CIO has outlined a very different account of it. We have talked to all parties concerned.

The CHAIRMAN. Are the Europeans less astute about legal liability?

Mr. BIEL. Not that we are aware of, nor are the three American companies that did sign on. At one time, we thought just a few weeks ago there was a very narrow divide, and the hope was that the momentum would bring additional U.S. parties on board. That obviously has not happened.

What we are hoping to do, as my written testimony reflects, is indicate that we see a process forward, and I speak for the Department of Labor in this regard, as needing to be a bit of a game changer: not just for the Government of Bangladesh in terms of your previous question about the need for greater enforcement mechanisms, greater capacity, the small number of labor inspectors, the fact that there is so little oversight and capacity to do the kind of work not just on fire and building safety but on broader workers' rights concerns, but in addition there needs to be a real partnership with the private sector that, frankly, has been less than robust to date.

So our goal—we are not as a government endorsing one particular plan—but our goal is to set some benchmarks for what needs to be done, especially given that there is a growing recognition, interestingly enough, as both sets of testimony on the second panel recognize, of a corporate responsibility, but there seems to be a difference in what the details of that involve.

So we have continued to press the case for the fact that government responsibility is paramount. That is why there needs to be more oversight, more funding, more training, and other initiatives that we can talk more about, but there also needs to be a stepped-up private sector role.

The last thing I will say is the Accord itself is still being implemented. There is a 45-day period that began in late May for putting additional details in place. And so our hope is that as some of those details become clear, maybe some of the concerns will be alleviated and there will be more momentum for additional brands to sign on. But again, that will have to be their own determination.

The CHAIRMAN. Well, for the purposes of this governmental panel, let me just tell you I can assure you that this is not going to go away gently into that good night with one hearing.

Senator Corker.

Senator CORKER. Thank you, Mr. Chairman, and again, all of you for being here.

Let us talk a little bit about the Government of Bangladesh. I think all of us have heard the story of the person who showed up, the inspector, the day before at the particular facility we are talking about, and determined that it was unsafe. He was turned away, and the building later collapsed, and 1,100 people died. I know we are talking here about regulations and rules. I am just curious about what kind of regulations and rules already exist. It sounds to me like maybe it is more a question of whether those are being

enforced in Bangladesh. I am just wondering if one of you might respond to that.

Mr. BIEL. I think it is a combination of the laws on the books and the lack of enforcement. There are some shortcomings in the laws themselves. As was referenced in more detail in the written testimony, Bangladesh is currently, we understand that the Cabinet, the senior leadership, is now moving a comprehensive labor law reform package to the Parliament, and as Assistant Secretary Blake mentioned, the hope is that it will be passed by the end of this month. That is about 145 pages translated, so it is a detailed plan. Those of us who have had a chance to examine it recognize it is just the first step. There are some things in it that still do not go as far as making it compliant with internationally recognized standards of the ILO and so forth.

But there are some significant improvements, including the four specific provisions that tie into what the Better Work management team asked for last fall. So on the legal side there are some signs of progress, although I would also note—and again, this is referenced in the testimony—that the export processing zones are subject to an entirely separate set of provisions, not part of that same labor code, and that is why that has been a particular area of concern, because there is vast discretion in that area, and you do not have the same kind of union structure in that area.

So there are some legal gaps, some that are on the way to being remedied, others that remain a ways away. But in addition, there is the issue of enforcement. Currently, given the size of the sector, the fact that you have got only a double-digit number of labor inspectors is something that is an obvious shortcoming. In connection with the ILO roadmap announced at the beginning of May, that number will grow to 200, and there should be budget to get it up to 800 before too long. That is still not a vast number, but it is almost a tenfold increase.

So you begin to see, with the help that we can provide, technical assistance training, hopefully a more robust government enforcement capability, although again that needs to be complemented by more work by the private sector at the factory level.

Mr. BLAKE. May I just jump in for a minute, Senator, and just say I think the Rana Plaza tragedy really underlined the number of failings that now exist. One, there was a management failure on the part of the management of that factory which, of course, ordered those workers back in when they knew full well that there were cracks in the building.

Second, it underlined the need for independent unions. Had there been an independent union representative at that facility at that time, they would have ordered the evacuation of those workers.

Third, I think it underlined the immense governance challenges that still exist in Bangladesh. This building was built on unstable land. There were floors that were added illegally. So there is a great deal of corruption and governance challenges that still need to be met.

And fourth, as my colleague said, it underlines the need for much greater and more capable inspections, not just by government inspectors but by independent inspectors who can hopefully reinforce whatever the work that is being done by the government.



Senator CORKER. Well, I appreciate that. It seems to me that there ought to be some mechanism, maybe, for these owners of the companies that are manufacturing to somehow certify that they are meeting the standards also, the standards that have been put in place. But it does sound like there is a huge inside-the-country issue and that is going to take Bangladesh really stepping up to make sure that the employees there are well taken care of.

On the Accord, I guess I have never been and—I did not come to the Senate to be someone who does what everybody else does. I guess it really does not trouble me that our companies did not sign an agreement that the Europeans did. I do not think that is necessarily a standard that matters that much.

I think what does matter is that our companies enter into an agreement that is sensible and really moves things. I am glad to hear the chairman say that he is going to have additional hearings. I think one of the things we might want to do is have a hearing after the U.S. retailers decide what this agreement is going to be, and then maybe we go through that and understand the kind of statements that they have made and plan to enforce.

But I just wonder, Mr. Biel, if you could tell us a little bit about what those characteristics of that agreement may be, to your knowledge, as far as what the U.S. companies are planning to do. Again, it is my understanding that they have committed to some June 30 deadline. I think all of us would look with anticipation to what they might do. Maybe you could give us a little preview.

Mr. BIEL. My review will be fairly sketchy, I am afraid, in that it has only been about a week since we first heard of the unification of a number of U.S. brands and trade associations around what is now being coordinated by the Bipartisan Policy Center and former Senators Mitchell and Snowe. So that just goes back a few days. We have not seen an action plan or any specifics about that. Hopefully on your second panel, the panelists—certainly Mr. Lubbe, on behalf of the retail industry—can share more details on where that stands. But it is fairly new and very much a work in progress that we just have not seen the specifics of.

The Accord has been in place for a couple of years. There were only two companies that were participants in it until recently, when the momentum in recent weeks, including post-Rana Plaza, led some three dozen additional ones to come on board. And it, too, is still being developed in the sense of going from a six-page document to a much more detailed plan in this 45-day period.

So I think your point is well taken. In the next few weeks there will be an opportunity perhaps to compare and contrast two different models as you learn more about how the Accord is being implemented and perhaps learn what this initiative that is brand new involves.

In my written testimony—I do not want to dominate the time—I lay out a few points that are kind of bottom lines from our point of view, speaking for the Department of Labor, for what a strong multistakeholder agreement includes, and we are encouraged with the Accord that you have got different parties at the table, industry as well as workers' organizations representatives, and some clear provisions that meet those criteria.

Senator CORKER. I think there have been a number of points that have been brought up. But at the end of the day, what we do not want to see happen is for us to do the typical cut-your-nose-off-to-spite-your-face effort where, in essence, an industry moves from a country, like Bangladesh, that needs jobs. We do not want to see that happen. What we would like to see is the people who were working there to be able to work in safe conditions and have jobs that are moving them up mobility-wise into a better standard of living. I think that is what we would all like to accomplish.

So it sounds to me like there are tremendous enforcement issues on the ground that the government is not carrying out. Either they have been influenced to not act or they are simply not acting, but certainly there is a responsibility there amongst the Government of Bangladesh to make sure they take care of their own citizens.

And then it seems like to me, since the chairman has mentioned this is not going to go away, one of the great things we might do as a committee is to have some of the industry leaders come up after this United States and Canadians retailers agreement has been reached and just share with us. I think most of them certainly like to have good corporate images and want people who buy goods from their stores to feel good about what they are doing. Maybe we can have them come up and share with us what they are planning to do to implement standards within their own companies that create a better culture in this regard as to how they are purchasing.

So, Mr. Chairman, I thank you for this and appreciate all of you being here.

The CHAIRMAN. Thank you, Senator Corker. We have exactly that in mind, so we look forward to it.

Senator CASEY.

Senator CASEY. Thank you, Mr. Chairman. I will be very brief. I will not take all of the 7 minutes because I have to run, and I know everyone is pressed for time.

Thanks for your testimony, and we are grateful for your work. Assistant Secretary Blake, I wanted to ask just one question, and I will submit a number of other questions for the record. It is one of capacity. If you can assess—and I know you have spoken to this in one way or another in your testimony and otherwise—the capacity of the Government of Bangladesh to provide enforcement of existing rules, but then also the capacity in terms of reform and making the improvements we think are vitally necessary. Just in terms of capacity, if you could just address that.

Mr. BLAKE. Thank you, Senator. I think when you talk about capacity, you are talking about both are there sufficient numbers of inspectors, but then also even more critically is there the will to actually enforce these things.

Senator CASEY. Both efforts.

Mr. BLAKE. Right. And I think we are making significant efforts, and the government is making significant efforts to hire the necessary number of inspectors, and we are also encouraging again a parallel industrial effort on the part of the buyers and BGMEA so that they will have their own cadre of independent inspectors as well, because we think that is very, very important.

But then there is the question of governance, and that is something that Bangladesh really needs to take ownership on. Again, I

think that is where there is the most, in many ways the most significant challenges, is to ensure that the sort of culture of corruption that has persisted for so long is finally brought to an end and that there are serious efforts at remediation and serious efforts to ensure that all of these inspections not only take place but that then, whatever decisions are made, are actually enforced.

BGMEA does have the ability to enforce this in the sense that they control the import and export licenses for all of these suppliers. So they have the teeth to be able to enforce this, and I think they have the will for this reason, because they know very well that brand Bangladesh is under threat now.

Senator CASEY. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Murphy.

Senator MURPHY. Thank you very much, Mr. Chairman, and thank you for this hearing and for your great work and interest on this issue.

I wanted to come back to the industry Accord and our path forward. I am glad to hear that there may be a revisiting of some American companies of their willingness to step up and make some commitments, but thus far their response has been inadequate. They have, with the defense of potential legal liability, essentially said that they are better off today coming up with individual policies that may make things better rather than coming together, and some of the individual policies seem to make some sense. Gap, for instance, has a fairly comprehensive response here that, if you read it, certainly suggests they are taking things seriously. But, of course, this has been how we have been doing things for years. Each company has worked individually on trying to make things better and, of course, with the recent events, there is little evidence to suggest that it has worked.

And so, Mr. Blake, you were sort of careful in your testimony. It did not sound like you suggested that we were actively encouraging companies to come together on a joint standard. So I wanted to ask all three panelists, and let me start with you, as to what role we are going to be playing to try to facilitate American companies, whether it be in an agreement with European countries or on their own, to have some common commitment rather than just doing what we have been doing for a long time, which is asking each one of them to come up with their own standards.

Mr. BLAKE. Thank you, Senator. Let me start, and I will ask my colleagues to jump in.

As I said in my testimony, we have had several rounds of conference calls with all of the buyers already hosted by the State Department with our other interagency colleagues, and we have encouraged them to come up with an agreement that they can all coalesce around, and hopefully one that also is consistent with the IndustriALL Accord. As my colleagues said, there are some concerns on the part of the American companies about liability questions, and obviously that is a judgment they are going to have to make.

But many other parts of the IndustriALL Accord they seem to be willing to embrace. So to the extent possible, we would like to see

something that is reasonably coherent so there is not a jumble of different standards and requirements that will make it more complicated to really achieve the outcome that we all desire.

Mr. BIEL. Assistant Secretary Blake has covered it well. I guess what I would add, building on my previous response, is that there are moments in time, and the chairman highlighted the one in our own country from 1911 with Triangle Shirtwaist, which led to a whole set of changes in terms of enforceable laws, a lot of the things that the Department of Labor administers today coming out of that, a moment in time in the mid-1990s after Kathy Lee Gifford and other things where some of the voluntary mechanisms, the principles, the multistakeholder agreements came into being, and this is another moment in time. And it is true, it cannot just apply to Bangladesh, but Bangladesh may be a stepping stone.

We deal at the Department and through the Better Work Program with conditions in other countries around the world, from Haiti to Honduras to Lesotho and so forth, but Bangladesh is the second-largest export market to us. It is a massive industry, and so we really need to get it right, not just with respect to government enforcement but how brands and retailers see their own responsibilities.

The last thing is that the state of international law and policy has evolved. There is a new recognition based on the U.N. Guiding Principles on Business and Human Rights that while government has paramount responsibility, corporations have a delineated set of responsibilities. So we have stressed against the backdrop of that, as well as the specific circumstances in Bangladesh, the need to meet some minimum criteria.

So far, as we said, the momentum that looked like it was building in May has kind of taken a bit of a detour. But our hope is, through the processes we have mentioned, that there will be a coalescing around strong common principles in the coming weeks, and again some oversight in the future can certainly play a key role in holding people's feet to that.

Senator MURPHY. Mr. Karesh.

Mr. KARESH. Thank you, Senator Murphy. I support the comments made by both State and Labor on this. We have always worked together to support corporate social responsibility and efforts on the part of the buyers and the manufacturers to address these issues. But it is our view that that is not going to be enough in and of itself, that there has to be a culture change within Bangladesh, within the government.

And because of Rana Plaza and Tazreen, we have talked a lot about fire and building safety issues, but there are also other issues principally focused on freedom of association and collective bargaining and the right of workers to assert themselves and the protections that are in place for that. That is partly legal, and they are working on labor reforms in Bangladesh. But it is also partly attitude. It is intimidation and harassment of groups that try to support the labor unions, support the workers.

So we have to work on that issue, and the government has to be involved and has to address those issues, and it has to have the political will to address them as well as working with the buyers and manufacturers and others.

Senator MURPHY. Mr. Blake, I would just direct my last question you, and possibly others can comment. This is on the issue of liability. It seems to me to be a bit of a red herring. We have the Koibel case and others which have greatly limited the ability of people in other countries to submit claims in the United States. Are we advising these companies on their potential U.S. liability, or are we leaving it up to their individual judgment?

Mr. BLAKE. No, sir. We have not taken a position on that very narrow issue. We just, again, have taken a wider view that they should come together and coalesce around whatever plan they can agree on, and that ideally that could be something that is consistent with the IndustriALL Accord.

Senator MURPHY. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Kaine.

Senator Kaine. Thank you, Mr. Chairman.

To the witnesses, Bangladesh is a sovereign nation, and they have their own sets of rules. There could be a culture of corruption. There could be labor challenges. There could be safety standards that we would not accept. We do not have the command and control of them that we would in this country, but we do have levers, and I want to just spend time talking about the levers.

It strikes me that you could look at levers as our own governmental levers, the GSP, and there may be other mechanisms. You have private sector levers, and then some multinational organization levers, the ILO and the World Bank, for example.

So on the levers that the United States would have, share with me a little bit about the General System of Preferences. It is my understanding that the AFL-CIO had filed a complaint seeking to diminish or reduce the GSP status of Bangladesh in 2007. Has that been under consideration for 6 years?

Mr. KARESH. Yes, Senator Kaine. They filed that in 2007, and we did accept it for review, and we have been reviewing it and engaging with the Government of Bangladesh ever since. As I indicated earlier, as well, even prior to the petition, because there had been longstanding issues related to freedom of association, there had been previous submissions, and we had seen progress at times. In fact, previously we closed some GSP petitions prior to this petition being opened because we saw progress.

We continued to work with the government ever since this petition was received to address issues. We did see some action taken. But recently our feeling has been that we are not seeing sustained and meaningful progress on issues and we have concerns that, in fact, in some areas there seems to be a deterioration. The current situation that happened in Rana Plaza and Tazreen I think are evidence of the difficulties in the deterioration, and the question about whether there is the political will and the proper means are in place to ensure that Bangladesh can meet its challenges.

Senator Kaine. Let me just ask about the structure of the GSP program. I gather that it was something established as part of the Trade Act in 1974. The Congress set the parameters of a program. The granting of GSP treatment is something that is handled administratively through the USTR. Do I understand it correctly?

Mr. KARESH. That is correct. The U.S. Trade Representative Office is the primary office responsible for the trade programs. A decision with regard to GSP itself, eligibility for countries and whether there can be a suspension or limitation, is actually a Presidential determination based on a recommendation from USTR, and we have currently indicated that we will make a decision with regard to steps on GSP for Bangladesh by the end of June, and we are in interagency discussions on forwarding our recommendation to the President.

Senator KAINE. So the recommendation will be done by the end of June to the White House.

Mr. KARESH. That is correct, sir.

Senator KAINE. I noticed there was one reference to an earlier instance where GSP status was suspended to Burma over workers' rights issues. How about just generally in terms of the program? Is suspension of GSP status something that has commonly been done in the last 40 years, or is it extremely rare?

Mr. KARESH. It is not common. It has happened in a few instances. Burma is one of those instances.

Senator KAINE. And Burma was over workers' rights issues?

Mr. KARESH. That is correct.

Senator KAINE. And when was that suspension, just generally?

Mr. KARESH. 1989. We currently are reviewing whether to—

Senator KAINE. To restore?

Mr. KARESH [continuing]. To restore, yes.

Senator KAINE. And are there other instances of GSP suspension, other than the Burmese example?

Mr. KARESH. Yes, there has been. There have been several cases. I know of situations with Nicaragua, Paraguay, Romania, Chile, Burma, the Central African Republic, Liberia, Sudan, Syria, Mauritania, the Maldives, Pakistan, and Belarus.

Senator KAINE. OK. So a number?

Mr. KARESH. Yes.

Senator KAINE. The chairman brought up in his questions the fact that the GSP only covers a portion of our trade with Bangladesh because there are a number of exclusions. In your judgment—and this is now a question to all three of you—what would the consequences of a GSP suspension be, recognizing you have not made that recommendation? But is it a minor thing because it only covers a certain amount of trade? Or is it a major thing because it sends a signal about the working conditions in Bangladesh that would affect them, either sort of diplomatically or affect the willingness of private-sector partners to invest?

Mr. KARESH. I know Assistant Secretary Blake would like to respond to that as well, but let me just say briefly that there are a limited number of products that can come in under GSP that would be affected. But we believe that if that decision were made, it is a serious decision. It is a Presidential-level decision for the United States, and we believe Bangladesh understands that it would send a significant message with regard to doing business in Bangladesh.

Mr. BLAKE. Yes, sir. I think it would send a very significant signal because it is symbolically important, and it would also potentially have an impact on the EU's decision, because the EU has its

own GSP program which covers a much wider range of products than our own. Their whole process is a much longer term one than ours, but nonetheless this could have an influence on that as well. So I think it does have quite an important impact.

Senator KAINE. And based on the format of the program as you described it, I gather it is sort of an iterative process. It is not just you are in or you are out. But the USTR, the United States, in dialogue with the Bangladeshi Government, could lay down some conditions and say if you do not do X by a certain date, our intent would be to recommend to the White House—or the President could even say our intent would be to withdraw GSP status. Do I understand the program correctly?

Mr. KARESH. Yes, sir. That is correct. You have a choice of withdrawing, suspending, or limiting. There has been one situation where we did not fully take all of the benefits away but partially took them away, and then our intention, if that were to happen, would be exactly that, to have an action plan so that if Bangladesh took those steps, it could regain eligibility.

Senator KAINE. In the instances where we have withdrawn GSP benefits, and you gave a number, have there been instances where when that has happened, the countries have wanted to come back and work to regain them? So I know you are analyzing with respect to Burma right now, but has it proven to get their attention so that they want to come back and regain GSP status?

Mr. KARESH. Yes, absolutely.

Senator KAINE. OK. I will save my private-sector questions for the next panel, but just one on the international organizations. The World Bank has a Work Better Program that is trying to focus on these issues as well. Could you describe the status of that?

Mr. BIEL. Sure, sure. It is actually jointly administered by the International Labor Organization and the International Finance Corporation, part of the World Bank Group. The Better Work Program has been around for more than a decade. The first such program was what is called Better Factories Cambodia. So it is not a terribly old program, about 12 or 13 years old. It has expanded to a few other countries around the world. I mentioned some, but also including Haiti and Vietnam and Lesotho, Jordan and so forth.

In terms of going back to your question about leverage, we sit on both the donors committee and the advisory committee of the Better Work Program and have the ability to have some influence. We are not the final decisionmakers. That is the management group led by senior officials at the ILO and IFC. So, for example, in this case, Bangladesh has long indicated they want to be part of Better Work. We see that as potentially, if it is well administered, a step forward in terms of regularizing some of the issues and having a more systemic program of dealing with freedom of association and other issues in the workplace.

So it was last fall that that management group laid down some markers—they have variously been called conditions, risk factors—for what would be necessary for Better Work to take hold in Bangladesh. Thus far, they have not been met. There has been progress in one bucket, on union registration, that Assistant Secretary Blake mentioned and that I also mentioned in the written testimony. The other is these labor law reform amendments, not

the entire package but four specific ones, and we think that things are moving in the right direction, although it is a bit complicated by the fact that there have been some different versions, at least an English translation, of one or two of those.

So we are eager to see, and more importantly the Better Work leadership is eager to see in the coming days, exactly what gets introduced and taken up by Parliament so we know whether those are met, and then Better Work can decide whether the situation is sufficient to move forward. If it does, then there are a lot of big questions for us as well as other donors, such as the Australians and the British and some of the Scandinavian countries and the Dutch and others, who have supported Better Work and have indicated some interest in doing so in Bangladesh.

Senator KAINE. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, sir.

Senator McCain.

Senator MCCAIN. Thank you, Mr. Chairman, and thank you for holding this hearing, Mr. Chairman. This is, according to what I understand, one of the most horrific accidents, industrial accidents in history, and it certainly deserves everyone's attention. Unfortunately, some of these conditions, I am told, exist not only in Bangladesh but in other places in the world.

Secretary Blake, you probably already addressed this, but what are your short- and long-term priorities in this area which you enumerated, including improving the Government of Bangladesh's capacity to improve the infrastructure within Bangladesh to address building and worker safety?

Mr. BLAKE. Senator, we earlier talked about how this is going to have to be a comprehensive program on the part of all of the stakeholders. But since you talk about the Bangladeshi side of it, it will be very important that there first be freedom of association, and we have been talking about it earlier. Twenty-seven unions have been registered. Had there been a union representative on the ground at Rana Plaza, that tragedy would not have happened.

But there also needs to be a comprehensive effort on the inspection and safety side, and the enforcement of that as well. Again, we had a detailed discussion of that. We think that the buyers and the Bangladesh Garment Manufacturers and Exporters Association have a key role to play, both of them, in helping to build up an independent cadre of inspectors, both on the fire safety side and on the structural soundness side as well, to back up whatever inspections are done by the government.

So there is a very comprehensive series of steps that have to be taken but that are only really just beginning now.

Senator MCCAIN. Are you confident that they will be taken?

Mr. BLAKE. Well, I do not want to—we are pushing hard on those. I think—I am fairly confident—

Senator MCCAIN. In other words, I guess, what kind of cooperation are you getting?

Mr. BLAKE. I think we are getting a lot of cooperation. We have certainly gotten the government's attention, and we have certainly gotten the BGMEA's attention, and as we discussed earlier, our own buyers are now working with former Senators Snowe and Mitchell to see if they can come up with their own plan that we



hope will be consistent with the IndustriALL Accord that the European buyers have coalesced around.

Senator MCCAIN. Are you satisfied with the progress so far?

Mr. BLAKE. Certainly not. There needs to be much greater progress.

Senator MCCAIN. No, but I mean what you have done so far, is this on a timetable?

Mr. BLAKE. Yes. I mean, I think we are making progress, but there is much more that needs to be done on the part of all the stakeholders.

Senator MCCAIN. Thank you.

Mr. Karesh, you observed in your prepared testimony the USTR's review of Bangladesh's Generalized System of Preferences, GSP, trade benefits. What impact would the suspension of GSP benefits have on our efforts to improve the safety conditions of Bangladeshi workers?

Mr. KARESH. Thank you, Senator McCain. As others have mentioned, our view is that we need a comprehensive effort to address these issues, of which GSP is one mechanism that provides leverage. It is a significant step. If we were to make a determination to suspend or limit, it is significant. We believe that there are people within the Bangladeshi Government who understand that and would be concerned about taking measures to ensure that did not happen.

Senator MCCAIN. I guess I am curious whether in your assessment it would help or hurt if we suspended the GSP? Obviously, it would have significant unemployment impact in this impoverished country.

Mr. KARESH. I mean, clearly, in making this type of a decision, which ultimately is a Presidential decision—the USTR can only make a recommendation to the President—there are consequences in any action. Our goal is to address the concerns about freedom of association and safety and health, and that is why we are taking a very close look at this issue and trying to answer that question right now ourselves as to what we can do under GSP and with other means to improve the lives and working conditions for workers in Bangladesh.

Senator MCCAIN. So, actually it seems to me that suspension of GSP might be the last bullet to shoot rather than the first. Would that be correct? In other words, as Secretary Blake was saying, lay out what we expect of them and see if they make progress or not on it. And then if not, then obviously other alternatives have to be considered. Is that an appropriate way, or is it the way you are approaching this situation?

Mr. KARESH. Yes, sir. I mean, we would never take that step lightly. We have been engaged on these issues with the Bangladeshis for quite a long period of time, and we have not seen the meaningful progress that we would like to have seen, and that is why we are currently in a review of whether we would take that action or not. But it is not something that we would take lightly if we were to do that.

Senator MCCAIN. Tell me a little bit, you and Mr. Biel, about what they have not done that you want them to do or that they have been slow in doing.

Mr. KARESH. Do you want to start?

Mr. BIEL. Sure. It covers a number of different areas, and it has been mapped out, as Mr. Karesh mentioned, and as Senator Kaine mentioned. The petition goes back 6 years. In fact, there had been a previous cycle. So the issues are not new, but you have got a few different buckets of activity. The ready-made garment sector which is, obviously, the focus of this hearing and is the largest and most dynamic sector in Bangladesh. The shrimp processing sector is another area where there has been a history of labor rights abuses. There have been some signs of progress made, although interestingly enough, less on—

Senator MCCAIN. I guess I am asking what you want them to do.

Mr. BIEL. Yes. So in these areas, in the sectors, ready-made garments, shrimp processing, the export processing zones which is a separate legal authority, and with regard to fire safety, although that is kind of on the margins of GSP, a specific set of steps have been delineated to deal with freedom of association and protection of workplace safety. There have also been some specific actions laid out, and this has been directly communicated in writing from our former U.S. Trade Representative Kirk, from our Ambassador in Bangladesh, Dan Mozena, to the Bangladeshis, also with regard to some investigations of killing of a labor activist and the deregistration of civil society groups.

So it is not an exhaustive list in terms of being something that cannot be achieved within a time bound period. So there is no misunderstanding of what is on the table and what would be at the focal point of a decision on whether to suspend in full, suspend in part, not suspend, all the different options.

But it has all been made quite clear in the last several months: here are the steps that need to be taken, and there was a GSP hearing that USTR chaired on March 28 and a long discussion bilaterally the next day with the two governments across the table. So those have been laid out in those areas I mentioned and a couple of others.

Senator MCCAIN. Well, I would appreciate it for the record if you would provide us with—and I know, I hope it is not too hard—what we expect of them, and also what we expect of companies and corporations that do business there. We have not addressed that, I think, perhaps in as much depth as I would like. What do we expect of the companies and corporations that do business there? Obviously, it is a two-way street. And also, frankly, it would really ratchet up the unemployment in Bangladesh, and I think that is something that at least we ought to have as a consideration, not the primary consideration but as a consideration, before we take the kind of ultimate action.

Do you agree, Secretary Blake?

Mr. BLAKE. Again, I do not want to compromise what the President will decide, but I do think that this will have quite a far-reaching—

Senator MCCAIN. But you give the President advice and counsel. I expect the President will know a lot of things, but not too much about this particular issue, although I am sure he is aware.

Mr. BLAKE. Well, I think this is quite an important tool. The issue is how do we best leverage that tool to get the progress on

the ground that we are seeking, and that is the issue that we are now discussing internally.

Senator MCCAIN. Well, I thank you for the nonanswer. [Laughter.]

Senator MCCAIN. Thank you, Mr. Chairman.

The CHAIRMAN. The State Department is very good at that. [Laughter.]

Senator Corker wants to make a comment, and then I have one final question, and then we will go to the next panel.

Senator CORKER. Mr. Chairman, I have another hearing that got moved back because of votes today, and I know this is an important time to go ahead and have this hearing. I appreciate you doing that. I need to step out for something that has been set for some time, but I know the next panel is coming up. One of the questions I have after hearing the first panel is, it would seem to me that in a supply chain, especially for larger enterprises, there are certifications that you can get all throughout the supply chain. Even if the Government of Bangladesh is not enforcing certain standards, by contract, you can ensure that those things are occurring. I hope the next panel will address that.

I do look forward to the industry here coming together on a uniform agreement that they are working on, and I look forward to them coming up and talking with us after June 30 about the results of that.

Thank you for being here, and thank you for the second panel that I will not see. Thank you.

The CHAIRMAN. I have one final question, and I think the Secretary might be the right person to answer it, but I welcome anyone of you who may be involved in this.

What is the status of the investigation into the April 2012 murder of Bangladeshi labor organizer, Aminul Islam? It is my understanding that case remains unsolved, and key leads have apparently been dropped.

Mr. BLAKE. Sir, the case does remain unsolved. A suspect was identified in November 2012, but since then there has been no progress that I am aware of on that case. So this remains a very important part of our dialogue with the Government of Bangladesh, to see this solved, because it sends a signal, quite frankly, about what kind of respect is going to be accorded to labor activists.

So it is very, very important that this be fully investigated and that the people who are responsible be brought to justice.

The CHAIRMAN. Well, April 2012, so that is over a year. You say it is part of our dialogue. I am not quite sure what that means. How intense are we actually asking about this case? What followup are we seeking from this case? I mean, how is it that there are suspicions about why this case has ended up in dead ends?

Mr. BLAKE. We do ask about it. It was when former Secretary Clinton was in Bangladesh the last time, she raised this in all of her meetings. She talked about it publicly. I raise it in my meetings with the Bangladeshis here, and of course our Ambassador on the ground is very active on this.

The CHAIRMAN. And what do they say?

Mr. BLAKE. Well, just exactly what I just said, that the case remains under investigation but they do not have anything further to report.

The CHAIRMAN. And the person who was arrested, is he still in incarceration?

Mr. BLAKE. He is not incarcerated, to my knowledge.

The CHAIRMAN. Well, I look forward to getting a further report from State on this.

Mr. BLAKE. Thank you.

The CHAIRMAN. With the thanks of the committee to all of you, we will continue to be engaging with you on this issue. We thank you, and the panel is excused.

As we do that, let me introduce our second panel this morning.

Ms. Celeste Drake, who is a Trade Policy Specialist with the AFL-CIO; and Mr. Johan Lubbe, an international labor and employment partner at Littler Mendelson, who is advising American retail and apparel industry associations, including the American Apparel and Footwear Association, the National Retail Federation, the Retail Industry Leaders Association, the U.S. Association of Importers for Textiles and Apparel.

And I would ask Senator Kaine to assume the chair. I look forward to coming back because I do have questions for this panel.

Once you are situated, we will start off with Ms. Drake and then move to Mr. Lubbe.

Senator KAINE [presiding]. Thank you to the witnesses.

Mr. Lubbe, please proceed with your testimony, and then we will move to questioning after Ms. Drake's testimony.

I am sorry. It was Ms. Drake first, and then Mr. Lubbe. Thanks.

**STATEMENT OF CELESTE DRAKE, TRADE POLICY SPECIALIST,  
AMERICAN FEDERATION OF LABOR AND CONGRESS OF  
INDUSTRIAL ORGANIZATIONS, WASHINGTON, DC**

Ms. DRAKE. Thank you, Senator. I thank you for the opportunity to testify today on important labor issues in Bangladesh. I have submitted written testimony for the record and will summarize my testimony here.

Many of Bangladesh's 4 million garment workers, the vast majority of them young women, risk their lives every day, working in thousands of unregulated and poorly constructed factories. Their contribution to Bangladesh's \$19 billion garment industry has been rewarded by abysmally low wages, denial of rights, and unacceptable workplace conditions.

No silver bullet will provide an overnight solution to this longstanding problem, but the clear path forward requires unprecedented efforts by the Government of Bangladesh, local factory owners, international brands, and workers themselves.

Bangladesh's labor practices and working conditions have been at issue for more than 20 years, and yet recent catastrophes at Rana Plaza and Tazreen Fashions leave no doubt that the current approach is an abject failure.

While it is, of course, the responsibility of the Government of Bangladesh to enact and enforce laws regarding workplace safety and worker rights, workers and employers are critical partners. That is why the first step in the path forward is for all clothing

brands sourcing in Bangladesh to sign the binding Accord on fire and building safety. This Accord will ensure that factories become safer, brands provide their fair share, and workers can advocate on their own behalves, free from retribution.

Already 45 brands, including the largest producer in Bangladesh, the second-largest general retailer in the world, and three American brands have signed. The other large American brands, including Walmart, Target, the Gap, JCPenney, and more, have refused to sign. Some of these American brands are pursuing an alternate agenda, an agenda that, if based on existing corporate social responsibility programs, simply will not work. These unilateral schemes have already proven themselves ineffective, and their failures can be measured in corpses.

Given that about 60 percent of Bangladesh's factories are at risk of collapse and that two of the four worst factory disasters in the history of the garment industry happened in Bangladesh in the last 7 months, it is time for those profiting most from the system to help reform it.

Instead of abdicating responsibility to social compliance organizations, international brands, by signing and complying with the Accord, can help reverse some of the damage of their relentless race to the bottom. PVH, Sean John, and Abercrombie & Fitch have already decided that is good business.

The importance of the Accord actually serves to underscore the role of the government. The agreement may have little practical impact if workers cannot organize and act collectively. Organized workers are the most effective monitors of their own safety and rights. But without laws securing those rights and a credible threat of sanctions to deter violations, some employers will just simply continue to cut corners.

Which brings me to point two: The administration must act to withdraw or limit Bangladesh's GSP benefits until the government has taken meaningful, concrete, and measurable steps to ensure its workers can exercise their internationally recognized labor rights, including the rights of freedom of association, collective bargaining, and acceptable conditions of work.

The time for granting the benefit of the doubt has passed, and workers have paid for U.S. patience with their lives. During nearly 6 years under the current GSP petition, steps forward on worker rights have come hand in hand with steps backward. For example, when a union has been allowed to register, the government has also often looked the other way when its founding officers were fired. When fires or other workplace catastrophes have occurred, the government has formed high-level commissions or announced new safety plans, none of which make workers appreciably safer.

Superficial changes or promises to make change are insufficient to meet the GSP standard. Promises do not provide workers the confidence they need to exercise their rights and will not reverse the race to the bottom.

If it fails to act to limit or withdraw GSP benefits, the administration will send the wrong signal to all GSP beneficiaries, that the United States is not serious about labor rights and working conditions. Bangladeshi workers should not be given the false choice between low-wage, no-rights jobs, or no jobs at all. Instead, their

government must defend their rights, reverse the status quo, and make Bangladesh a more attractive investment in the process.

The Government of Bangladesh can implement concrete, measurable changes quickly; and if it does so, it can earn back its tariff preferences, attract new customers and investors, and build the value of brand Bangladesh. None of this is easy nor instantaneous, but with enforceable standards and a commitment to tripartite problemsolving, a win-win solution really is possible.

I would be happy to answer any questions you may have.

[The prepared statement of Ms. Drake follows:]

#### PREPARED STATEMENT OF CELESTE DRAKE

##### I. INTRODUCTION

The AFL–CIO, on behalf of its 57 affiliated unions, appreciates this opportunity to testify on Labor Issues in Bangladesh. We represent workers in every industry and economic sector, from manufacturing to mining to services. Collaborating with working people around the world, we work to improve labor laws, increase compliance with labor provisions of trade and preference agreements, and empower workers to improve their own lives and conditions of work.

Bangladesh, with nearly 150 million inhabitants, is a low-income country that aspires to become a middle-income country by 2021. The State Department has documented numerous and persistent human rights abuses in Bangladesh, the most significant being “enforced disappearances, discrimination against marginalized groups, and poor working conditions and labor rights.”<sup>1</sup> It is against this backdrop that Bangladesh’s garment sector—its export growth engine—sits, employing about 4 million workers, over 80 percent of them women, many of them young and not fully literate. Workers in this sector earn about \$38 a month, the global low for the industry, yet they sew for some of the world’s best-known brands.

Bangladesh was most likely not on most American consumer’s radar a year or two ago, but that is no longer the case. The catastrophic collapse of the Rana Plaza Building which killed 1,129 Bangladeshis, mostly young women, on April 24, has raised this least-developed country’s profile—and created an opportunity that’s being called a “turning point.”

This is indeed a critical moment for Bangladesh. If the Government, factory owners, and international brands cooperate to make profound reforms to “business as usual” in Bangladesh, committing to enforceable standards for workplace safety and worker rights, it can be the point at which brand Bangladesh begins to grow in stature. If instead, this moment is not seized, and a flurry of unenforceable promises are made in order to obscure the fact that little will change for Bangladesh’s workers, this moment will not be remembered, but will simply become another in a long line of preventable tragedies for which the world’s most vulnerable bear the costs.

Achieving real change for Bangladesh’s workers will require determination and followthrough by both the public and private sectors. The U.S. Government must take action on the petition to limit or suspend Bangladesh’s benefits under the Generalized System of Preferences to signal to the Bangladesh Government that its lack of progress will no longer be tolerated and that substantial changes to its labor regime are necessary. And the U.S. brands who source in Bangladesh, but who have so far refused to sign on to the Accord on Factory and Building Safety in Bangladesh, must also join in the binding agreement to protect the very workers whose daily efforts create the brand’s products—voluntary compliance plans, which do not work, are not an acceptable substitute.

##### II. OVERVIEW

Many of Bangladesh’s 4 million garment workers, the vast majority of whom are young women, risk their lives every day, working in thousands of unregulated and often poorly constructed factories. Their contribution to the \$19 billion garment industry has been rewarded by abysmally low wages, consistent denial of internationally recognized rights, and workplace conditions reminiscent of the U.S. sweatshops of 100 years ago. Their jobs can literally kill them.

The U.S. and Bangladesh Governments have for years talked about improving the situation for workers. Likewise, Bangladesh’s employers and international brands have explained their commitments to protecting workers and upholding standards. Despite the creation of a plethora of committees, working groups, and voluntary compliance programs, the unacceptable labor conditions and practices remain.

In the last 15 months alone:

- Labor organizer Aminul Islam was tortured and murdered in April 2012—the case remains unsolved and key leads have apparently been dropped.
- A deadly fire at Tazreen Fashions in November 2012 killed at least 112 workers in conditions strikingly similar to the Triangle Shirtwaist factory fire.
- Forty-four factory fire incidents have occurred since the Tazreen fire, many of which caused injuries as workers sought to escape blocked exits, and three of which were deadly—the most recent factory fire, which injured 20 workers, occurred on May 22.
- Many of the workers who have successfully registered with new unions during 2013 (22 new unions in the ready-made garment sector, for example) have faced termination and other antiunion discrimination; none have been able to secure formal collective bargaining agreements (though there have been spot agreements on specific issues).
- Thousands of workers have engaged in protests over poor and unsafe working conditions and nonpayment of wages—many of the protests could have been avoided if workers had effective mechanisms to solve workplace disputes in an orderly fashion.
- The Rana Plaza building, which contained several garment factories, collapsed, killing 1,129 workers and injuring at least 1,500 more—the deaths and injuries could have been avoided if the workers who saw the cracks and at first refused to enter the building had not been forced to work by employer threats to fire them or withhold their pay.
- The Bangladesh University of Engineering and Technology, which is performing a survey of garment factories in Bangladesh, reported that 60 percent of the buildings housing factories are vulnerable to collapse.<sup>2</sup>

It is worth noting that three of the four worst disasters in the history of the global apparel industry have happened in the last 8 months, two of them (Rana Plaza and Tazreen Fashions) in Bangladesh.<sup>3</sup> Bangladesh's labor practices and working conditions have been at issue for more than 20 years<sup>4</sup>—and yet these recent catastrophes leave no doubt that the current approach (weak to nonexistent governmental efforts combined with voluntary corporate compliance programs) is an abject failure.

The problems that workers face in asserting their rights in Bangladesh are complex—but not insoluble. To make real changes for workers—who should not be forced to choose between working in a deathtrap and having no job at all—will take a truly tripartite effort, in which workers, business interests, and the relevant governments agree to work together to implement a high-road approach to economic development in Bangladesh.

While it is of course the responsibility of the Government of Bangladesh to adopt, maintain, and enforce laws that secure fundamental labor rights for its workers—workers and employers are critical partners in that effort. When workers are free to form unions and exercise labor union rights without fear of recrimination, workers become full partners in creating safer workplaces and higher productivity. Likewise, employers are critical partners—particularly when applicable labor laws and practices are strong and effective enough to deter those who would otherwise cut corners on safety and deny rights to their workers. Employers who cooperate in labor law compliance reap benefits as well, in the form of more productive workers with increased longevity (instead of workers who jump from factory to factory looking for better wages and working conditions).

In Bangladesh, the role of the employers is severely constrained by the pressure they face to minimize costs in order to win contracts from global brands that form part of the \$1.5 trillion international fashion industry. The global fashion industry pays rates that, in effect, cause the very problems that plague Bangladesh's factories and their workers. Some factories may wish to do the right thing, but feel they cannot afford to do so. Individual factories that invested in needed repairs and upgrades would be unable to charge competitive prices and would soon find themselves out of business. To resolve this “prisoner's dilemma,” the international brands must take responsibility for their role in Bangladesh's low-road, no-rights development model.<sup>5</sup>

This is why the AFL-CIO, along with partners including IndustriALL, UNI Global Union, the Worker Rights Consortium, the Clean Clothes Campaign, United Students Against Sweatshops, the International Labor Rights Forum, and others, has strongly endorsed the Accord on Fire and Building Safety in Bangladesh, already signed by more than 40 major brands including American brands PVH (parent company of Calvin Klein and Tommy Hilfiker), Sean John, and Abercrombie & Fitch. This historic Accord is a binding agreement regarding workplace fire and building safety in Bangladesh, which means it has a chance to make a real dif-

ference instead of papering over problems with certificates and audits that bear little relation to the real conditions prevailing in Bangladesh's factories.

The agreement guarantees worker participation through representative organizations, recognizes the role of government and takes measures to combat corruption by requiring rigorous inspections, transparent reporting of audits, and public oversight of results. This agreement offers an integrated and sustainable solution. Brands that have signed it have recognized that cutting and running from the problems the fashion industry helped to create in Bangladesh is simply not an option.

The existence of this new binding Accord also serves to underscore the role of the Government. The agreement is likely to have little practical impact if workers are not allowed to organize and act collectively. Organized workers are empowered to stand up for their own safety and rights. However, they can only do so if the Government of Bangladesh turns its words of support for labor rights into active, effective efforts to defend those rights—which includes changes in labor law and in enforcement regimes. Mere lip service will only result in the status quo, in which impoverished young women take their lives into their hands every single day just by going to work.

### III. INTERNATIONAL BRANDS CANNOT AVOID RESPONSIBILITY FOR THEIR ROLE IN DENYING BANGLADESH'S WORKERS SAFE WORKPLACES AND FREE EXERCISE OF RIGHTS

While all participants in the supply chain—suppliers, brands, and especially workers—have a role to play in ensuring that workplace safety and respect for international labor standards improve, the role of international brands is especially critical. Brands have the financial leverage to incentivize meaningful change. The question is whether or not they will. While state-of-the-art factories do not happen overnight, the binding and legally enforceable Accord on Fire and Building Safety in Bangladesh ensures that owners will repair factories or lose access to contracts. It also ensures that multimillion dollar international brands pay their fair share of the costs. Importantly, the agreement will strengthen workers' right to organize and defend their own rights—including the right to refuse to enter or remain in an unsafe workplace.

Clothing brands that have sourced from Bangladesh over the past two decades have made plentiful profits based on the world's lowest wages and most dangerous conditions. Instead of now leaving this developing country and its workers with the mess created by the "race to the bottom" of the global fashion industry, international brands must stay in Bangladesh and help usher in a "high road" strategy.

While more than 40 global brands have signed the Accord, including three leading American brands (PVH, Sean John, and Abercrombie & Fitch), many other leading American brands, including the Gap, Walmart, Target, and JCPenney have not.

Reportedly, Walmart and the Gap are joining other unnamed brands to develop an alternative proposal.<sup>6</sup> The AFL-CIO strongly believes there is no need for an additional proposal. The new effort reportedly includes no worker input, merely "representatives from retailers and brands, as well as participants from industry associations."<sup>7</sup> An agreement that does not include workers in its development is likely to lack buy-in and exclude provisions to ensure worker engagement and empowerment. Given that workers are the best monitors of their own safety, this omission is critical.

It is unclear what an alternative proposal would achieve. If it were to create binding but different standards, that would only complicate compliance and enforcement for Bangladeshi factories and their employees—how would workers (many of them illiterate) know which safety regime applied to their workplace at any given time?

The AFL-CIO's bigger concern, however, is that any new proposal would create voluntary, rather than binding standards. Unfortunately, as the AFL-CIO demonstrated in its recent publication "Responsibility Outsourced: Social Audits, Workplace Certification and Twenty Years of Failure to Protect Worker Rights,"<sup>8</sup> voluntary standards don't work.

Voluntary corporate social responsibility (CSR) standards have problems with governance, transparency, proper inspection methodology, independent conciliation and mediation involving unions, and long-term commitments by global brands. Their unilateral nature fails to provide meaningful roles for governments and workers—and certainly does not "empower" workers to become leaders in creating safe and productive workplaces.

For example, while the programs may require "audits," these "audits spot some very particular and relatively easy to identify problems, but even then there usually are no consequences for noncompliance or rewards for improvements. Harder-to-spot problems related to gender discrimination or freedom of association remain invis-



ible. As few auditors come from backgrounds sensitive to these issues and often do not understand what freedom of association means.”<sup>9</sup>

For example, Ali Enterprises in Pakistan, site of a September 2012 fire that was one of the four deadliest disasters in the history of the garment industry, had been newly awarded an “SA8000” certificate by Social Accountability International (SAI), a multi-stakeholder initiative operating in the social audit industry.<sup>10</sup> But the certificate clearly did not provide safety for the nearly 300 workers killed in the fire.<sup>11</sup> Likewise, various programs had audited Tazreen Fashions and Rana Plaza—none of which helped save the workers employed there.

Twenty years of evidence from Bangladesh and other developing countries demonstrates that corporate social responsibility programs, which are based “mainly on short and cursory visits to factories and no proper discussion with workers . . . will never achieve decent, secure jobs for the millions of workers at the sharp end of the global economy.”<sup>12</sup>

In addition, the voluntary nature of these programs means that brands can change, weaken, or drop the programs at any time, leaving workers in the lurch. To the extent that local factories and the Government of Bangladesh begin to engage in efforts to improve labor conditions and secure rights for workers, voluntary programs that can be withdrawn at any time could harm these efforts.

While the diversity of CSR programs means that each may have stronger and weaker elements, the AFL–CIO report makes clear that where workers are represented in the process, especially through unionism, the chances of success are real, while corporate-driver initiatives have largely failed to deliver for working people and their communities.<sup>13</sup>

The global industry that played a role in creating the conditions in Bangladesh’s garment industry must play a role in fixing it, not outsource that role to compliance firms or abandon Bangladesh’s workers altogether. A voluntary system that brands can walk away from as soon as the buzz about Rana Plaza dies down is not the answer. The AFL–CIO urges North American brands to join the existing and enforceable Accord on Fire and Building Safety in Bangladesh rather than create a new proposal that has the potential to confuse and undermine progress the Accord has the potential to achieve.

#### IV. THE AFL–CIO ENCOURAGES THE U.S. GOVERNMENT TO WITHDRAW BENEFITS FROM BANGLADESH PURSUANT TO SECTION 19 U.S.C. § 2462(D) OF THE GENERALIZED SYSTEM OF PREFERENCES (GSP)

The AFL–CIO’s work to secure labor rights for Bangladeshi workers through the GSP process has a long history. Since 1990, the AFL–CIO has filed five separate GSP petitions related to systemic and widespread violations of internationally recognized worker rights, in law and in practice, in Bangladesh (with filings raising new issues beginning in 1990, 1999, 2004, 2005, and 2007). Each time, the AFL–CIO believes that the Government of Bangladesh failed to make meaningful progress on the adoption and enforcement of internationally recognized worker rights. Instead, following each new petition, the Government would make promises and adopt measures to give the appearance of sincerity about worker rights. But implementation was delayed and enforcement was weak to nonexistent.

The most recent petition was filed in 2007, and included evidence that workers had been threatened, arbitrarily arrested, and even tortured for trade union activity. The United States Trade Representative (USTR) accepted the petition for review on September 6, 2007, and subsequently placed Bangladesh under “continuing review” to monitor the progress of the Government of Bangladesh toward a set of worker rights benchmarks elaborated in a 2008 demarche. The decision to place Bangladesh under review, combined with the subsequent engagement of the U.S. Government, succeeded in pushing the Government of Bangladesh and employers to take some initial efforts on behalf of workers. Unfortunately, the Government of Bangladesh’s efforts have been neither sustained nor effective. It has been, in effect, a case of one step forward, two steps back.

For example, in the shrimp sector, the Government of Bangladesh, around 2010, allowed some independent unions to register. However, employers reportedly then subjected the new unions to a union-busting campaign, including a press conference organized by employers at which they reportedly denounced the labor organizations that had helped the workers to form the unions, as well as local labor authorities. The Government failed to defend worker rights, and all progress on organizing independent unions in the sector ceased. To our knowledge, only one independent union in the sector is still in operation.

Similarly, a prior GSP case, the Government agreed to a new law allowing some freedom of association in the country’s Export Processing Zones (EPZs). A new law

established the right of workers to form worker associations in the EPZs. The associations were supposed to be a step on the road toward granting full freedom of association, organization, and collective bargaining rights for all EPZ workers. Unfortunately, that commitment, like so many others, stalled.

These associations continue to be denied the right to effectively collectively bargain (there are no existing collective bargaining agreements in the EPZs, nor any reports of bargaining), to form federations, or link with unions or other organizations outside the zones from whom they can draw technical expertise and other support. Workers in some zone factories, including in the largest EPZ employer, report that they continue to be denied the right to hold an election to create an association. The Government has failed to fulfill its commitment to provide access to labor conciliators in the EPZs as promised. Workers have even reported the use of a zone “blacklist,” which violates the right of freedom of association by discriminating against workers for union preference or activity. When workers have reported instances of antiunion discrimination in the EPZs, the BEPZA—which has full authority over labor relations in EPZs, rather than the Ministry of Labor—has usually failed to act on their behalf.

Either the BEPZA or the Government of Bangladesh can address most of these failures by simply changing current practice or by issuing a new rule or regulation, but neither entity has done so.<sup>14</sup> This choice to leave Bangladeshi workers without the ability to exercise their internationally recognized worker rights indicates that the current Government lacks sufficient political will to act.

Given the issues documented in its 2007 GSP petition and numerous subsequent filings, it is the view of the AFL–CIO that the Government of Bangladesh is not “taking steps to afford to workers in [Bangladesh] (including any designated zone in that country) internationally recognized worker rights” (as required by 19 U.S.C. § 2462(c)(7)), and that GSP benefits should be withdrawn. It is our sincere belief that the Government of Bangladesh has exhausted any “benefit of the doubt” and that at this point, the only recourse left is to spur the Government of Bangladesh to protect Bangladesh’s workers by limiting, suspending, or withdrawing GSP benefits pursuant to U.S. law.

The GSP facility provides a critical mechanism to pressure recalcitrant governments to take clear and concrete actions to afford workers their internationally recognized worker rights. The labor eligibility criteria for the GSP program exist for very important reasons, including the desire to promote fundamental labor rights, which are positively linked with a country’s development<sup>15</sup> and the desire to prevent a beneficiary country from unfairly undercutting workers in every other country in the world (including the U.S.) by abusing, or permitting the abuse of, its workers. If such behavior were allowed to proliferate, it would only exacerbate the “race to the bottom,” in which countries compete for investment by weakening their labor rights regimes. Such a race may indeed lower costs—but it also suppresses consumer demand, interferes with the formation and growth of the middle class, and undermines the fundamental human rights as laid out by the International Labor Organization and in the Universal Declaration of Human Rights.

Some opponents of Presidential action on the GSP have argued that it will only further harm workers by throwing them out of work. Such arguments are speculative.<sup>16</sup> More importantly, they present a false choice, as if the only options for Bangladesh’s millions of workers are to work in deathtraps, with meager wages and no rights, or to have rights, but no jobs. Clearly, other alternatives are possible, including a Bangladesh in which workers are secure enough in their rights to advocate for their own welfare, health, and safety on the job.

Other opponents to GSP limitation, suspension, or withdrawal argue that any change to Bangladesh’s current benefits will result in lost leverage in the effort to improve labor rights for Bangladesh’s workers. Nothing could be further from the truth.

Leverage under current conditions is almost certainly already gone. The Bangladesh brand is already tarnished. A recent Harris Interactive Poll revealed that almost 70 percent of Americans had heard of the Rana Plaza collapse and almost 40 percent said they will be less likely to buy clothes made in Bangladesh.<sup>17</sup> A number of well-known brands, quite aware of the ongoing labor abuses, have not sourced from Bangladesh for some time, and some, Disney being the most public, have made recent announcements to ensure their customers know they do not source there.

Decisions not to produce in Bangladesh do not help improve conditions for Bangladesh’s impoverished workers. Demonstrated steps to afford internationally recognized worker rights—as the Government of Bangladesh would have to show to gain back full GSP benefits—would demonstrate to the world’s brands and consumers that things have changed for the better. Regaining GSP status (with a U.S. seal of approval) could help Bangladesh’s factories lure back brands and attract new

customers—while continuation of the status quo is likely to see additional publicity sensitive brands abandon the country entirely (an outcome the AFL–CIO strongly opposes).

Moreover, it is the failure of the U.S. Government to act on the GSP petition that seems most likely to result in lost leverage.

When the U.S. fails to enforce its own laws, particularly when sufficient time—in this case about 6 years—has been granted, it only creates an atmosphere of impunity, not only for Bangladesh, but also for every other country receiving GSP benefits. The USTR is currently reviewing the labor rights practices of a number of countries, including Iraq, Georgia, Fiji, Uzbekistan, and the Philippines. What message will continued failure to act send to these Governments? If they believe that mere promises to change (rather than concrete, measurable improvements) are all that is necessary to continue to receive GSP benefits while pursuing a low-road strategy that hurts workers worldwide, it seems almost certain they will reduce their efforts to comply with the law. An atmosphere of impunity regarding labor rights may pad the profit margins of a few of the world's largest brands, but it certainly does nothing to increase shared prosperity.

On the other hand, action to suspend, limit, or withdraw GSP benefits for Bangladesh would send a different message—one that says that workers deserve more than lip-service; that progress is critical; and that the U.S. will indeed enforce its own laws. The GSP statute does not create a right to duty-free exports to the United States. It establishes a privilege, one that must be earned through fair labor and trade practices. A reduction or loss of GSP benefits would provide an incentive to the Government of Bangladesh to make substantial changes to recover those benefits and restore a favorable image for brands and investment.

Accomplishing such change in Bangladesh is possible. The AFL–CIO's sister organization the Solidarity Center has an office in Bangladesh, which has already been supporting worker-led unions in the garment sector and is poised to accomplish more if the Government of Bangladesh would become a partner in improving worker rights and acceptable conditions of work. We are also hopeful that the U.S. Government will increase its commitment to development programs in Bangladesh, including those that will help strengthen the labor rights regime and educate Bangladesh's workers and employers about democratic labor unions, worker rights, and acceptable conditions of work.

Moreover, there are several steps that the Government of Bangladesh can take right away to demonstrate that it is “taking steps to afford to workers in [Bangladesh] (including any designated zone in that country) internationally recognized worker rights” (as required by 19 U.S.C. § 2462(c)(7)). For instance, it can:

- Drop all remaining charges against worker rights advocates Kalpona Akter and Babul Akhter (unless the cases move forward immediately);
- Remove threats against the registration of the advocacy organizations BCWS & SAFE;
- End police surveillance of union activists and labor NGOs;
- Provide to the U.S. Government—and make public—quarterly reports on the progress of the investigation into Aminul Islam's murder;
- Consistent with fundamental labor rights, eliminate any existing or proposed government approval for unions (including worker associations inside the EPZs) to affiliate with each other and allow all unions to link with outside organizations such as NGOs;
- Via rule or regulation, allow its Department of Labor to monitor union registrations and unfair labor practice complaints within the EPZs;
- Accept ILO and International Trade Union Confederation criticism and recommendations on the draft labor law amendments, including the recommendation to increase worker participation in the process<sup>18</sup>;
- Transfer, as quickly as possible, resources from the industrial police who act largely as agents of employers to inspection functions to investigate building and fire safety and investigate unfair labor practices.

While not a complete list of the actions needed to secure internationally recognized worker rights in Bangladesh, this list illustrates that there are indeed many measurable changes the Government of Bangladesh could make right away to demonstrate that it is taking the required steps under the GSP statute.

The AFL–CIO wants a vibrant, productive garment industry in Bangladesh, in which workers have good jobs and owners make good returns on their investments. Both the Government of Bangladesh and international brands have obligations to ensure that they create an environment in which that can take place.

## V. SELECTED RANA PLAZA SURVIVOR STORIES

*Anna Khatun, 16*

Anna Khatun, 16, joined one of the factories in the Rana Plaza building 4 months ago as a helper. She does not even know the factory name—just that she was working on the fifth floor.

“Because of poverty, I have sent my younger daughter to work and now she lost her right hand,” said her mother. A wall collapsed on Anna—and rescuers had to amputate her hand to free her from the rubble. Anna could not even respond when asked about what the future might hold.

“What will be her future? We don’t know. We only know she is disabled now,” said her mother.

*Arati Bala Das, 18, New Wave Style, Ltd.*

Arati Bala Das, 18, was pulled from the Rana Plaza wreckage after being pinned under a concrete block for 3 days. She and her mother, Titon Bala, worked at New Wave Style Ltd. Arati’s mother died in the disaster. Arati’s right leg had to be amputated to save her life.

Arati remembers a power outage hit immediately before the building collapsed. “When the building collapsed, I felt that I was going down. When it stopped, I found myself in the dark. It was difficult to breathe. I could not see anything. I could not move a bit. I realized that two dead bodies fell on my legs and a pillar had fallen on those dead bodies. I was very much afraid and I thought I would not be able to return alive. After few moments, I heard screaming workers, crying for help and I assumed that seven or eight more workers were there.” Rescuers, who found her after 3 hours, provided saline water to her through a tube until they could rescue her 3 days later.

Arati’s youngest sister, Akhi, 2, missed her mother. She would not stop crying and would not eat. The family brought her to the hospital so Arati could feed her. Arati has two more sisters—Lucky, 7, and Lovely, 12. Their father, Adhir Chandra Das, a poor day-laborer, lives with his family in a rented hut in Savar. Adhir is now left without the income of his wife and eldest daughter, which the family needs to survive.

Arati is afraid and sad. “I will never return to work at garment factory. I want the government to do something for us. I will not be able to work in future, at least the government can arrange artificial leg for me.”

*Md. Pintu, 18, and Shilpi, 21, New Wave Bottom Ltd.*

Md. Pintu, age 18, and his sister-in-law, Shilpi, 21, worked for 3 years as sewing machine operators in New Wave Bottom Ltd., on the second floor of the Rana Plaza building. They live in a small tin shed in Mazidpur Choto Goli, home to the majority of Rana Plaza workers.

Pintu and other workers noticed a big crack in the beam of the floor on April 23, 2013. Management discontinued production at 10 a.m. and instructed the workers to leave the building immediately. The next morning, Pintu and Shilpi discussed the crack with their family. They thought the factory would be closed for a few days for repairs, and they would have a safe place to restart their machines. Unexpectedly, they heard a loudspeaker announcement: “All the workers of Rana Plaza, go to work. The factory has already been repaired.”

After hearing the announcement by a representative of the building’s owner, Pintu, Shilpi, and other workers unwillingly went to work, deeply concerned and afraid. Before leaving the house, Shilpi looked at her 2-year-old son and sighed.

A few minutes after the workers arrived on the job, the electricity went out, the backup generators turned on and the building collapsed. Shilpi was rescued after a few hours and was sent to the nearest hospital, Prime Hospital. Then she was sent to Dhaka Medical Hospital for further treatment. She continued to lose blood and remained in serious condition. After 8 days, she was transferred to the Apollo Hospital Ltd. for special care, but she died just after arriving at the hospital emergency room.

Pintu is still missing. His sister has waited outside the building with his picture, crying.

## End Notes

<sup>1</sup>Department of State, “Country Reports on Human Rights Practices for 2012: Bangladesh,” available at: <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper>.

<sup>2</sup>Jason Burke, “Majority of Bangladesh Garment Factories ‘Vulnerable to Collapse,’” in *The Guardian*, June 3, 2013, available at: <http://www.guardian.co.uk/world/2013/jun/03/bangladesh-garment-factories-vulnerable-collapse>.

<sup>3</sup>See, e.g., Esther Bintliff, “On Bangladesh, and Some of the Worst Factory Disasters in History,” *The Financial Times*, Apr. 25, 2013, available at: <http://blogs.ft.com/the-world/2013/04/on-bangladesh-and-some-of-the-worst-factory-disasters-in-history/>.

<sup>4</sup>See Section IV of this document for a history of labor law and practice complaints against the Government of Bangladesh.

<sup>5</sup>As explained in detail in Section III, existing corporate social responsibility programs, which include corporate codes of conduct, workplace monitoring, audits, factory certifications, and related initiatives simply do not work. These types of programs have had a chance to work in Bangladesh for years—with no appreciable impact.

<sup>6</sup>See, e.g., Matthew Mosk, “Walmart, Gap Propose Alternate Bangladesh Safety Program,” *ABC News*, May 31, 2013, available at: [http://news.yahoo.com/wal-mart-gap-propose-alternate-bangladesh-safety-program-195604087--abc-news-topstories.html;\\_ylt=AwrNUbDmEKIRYEEAs3z\\_wgt](http://news.yahoo.com/wal-mart-gap-propose-alternate-bangladesh-safety-program-195604087--abc-news-topstories.html;_ylt=AwrNUbDmEKIRYEEAs3z_wgt).

<sup>7</sup>“Leading North American Retailers and Brands to Address Systemic Safety Issues for Workers in Bangladesh Garment Factories,” Press Release, Bipartisan Policy Center, May 30, 2013, available at: <http://bipartisanpolicy.org/news/press-releases/2013/05/leading-north-american-retailers-and-brands-address-systemic-safety-issu>.

<sup>8</sup>Available here: <http://www.aflcio.org/content/download/77061/1902391/CSReport.pdf>.

<sup>9</sup>*Id.*, at 28.

<sup>10</sup>*Id.*, at 37.

<sup>11</sup>As detailed in the AFL–CIO report, SAI does not “directly audit many factories or directly certify brands.” Instead, it mainly designs and markets a system meant to provide consumers and retailers with the confidence that a product has been produced in a social responsible manner. See *id.*, p. 31.

<sup>12</sup>*Id.*, at 1 (Sharan Burrow, Foreword).

<sup>13</sup>*Id.*, at 6.

<sup>14</sup>EPZ Workers Welfare Association/Society and Industrial Relations Act (EWWAIRA) in 2010 Section 90. (“Powers to make rules and regulations.—(1) The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act. (2) The Authority may, with previous approval of the Government, by notification in the Official Gazette, make regulations for carrying out the purposes of this Act.”).

<sup>15</sup>See, e.g., Thomas I. Palley, “The Economic Case for International Labour Standards,” *Cambridge Journal of Economics*, Vol. 28, No. 1, 2004.

<sup>16</sup>For example, the ready-made garment sector, by far Bangladesh’s leading export sector, does not receive GSP benefits and seems unlikely to experience job loss as a result of changes in Bangladesh’s GSP benefits.

<sup>17</sup>“Among Americans Who Know of Bangladesh Clothing Worker Deaths, Two in Five Less Likely To Purchase Clothes From There,” *Sacramento Bee*, June 3, 2013, available at: <http://www.sacbee.com/2013/06/03/5465917/among-americans-who-know-of-bangladesh.html#storylink=cpy>.

<sup>18</sup>For more information on the shortcomings of the proposed labor law reform, see, e.g., Munima Sultana, “Labour Law Amendment Goes against Int’l Labour Standards,” *The Financial Express*, May 30, 2013, available at: <http://www.thefinancialexpress-bd.com/index.php?ref=MjBfMDVfMzBfMTNfMV85MF8xNzEwNDc=>.

<sup>19</sup>As told to Solidarity Center staff in Bangladesh as of May 15, 2013.

Senator KAINE. Thank you, Ms. Drake.  
Mr. Lubbe.

**STATEMENT OF JOHAN LUBBE, INTERNATIONAL LABOR AND EMPLOYMENT PARTNER, LITTLER MENDELSON, P.C., NEW YORK, NY**

Mr. LUBBE. Thank you, Senator Kaine and Senator McCain. Thank you for the opportunity to testify here before you today. I am here in my capacity as a practicing international employment and labor lawyer who has been advising the industry. My testimony today will focus on some of the key issues facing companies who conduct business in Bangladesh, as well as solutions that have been offered to address the issue of worker safety.

The North American retail and apparel community has been stunned and saddened at the heart-breaking loss of life from the recent tragedies at ready-made garment factories in Bangladesh. The problems within Bangladesh are extremely complex and systemic. There is no simple one-size-fits-all solution that will resolve the current systemic issues. All stakeholders must work together to develop a path forward that will not only provide a long-term and sustainable solution to ensure worker safety, but will also maintain the viability of the country as a key manufacturer and supplier to

markets around the world. The North American retail and apparel industry is prepared to play a meaningful role and make a substantial contribution.

Bangladesh is a difficult place to conduct international business. First, a deficiency in infrastructure, including the structural integrity of buildings, as well as issues with electricity grid and water availability.

Second is the challenge of the enforcement of building codes. The country has a set of codes and certificate requirements which have not been enforced as they should be. The Rana Plaza building collapse only reinforces the need for the enforcement of current codes and an examination of whether the codes need to be updated.

Third is the Bangladeshi Government itself. There are many reports about rampant corruption within the government which need to be addressed. Protection of workers' rights has been lacking. The government has signaled a move forward in this regard, and that is supported by the industry.

There is a strong need for shared responsibility to address the current issues and challenges in Bangladesh. This includes all stakeholders, from the government, private sector, civil society, unions, workers, factory owners. Each stakeholder has a specific area of responsibility and should not be required to usurp the role of the other stakeholders. You have heard earlier this morning in testimony mapping out the various roles that each stakeholder has to play. I am not going to repeat that.

The tragedies in Bangladesh have prompted a number of different responses to address worker and factory safety. These efforts have become even more urgent within the industry as companies collaborate for continual improvement.

There were also separate initiatives by the German International Development Agency, GIZ, called the Fire Safety Alliance in Bangladesh, and IndustriALL global union called the Fire and Building Safety Memo of Understanding. A good-faith effort was made in late April of this year to merge the GIZ action plan with the IndustriALL principles. That failed. In that effort, American industry participated.

IndustriALL then unilaterally announced the Accord and provided companies 2 days to sign onto the Accord before they released it on May the 15th. While the U.S. retail and apparel industry share IndustriALL's goal to improve worker safety to make more tangible progress on the ground, U.S. companies raised several concerns regarding the Accord, including its vague and ambiguous terms which potentially holds unlimited legal liability for them.

The IndustriALL Accord should not be viewed as the sole response and solution to the situation in Bangladesh. The United States and Canadian companies have come together in an alliance to develop a single, unified action plan as they believe it will achieve immediate, sustainable, effective and long-lasting change for the garment industry and its workers in Bangladesh.

The action plan will build upon the extensive work many of these United States and Canadian companies have done in the past and continue to do on the ground to address and improve health and safety. We have outlined in our written submission the legal

challenges that we faced, and these range from vague terms, the utilization of arbitration, to really rewrite and bring clarity to a contract which is not a good drafting principle.

Improving worker safety in Bangladesh is a high priority and will require a collaborative effort by all the stakeholders. A system-wide solution must address eradicating corruption, improving the quality of building construction, revisiting the location of factories, the issuing of building permits, and the enforcement of codes.

The U.S. retail and apparel industry is prepared and working swiftly toward making a substantial contribution to achieving results on the short term and the long term to prevent future workplace injuries and deaths of Bangladeshi garment workers.

Thank you for the opportunity.

[The prepared statement of Mr. Lubbe follows:]

PREPARED STATEMENT OF JOHAN LUBBE

Chairman Menendez, Ranking Member Corker and members of the committee, thank you for inviting me to testify at today's hearing to discuss "Labor Issues in Bangladesh." My name is Johan Lubbe and I am a shareholder with the law firm of Littler Mendelson, P.C. Littler is the world's largest labor and employment law firm exclusively devoted to representing management. I am here today in my capacity as a lawyer who practices international labor and employment law and my experience advising the U.S. retail and apparel industry specifically the associations representing the industry. These associations include the American Apparel and Footwear Association, the National Retail Federation, the Retail Industry Leaders Association, the U.S. Association of Importers of Textiles and Apparel. My testimony today will focus on some of the key issues facing companies, who are doing business in Bangladesh, as well as solutions that have been offered to address the issue of worker safety.

The North American retail and apparel community has been stunned and saddened at the heartbreaking loss of life from the recent tragedies at ready-made garment factories in Bangladesh. These tragic incidents only underscore the need for the international community to come together to build upon the ongoing work in Bangladesh by individual companies and other stakeholders to find practical, immediate and long-term solutions to ensure the safety of the workers in the garment production facilities in Bangladesh.

It must be noted that the problems within Bangladesh are extremely complex. As such, there is no simple "one-size-fits-all" solution that will resolve the current systemic issues. Any solution requires that all stakeholders work together to develop a systemwide solution that will not only provide a long-term and sustainable solution to ensure worker safety in the Bangladesh garment industry, but will also maintain the viability of the country as a key manufacturer and supplier to markets around the world. As solutions are developed, it is important to allow for flexibility that will enable brands, retailers, manufacturers, and other stakeholders to respond swiftly and effectively to an ever-changing environment within Bangladesh. This flexibility will allow companies who operate different supply chains with different factories to make sure they are responding in an appropriate manner to the issues before them.

Many efforts have been announced by multiple parties including governments, industry, and others to address the key issues within Bangladesh. It is important that everyone recognize the shared responsibility that is required for addressing the worker and factory safety issues. This responsibility lies with all stakeholders including the Bangladesh Government, the United States and other foreign governments, factory owners, employer's organizations, workers, the buyers in North America and Europe, members of civil society, and organized labor. The efforts should all build off of each other to achieve the ultimate goal of protecting those who work in the Bangladesh garment factories.

BANGLADESH ROLE IN THE GLOBAL MARKETPLACE

As committee members are aware, Bangladesh has very quickly become a major player in the ready-made garment industry. As has been proven through the years, apparel and garment production are critical first steps for lesser developed countries to raise their standard of living. The garment industry accounts for 80 percent of

Bangladesh's exports. In 2011, exports from Bangladesh totaled \$23 billion. Garment exports comprised nearly \$20 billion of this total. The industry directly employs 4.5 million workers, by far the largest employment sector in Bangladesh. It is significant to note that women make up close to 90 percent of the ready-made garment workforce, allowing for many to become the primary breadwinners for their families.

The bulk of Bangladeshi manufactured garments are sold in the European and North American markets. The European market accounts for 60 percent of Bangladeshi exports, about 30 percent of the exports come to the United States, and the remaining 10 percent is split between Canada and a few other countries. Part of the reason why the European market share is so large is that apparel products qualify for duty-free status under Europe's General Scheme of Preferences (GSP) program. Unlike the European GSP program, the United States does not provide for duty preferences under its own Generalized System of Preferences program. Both Europe and the United States are now considering removing benefits for Bangladesh under their respective programs. The potential impact of revisiting the GSP programs is not yet clear. It could lead to companies deciding to stop sourcing in Bangladesh.

In Bangladesh the majority of the ready-garment industry is located in Dhaka and the surrounding areas. The second-largest concentration centers around Chittagong, which is the country's major port while the rest of the industry are part of export processing zones. Bangladesh itself is a very unique country for the building of factories. Since the country is mostly swamp land, there is not a lot of available stable land which can be used for industrial development purposes. While there is some more usable land further outside of Dhaka and Chittagong, the access to key infrastructure such as electricity and water is very sporadic and unreliable. Companies who decide to build outside Dhaka and Chittagong face significantly higher operating costs, as they need to typically build their own power and water facilities. This is a key reason as to why most manufacturing facilities are built in Dhaka and Chittagong.

Unfortunately the lack of usable land results in many buildings being constructed as multipurpose facilities. In addition, a number of these buildings are built upon fill. If the fill is not done correctly or up to code, it makes the building inherently unstable. One of the biggest issues facing the industry is the enforcement of current building codes in Bangladesh. The country has a set of codes and certificate requirements which have not been enforced as they should be. The Rana Plaza building collapse only reinforces the need for the enforcement of current codes and an examination of whether the codes need to be updated. As has been reported, Rana Plaza was only authorized to be a five-story building, yet an additional three floors were added to the building. In addition, the building was only zoned as a residential/commercial building. It was not meant to be used as an industrial complex and certainly not one to house large machines. These noncompliance issues all contributed to the horrific collapse of a building that was improperly constructed and used for the wrong purposes.

The industry has grown exponentially over the years. While this is positive for the overall Bangladesh economy, it also highlighted the unfortunate fact that the country was not equipped for this quick expansion, especially with the inability of the government to build industrial parks and export processing zones to keep up with the growing demand.

#### CONCERNS IN BANGLADESH

The recent tragic events in Bangladesh have highlighted the continuing concerns about worker safety at ready-made garment factories in the region. In addition to these issues, there are other concerns for companies who continue to do business in the country. First and foremost is the Bangladeshi Government itself. There are many reports about rampant corruption within the government which need to be addressed. There are some who are concerned about the number of Bangladeshi politicians who are actually factory owners and whether that will slow down or prevent the necessary reforms to address worker and factory safety. The government has signaled a move to make the necessary changes with the recent announcements to convene a panel to consider an increase to the country's minimum wage and allowing unions to form in factories without the approval of factory owners. In addition, the government has promised to submit to the Bangladeshi Parliament a legislative reform package in June 2013 that will include amendments to Bangladesh's 2006 labor law allowing union representation and the right for collective bargaining for all workers in the country as well as other changes. Any solution would require the



Bangladeshi Government to act quickly and swiftly to allow these important changes to occur.

Second, the deficient infrastructure in Bangladesh is another concern. Not only with the structural integrity of current buildings, but issues with the electricity grid and water availability. Key to this is the need to quickly ensure through factory inspections and assessments that not only are buildings structurally sound and meet the appropriate codes, but that the electrical wiring and systems are also up to the appropriate codes and standards.

In addition to these issues, there are also issues of reliability of the overall industry as we see incidences of labor unrest increase and other issues with factory owners shutting down factories for periods of time. This uncertainty can have a significant negative impact on a company's supply chain. All of these factors are elements that retailers, brands, and manufacturers are taking into consideration as they evaluate their current business relationships in Bangladesh.

#### NEED FOR SHARED RESPONSIBILITY

As noted earlier, there is a strong need for shared responsibility to address the current issues and challenges in Bangladesh. This includes the Bangladeshi Government; other governments including those of the U.S. and EU; the retailers, brands, and manufacturers who contract in Bangladesh; the factory owners including the Bangladesh Garment Manufacturers & Exporters Association (BGMEA) and the Bangladesh Knitwear Manufacturers & Exporters Association (BKMEA); the factory workers; civil society; labor unions; and other international institutions.

The responsibility is shared and not that of the retailers only. Further, each stakeholder should have an area of responsibility and should not be required to usurp the role of other stakeholders. This demarcation of responsibilities in socially responsible supply chain management is recognized and highlighted in a March 2011 United Nations (U.N.) report titled "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework." The U.N. Human Rights Council endorsed this report by U.N. Special Representative John Ruggie in June 2011. In the report, Professor Ruggie states: "The Framework rests on three pillars. The first is the State duty to protect against human rights abuses by third parties, including business enterprises, through appropriate policies, regulation, and adjudication. The second is the corporate responsibility to respect human rights, which means that business enterprises should act with due diligence to avoid infringing on the rights of others and to address adverse impacts with which they are involved. The third is the need for greater access by victims to effective remedy, both judicial and nonjudicial. Each pillar is an essential component in an interrelated and dynamic system of preventative and remedial measures: the State duty to protect because it lies at the very core of the international human rights regime; the corporate responsibility to respect because it is the basic expectation society has of business in relation to human rights; and access to remedy because even the most concerted efforts cannot prevent all abuse."<sup>1</sup>

Professor Ruggie further elaborates in the report on one of the Foundational Principles "States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication."<sup>2</sup> It, therefore, is the primary function of the Bangladeshi Government to promulgate building and fire safety regulations that comply with international standards and also enforce such regulations through regular and effective government inspections and assessments.

In addition, the United States and other governments have the ability to provide assistance, through training, grants, and other avenues to improve the infrastructure as well as worker and building safety. The Department of Labor is currently working on a grant to provide funds in Bangladesh for training and fire safety. Other international institutions could also provide funding to help with the training and infrastructure development and corrections to help improve the situation in Bangladesh. This could include grants or funds from USAID, the World Bank, and others.

International organizations, such as the International Labor Organization (ILO), are also a critical stakeholder that needs to be engaged in the process. Specifically programs such as Better Work, which is a joint initiative through the ILO and the World Bank's International Finance Corporation, are essential to help improve worker safety in Bangladesh. The ILO has provided Bangladesh with a set of requirements which must be met before Better Work can begin in the country. It is imperative these conditions be met as soon as possible so that Better Work can begin. According to a representative with Better Work, several amendments

included in the labor reform package which soon will be submitted to Parliament include amendments which specifically address some of the Better Work requirements. In addition, Better Work has reported that Bangladesh allowed for the registration of 23 garment factory unions to date in 2013. In both 2012 and 2011, only one union was allowed to register each year.

Retailers, brands, and manufacturers all realize they have a role to play in worker and building safety within Bangladesh as well as other countries where they source from. This starts with the assessments and inspections to ensure that factories can not only manufacture the orders that they are given to the specifics in the contract, but that they also meet all of the local health, labor, and safety regulations. These companies have instituted corporate social responsibility programs which include strict codes of conduct that vendors must adhere to. Failure to adhere to the code of conduct or specific contract requirements could lead to the termination of a contract with the vendor losing business.

Civil society also plays an important role in helping to develop a long-term sustainable solution. These organizations are typically on the ground in the country and can provide valuable expertise when working in a coordinate effort.

#### CURRENT INITIATIVES TO ADDRESS WORKER AND FACTORY SAFETY

A number of different initiatives have been announced to address worker and factory safety in Bangladesh. Efforts in the U.S. retail industry began well before the Tazreen Design Ltd. factory fire in November 2012 to address fire safety issues. Those efforts have become even more intense as retailers, brands, and manufacturers continue to work in conjunction with their industry associations to finalize a plan to address fire and worker safety at factories in Bangladesh. In addition, two other competing initiatives were launched. One by the German international development agency Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), called the “Fire Safety Alliance on Bangladesh,” and the other by IndustriALL Global Union (which represents apparel union affiliates worldwide), Bangladeshi unions and some NGOs called the “Fire and Building Safety MOU” (the MOU had actually been developed in 2010).

With the objective of combining efforts, the U.S. industry began to work with GIZ on their effort. There were also several retailers and brands who continued to work with IndustriALL on their MOU. At the end of April 2013, after the Rana Plaza building collapse, GIZ hosted a meeting with retailers and brands—U.S. and European, IndustriALL and other campaigning NGOs to finalize an Action Plan for fire and building safety in Bangladesh. At this meeting, IndustriALL and the campaigning NGOs proposed their own set of Principles. A good faith effort was made to attempt to merge the GIZ Action Plan with the IndustriALL Principles by a deadline of May 15, but this did not succeed. IndustriALL unilaterally announced May 12 that it would rename its MOU the “Accord on Fire and Building Safety in Bangladesh” and provided companies 2 days to sign onto the “Accord” before they released it. The Accord requires a 5-year commitment from participating retailers to conduct independent safety inspections of factories, and pay up to \$500,000 per year toward operational costs. As noted, many European retailers and brands signed onto the Accord before it was released, while only three U.S. retailers have signed on.

As an industry, U.S. retailers work with their vendors throughout their supply chains seeking to establish safe working conditions. While U.S. retailers share IndustriALL’s goal to improve worker safety in Bangladesh and to make tangible progress on the ground, U.S. retailers cannot in good conscience sign the Accord because the current language presents potentially unlimited legal liability given its vague and ambiguous terms. There are also concerns that the Accord removes the responsibility of the Bangladeshi Government for inherent government functions, such as building inspections.

Many companies believe that the IndustriALL Accord should not be viewed as the sole response and solution to the situation in Bangladesh. In the meantime, these retailers, brands, and manufacturers have come together in an alliance to develop a single, unified action plan that will achieve immediate, sustainable, effective and long-lasting change for the garment industry and its workers in Bangladesh. The alliance also includes representatives from the Retail Council of Canada, the Canadian Apparel Federation and their members. The action plan builds upon the extensive work already being conducted by many of these retailers on the ground today. These actions include a focus on (1) worker training and empowerment; (2) standards for fire and building safety assessments; (3) sharing of factory inspection and training information; (4) governance; and (5) funding. This work is now occurring with the help of the Bipartisan Policy Center (BPC), under the guidance of former

U.S. Senate Majority Leader George Mitchell and former U.S. Senator Olympia Snowe.<sup>3</sup> They have announced a plan will be finalized and released by July 2013.

In addition, some companies have announced their own efforts in Bangladesh which will be wrapped into this unified effort. For example, since last October, Gap Inc. has been on the ground in Bangladesh with the Gap Inc. Fire and Building Safety Plan. The Gap Inc. plan includes the appointment of a Chief Fire Safety Inspector and dedicated fire safety team, access up to \$20 million in accelerated capital for vendors to make fire safety improvements and \$2 million in financial assistance for Bangladeshi workers displaced due to fire safety remediation improvements. Gap Inc. hired Randy Tucker, P.E, a fire safety professional with more than four decades of experience in the developing world. Mr. Tucker and his team have been on the ground every month since the launch of the program to conduct inspections across the company's 73 approved third-party garment manufacturing factories in Bangladesh. As a result, 20 percent of the factories have been inspected, and many of them have already begun to make the recommended improvements.

It has also been reported that Walmart would begin conducting detailed safety inspections at every one of the 279 factories it uses in Bangladesh. The company said it would complete all reviews within 6 months and will publicly release the names and inspection information on all of the factories. It also started posting on its Web site the list of failed factories in Bangladesh that are no longer allowed to produce for Walmart. The company is also increasing the pace and frequency of follow up inspections in all Bangladesh factories, with visits taking place every 2 months to ensure both compliance and progress. Finally, Walmart announced that it would hire Bureau Veritas to provide fire safety training to every worker in all 279 Bangladeshi factories, and contribute \$600,000 to Labor Voices to communicate with workers about concerns inside the factories. Labor Voices provides a channel for garment workers to raise their concerns through real-time, anonymized worker feedback.

Some of these action steps by the retail industry actually go beyond what has been proposed in the Accord to date.

#### LEGAL ISSUES FOR CONSIDERATION

Again, while retailers, brands, and manufacturers share the goals of improving industrial health and safety of Bangladeshi factory workers, the legal issues raised by these companies regarding the Accord are significant and need full consideration. Finding a workable and sustainable program to improve the health and safety of Bangladeshi garment workers is complex, requires careful consideration and a systemwide solution. An attempt at a "quick fix" may satisfy the immediate desire to be seen to be doing something, but might not render the long-term sustainable solutions needed to permanently fix the problems/challenges to ensure worker safety.

There are numerous concerns about the Accord. Overall, the Accord creates legal enforceable obligations, but what is enforceable is vague and uncertain. The obligations are described in broad vague terms and it is left to arbitration to resolve disputes. In principle, arbitration as a dispute resolution mechanism is acceptable, but not basically to rewrite or define terms of the Accord that have not been agreed upon.

Second, the Accord shifts some of the basic government regulatory functions, such as inspections, onto the retailers. While the U.S. retailers are prepared to contribute in a variety of ways to improving worker and building safety standards in Bangladesh, the primary regulatory and enforcement function of such standards remains under the auspices of the Bangladeshi Government. The Accord creates a free-standing Safety Inspector with broad powers to gain access to factories and order remedial action. At the same time, after the high-level mission by the ILO of early May 2013, the Bangladeshi Government committed to recruit and train by the end of October 2013 an additional 200 inspectors for its Department of the Chief Inspectorate of Factories. Creating a parallel free-standing safety inspectorate means establishing a duplicate enforcement bureaucracy and the Bangladeshi Government potentially abdicating its primary function of enforcing building regulations and workplace health and safety codes. Privatizing an inherently government function, such as building inspections, as the Accord envisages, is therefore not the right approach to building the capacity, know-how and trained inspectors required by the Bangladeshi Government to fulfill its role in ensuring safe workplaces for Bangladeshi workers. While industry and other stakeholders are part of this solution, the focus should be placed on providing the government the ability to carry out its core responsibility to protect its citizens, not supplanting that government function.

Third, there are also concerns that the Accord unduly shifts the responsibility on signatory retailers to essentially establish an independent employment relationship with the employees of their suppliers. In the section dealing with “Remediation,” signatory retailers will not only be responsible for factory owners maintaining the employment relationship and paying wages during a factory closing for structural improvements/renovations, but also finding the employees alternative jobs if they are terminated. These broad obligations imposed on the signatory retailers have potential expanded legal and financial obligations for the signatory retailers. Since the demise of the Alien Torts Act to impute liability on U.S. corporations for the ills of foreign actors, various attempts have been made to impose liability on U.S. corporations under a variety of contracts. These potential and unforeseen legal and financial obligations that a vaguely drafted Accord might hold for signatory retailers are of real concern.

Last, the Accord effectively allows for a third-party arbitrator to determine the price of garments produced in a facility, if the factory claims the price paid by retailers should be higher to fund the health and safety upgrades that factories make to comply with corrective actions by the Safety Inspector. The Accord requires signatory retailers to “negotiate commercial terms” with the factories “which [would] ensure that it is financially feasible for the factories to maintain safe workplaces and comply with upgrade and remediation requirements instituted by the Safety Inspector.” A dispute about the adequacy of the commercial terms, including the purchase price of the garments, would be subject to arbitration under the Accord.

#### CONCLUSION

Collaboration is an essential component of efforts to improve worker and factory safety in Bangladesh. The joint efforts of all stakeholders are essential to identify viable solutions and implement a successful and sustainable plan of corrective action that addresses the systemwide challenges in Bangladesh. A solution must address eradicating corruption, improving the quality of building construction, the location of factories, the issuing of building use permits, the enforcement of building and safety codes, the ability of garment workers to raise concerns free of retaliation, etc. While many would prefer a single coordinated effort, there should be flexibility to allow companies the ability to quickly deal with issues within their own supply chains.

The U.S. retail industry shares the common objective of preventing future workplace injuries and deaths of Bangladeshi garment workers. The industry is prepared and working swiftly toward making a substantial contribution to achieving results on the short term and the long term.

Thank you for the opportunity to testify at this important hearing today.

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#### End Notes

<sup>1</sup>Report of the Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework , page 4, March 2011.

<sup>2</sup>Report pages 6–9.

<sup>3</sup>“U.S. Retailers Announce New Factory Safety Plan,” The New York Times, May 30, 2013.

Senator KAINE. Thank you, Mr. Lubbe.

Questions. This is an issue that we have to wrestle with in terms of leverage, what is our leverage over a situation. We do not have command and control of Bangladeshi regulations, culture of corruption, building codes, but we do have leverage.

Ms. Drake, your organization filed a—one of the bits of leverage we have is this GSP status, and your organization filed with the USTR a request to either withdraw or limit GSP in 2007. If you would just describe the basis for that original complaint that was filed 6 years ago. Was it all about restrictions of workers’ rights, or did it also make the connection to unsafe working conditions?

Ms. DRAKE. It definitely made the connection to unsafe working conditions. In the GSP statute, it outlines internationally recognized worker rights as including freedom of association, collective bargaining, freedom from forced labor and child labor, and accept-

able conditions of work, which were then defined to include worker health and safety, minimum wages, and maximum hours of work.

So there have always been problems regarding freedom of association and the right to collective bargaining. Likewise, there have always been problems on health and safety. So that petition included all those things, and also complaints about violence against workers and other forms of threats and repression where workers have been physically assaulted. And, as was discussed earlier in the hearing, in the 6 years that that petition has been open, it has continued with the murder of labor organizer, Aminul Islam.

Senator KAINE. You and your colleagues must have had a sick feeling when the building collapsed and the news came across the wire, given the fact that you have raised this issue as a potential concern that many years ago.

Ms. DRAKE. Absolutely. I mean, this is our challenge here. Earlier it was said that somebody had received assurances from the Government of Bangladesh. Well, for the workers of Bangladesh, receiving assurances from their own government is not very reassuring. I mean, even before the Tazreen fire, there was another incident at Garib & Garib a couple of years before that, and that was supposed to be the turning point. And before that there were safety incidents, fires, building collapses, a flurry of them in 2005 and 2006, and those were supposed to be turning points where things would change.

As somebody mentioned before, what is the body count that you need to really make changes? In our opinion, one is too many. We are well beyond whatever anyone would need to see as evidence that the current system of the government's very feeble efforts and the voluntary compliance programs of the corporations simply are not working and it really is time to act and make this the final turning point.

Senator KAINE. Let me ask this question, and I will address it first to you, Ms. Drake. But then, Mr. Lubbe, I would like to segue and have you answer the same question. I have a couple of others.

Senator McCain asked a question which is a good one and we would wrestle with it, whether the withdrawal of GSP status would help or would hurt. Now, we talked about that you could lay down conditions and say meet these conditions or we will withdraw. We heard testimony that nations that have had GSP status withdrawn have worked hard to get it back because they wanted that status.

But I would like you first, Ms. Drake, and then Mr. Lubbe, to address this question about whether if there is a recommendation to the President to withdraw GSP status, would that do more good or more harm?

Ms. DRAKE. It is a tough question to wrestle with, but the AFL-CIO falls squarely on the side that acting on the GSP petition to limit or withdraw benefits will do far more good than it will harm.

The concern about mass unemployment is simply unfounded. Given that the GSP products comprise about 1 percent of Bangladesh's exports to the United States—this was discussed in the earlier panel—we are talking about a much smaller segment of the economy. The ready-made garment sector, which is what we have been talking about primarily today, does not get GSP benefits. So it would not be affected by tariff changes.

I do have a list of what those products are that get GSP benefits, and the top three are tobacco, for instance. So it really is a product-by-product issue. You would have to look at, well, what is the demand elasticity for tobacco, and are Bangladesh's tobacco exports really going to be prohibited by putting a tariff, that kind of question.

But more importantly, that sort of frames the question, as I said earlier, as the wrong question. Is it really a choice of no jobs or these really terrible jobs with awful conditions and no rights? There is something in between, and it requires government action. The government can actually fulfill the promises that it has been making, and we think there is every reason to expect that they would. Even though the GSP benefits are small in monetary value, they have reputational concerns, and they are also tied to future investments under the OPIC, the Overseas Private Investment Corporation. There are several of those programs right now in Bangladesh. Those would not be threatened at all by a change in the GSP status, but future OPIC investments could not occur until the GSP status would come back.

So there are reasons to believe that Bangladesh will act like other countries that have had limitations on their GSP and really make changes and fight hard to improve their brand and get the benefits back.

Senator KAINE. Great. Thanks, Ms. Drake.

Mr. Lubbe, the same question. What effect, thinking about the GSP, would withdrawal of the status do more harm or be more helpful?

Mr. LUBBE. Senator Kaine, that is a good question, and I think it is a complex one, as Ms. Drake has pointed out. The industry wants to support the Bangladeshi garment industry. But on the same hand, it also wants to ensure that there is an incentive to the Bangladeshi Government as a very important stakeholder to fulfill its promises. Whether the withdrawal of the GSP status will achieve that has to be evaluated within the context of all those factors.

You heard earlier this morning, and Ms. Drake also referred to how complex the system is, its impact. Withdrawal of the GSP status might send the reputational signal that the U.S. Government is serious. But, I think, that needs to be evaluated in the context of all those factors.

The industry will support what the U.S. Government does here. The industry is concerned about potential unemployment among Bangladeshi garment factory workers. We do not know what the true impact will be on unemployment and whether Bangladeshi factory owners will use that as an excuse to shed employees. So it needs to be very carefully considered.

Senator KAINE. Mr. Lubbe, you talked in your testimony about the reason that Canadian and American apparel manufacturers and companies have chosen not to sign the Accord but are pursuing a combined effort. Beginning with the Accord, what was the subject of some of the provisions? You indicated there could be potential liability or there was vague language. But what was the subject of some of the provisions that the American and Canadian firms found problematic? I am assuming there were some that were fine,

but then some were somewhat controversial. If you could just describe those?

Mr. LUBBE. Sure. Senator, the first point is the utilization of arbitration. What the Accord does is it uses arbitration really to fill in and write the agreement for the parties, ultimately. It provides for a wide array of disputes, as it is worded, not only between the parties but, I think from a legal analysis, leaves the room for non-parties to the Accord to utilize the Accord to declare disputes that go to arbitration.

Arbitration under the Accord takes on in many instances an interest arbitration nature, meaning you get a third party to really write the agreement for the parties on terms that they could not agree upon. So that is the first point.

The second issue is, as a binding contract, it becomes a basis for litigation in the United States, and we have examples where, with the demise of the Alien Tort Act, a variety of contracts and agreements have been used to sue companies in the United States for the bad acts of actors outside the United States, and that is a real concern. The Accord does not exclude that. That possibility of similar litigation exists.

The third issue, just in terms of broad scope, is also again through the avenue of interest arbitration. If you review the provisions that deal with remediation, they require the signatories must engage in commercial viable agreements, and if the supplier or the factory owner says, "well, the price that we are negotiating is insufficient because I need more money to improve health and safety at the factory" and, let us say, for example, the U.S. retailer says, "I do not think at the price that you are asking, that is too high," it potentially goes to interest arbitration again.

So you have price determination through interest arbitration. Those are some of the critical issues I think that were raised. If I may, in the April meeting in Germany, these issues were indeed raised, I am told. I was not at that meeting, but that is the feedback that I have.

So there was a serious attempt at that stage to iron out these concerns. As frequently happens in negotiations and collective bargaining, a line was drawn, and the IndustriALL took the position that they were not going to make these changes. The Accord was then published, and the retail industry, the garment and apparel industry still maintained those concerns because they have not been addressed.

Senator Kaine. And just since this is an industry internationally that I have no expertise in, even with the concerns that you laid out, a sizable number of the European manufacturers signed on to the Accord. Describe why that is the case. Why would European manufacturers find it to be acceptable but North American manufacturers or companies find it to be less acceptable?

Mr. LUBBE. Senator, you would appreciate that I cannot speculate exactly how they view their risk. My opinion is that they are not in the same litigious environment that we are. We have a history under statutes that have created the fora to sue in the United States for foreign bad acts. As far as I know, the Europeans do not have that same system.

A second explanation could be the Europeans have a much more institutionalized partnership relationship with trade unions, where our model here is different. Through the use of works councils, European works councils, this type of agreements with unions is not uncommon in general that will cover Europeanwide issues.

So those are two of the explanations that I can offer to you. I think the first one in terms of litigation risk and liability is a significant one that is absent from that market.

Senator KAINE. Mr. Lubbe, one question I have is, Are North American and specifically American companies—and this picks up on your last point—even just based upon other activities in this building, the deadlock over things like NLRB appointments, do they balk at the notion of signing on to accords that encourage organization and association rights of workers in Bangladesh?

Mr. LUBBE. Senator, as far as I know, that was not a stumbling block.

Senator KAINE. Let me ask you finally, and then Senator Menendez is back and will resume the chair, but you talked about the effort underway in Canadian and American companies to find a workable framework going forward. Talk to me a little bit about the timing of that effort and when we might be expected to know something about it.

Mr. LUBBE. Senator, this is a work in progress that is receiving high priority in the industry. As has been reported, the stated goal is to come with a comprehensive plan that will have immediate action plans that will provide for long-term solutions and have that plan ready by, I understand, early July.

I also understand that, in terms of the actions that have been taken, there is already a structure set up through working groups to look at various aspects. Everybody is struggling in terms of how to prioritize. This is a huge issue, so sometimes how do you prioritize what is also an issue. That is all being discussed, and there are very regular meetings scheduled throughout this month for all the parties to coalesce around this and come up with a plan that will work for the industry at large, and also get the individual major players involved in this effort.

Senator KAINE. So just in terms of the testimony, Mr. Chair, to summarize some testimony that occurred, I think when you were out of the room, there is a coincidence of timing here, the potential of a recommendation from USTR to the White House at the end of June. Now, that is not the same as when the President would make a decision, but also a potential decision by the North American companies about how they would want to proceed to address this problem from the private-sector side in early July. So it sounds like in both the governmental and private-sector side, it is a little bit of a work in progress, and it would be my hope that we would be able to come back after those steps are known to consider them and hear pros and cons about whether they are sufficient.

Mr. Chair, with that, I would return the chair to you.

The CHAIRMAN [presiding]. Well, thank you very much. Thank you, Senator Kaine, for chairing this important part of the hearing.

Thank you both for your testimony. I have read through it.

Please help me pronounce your last name. I want to make sure to get it right.



Mr. LUBBE. Senator, it is Lubbe.

The CHAIRMAN. Lubbe.

Mr. LUBBE. That is correct.

The CHAIRMAN. OK, Mr. Lubbe. I know that you are an attorney and you are representing these different industries, so I get your role here. But since they sent you as the person, let me ask you a couple of questions.

Number one is, what do the companies that you represent believe is their core responsibility in regard to the topic that we are talking about?

Mr. LUBBE. Senator, I think I can best summarize it as follows. The issue of corporate social responsibility has taken a focus on health and safety of the workers in Bangladesh, and that has been catapulted to the top of the list of priorities. If you look at companies' corporate social responsibility, it has always been over the years, since it has become important for companies to recognize and play their role, it has been a work in progress. It is a continuing effort of improving.

What has happened now with these very tragic events in Bangladesh is that health and safety, including structural soundness of buildings in which their suppliers are operating, has come to the forefront. And in that respect, the industry understands and wants to play an important role to contribute as one of the stakeholders to make certain that that issue is addressed. The industry sees itself as one of the stakeholders and one of the role players, and it is ready and willing to play that role.

Specifically, the issue of inspections, a number of the industry individual companies have stepped up their health and safety inspections to make certain that within their scope of influence, the providers and suppliers within their global supply chain, that they make certain that they accelerate and increase those inspections. There has been an increased focus on training of workers so that they can help identify the shortcomings in health and safety and building structure.

There is an awareness that there needs to be support to employees, workers in Bangladesh, that have been adversely impacted by these recent events, be it by loss of a job or injury.

There is a recognition of a contribution to assist the factory owners to remedy the health and safety shortcomings in their factories.

And so the role is one of support, providing funding, providing training, making certain that competent folks, inspectors, are available now while the Bangladeshi Government is ramping up its own inspectorate to make certain that somebody on the ground immediately does something to review health and safety.

The CHAIRMAN. I ask you that question because in reading your testimony in which you put a great emphasis on the U.N. report entitled "Guiding Principles on Business and Human Rights," you referred to the responsibilities there that the second is the corporate responsibility to respect human rights, which means that business enterprises should act with due diligence to avoid infringing on the rights of others and to address adverse impacts with which they are involved.

Now, of course, one can ultimately respect human rights but do nothing about it. So, at the end of the day, I get concerned when

I hear about the industry's unwillingness to join a more global standard so that, regardless of whether it is Bangladesh today or some other place tomorrow, we have a global standard, that we do not have a race to the bottom. I think Rana Plaza shows the limits of individual corporate responsibility campaigns because multiple brands very often source from the same factory.

So you have a serious free rider problem if different retailers are approaching standards differently, and that leads some to say, well, unless it is everybody else, I am not going to live to a higher standard unless they have a corporate ethos that says I want to live to a higher standard, even though it may make me somewhat less competitive than the others.

So I read your comments about liability, and I hope that the industry understands that, while I understand their need to protect themselves legally, there can be no success at the end of the day, no one will want to wear a piece of clothing made in Bangladesh if it is on the blood of workers. Those brands will go down the tube. It is only a question of time; only a question of time.

So I hope the industry gets their act together, and sooner rather than later, because it has been willing—these are not all of a sudden. Rana Plaza is only a dramatization, unfortunately, of a great tragedy, but it is not because this has not existed. The fact that there have been, pending USTR, and I just finished with the USTR nominee upstairs—the fact that that has been languishing for 6 years gives us an example of how everybody turns a blind eye until something happens.

I can assure you, something is going to happen here. And as I have told industries before in good faith, either get your act together and establish standards or find yourself with standards you may not care for. I hope that is the message that you will take back to the industry today.

Mr. LUBBE. Senator, thank you for those comments. I think that you are spot on. It has become an extremely important issue for all stakeholders, including the industry, and they will take those comments of yours to heart.

The CHAIRMAN. Ms. Drake, I do not have any questions for you simply because I largely agree with your testimony. But if in the last few seconds here you have heard anything that you want to have a view for the record espoused, I am happy to give you this opportunity.

Ms. DRAKE. Thank you so much, Mr. Chairman. I appreciate that.

I found it interesting—if we take the industry at its word that its corporate social responsibility focus right now on health and safety is a priority, these firms, or many of them, Walmart in particular, has been operating in Bangladesh since the 1990s. Mr. Lubbe mentioned the many systemic problems that the firms are aware of in Bangladesh, whether it is factories being built on unstable ground, whether it is an inconsistent electricity supply or water supply. And these problems, as I testified to earlier, and the history of building collapses, fire collapses, it did not start with Tazreen. It goes back many, many years.

So if they have known about this, and if they care about this, there is a true disconnect. Is it one of these situations where doing

the same thing over and over again and expecting a different result is not a prime example of corporate management?

We have a report from the AFL-CIO. I cited it in my testimony, and there is a link, but I can leave copies here today for Mr. Kaine and Mr. Menendez, if you would like to have these. It explains that these voluntary programs that can be eliminated at any moment, as soon as the brands think that the spotlight is off of them or that they have already contributed enough money to factory safety or whatever it is, they simply do not work. If a social auditor comes in to a factory like Rana Plaza and finds that it is, in fact, unstable, the workers in the voluntary programs are never notified. They are not part of the system.

If you want to talk about unilateral, the Accord, we disagree strongly with the statement that IndustriALL set it out unilaterally. The Accord was being negotiated for more than a year, and various brands had taken a look, American brands. Walmart and Gap were there at the beginning and chose not to deal with it in 2012, and they chose not to deal with it again. But it was, in our view, a true negotiation and very different than these plans, and that is what we are really afraid of, is that this new alternative plan with the Bipartisan Policy Center, it sounds good, but if it ends up with more of these corporate-directed socially responsible but not giving workers the power to speak up for themselves and be monitors of their own health and safety, it is simply not going to work.

And if, in fact, it somehow does create a standard that is binding and enforceable, that is terrific. But then you have workers who in the morning are working for Walmart and in the afternoon are working for HNM, and they have to remember which is the standard and what applies and what they can speak up about and what they are not allowed to speak up about. That is not really a helpful situation when you are talking about 4 million workers who are impoverished, many of whom are illiterate, and they have to keep track of what their rights are.

And I also wanted to point out the irony that firms are concerned about arbitration under the Accord, and this might be the only time where you get a witness from the business side that does not want arbitration and a witness from the labor side that says, no, we would like to have arbitration here.

So we think that the Accord—we have read it. It does not create a cause of action in U.S. courts. The Civil Rights Act, the Americans With Disabilities Act, the Age Discrimination in Employment Act, these create causes of action in American courts. It does not. It is not vague. There are things that are going to be worked out during this implementation period. But with the recent decision on the Alien Tort Claims Act, we just do not view it as really being a threat to these brands, and neither, in fact, do Abercrombie & Fitch and Sean John and PVH, and HNM, which is the European company that operates in the United States, or these other companies that have signed it.

We would really appreciate your support for it and just continue to ask you to help us in our efforts to push these brands to sign because, as you have said, they will be the reputational losers if they do not. Thank you so much.

The CHAIRMAN. Well, thank you. You have made ample use of the opportunity I gave you.

So with that, let me turn to Senator Kaine. And I am going to ask, Senator Kaine, if you would close out the hearing because I have a meeting. We will keep the record open until Friday for questions, and my thanks to both of you. I look forward to working with both of you as we move forward.

Thank you.

Senator KAINE [presiding]. Thank you, Mr. Chair.

Just one last question, Ms. Drake. I asked Mr. Lubbe whether the decision by North American companies to not sign on with the Accord, what were some of the reasons, and he said he was speculating to some degree, but one of the things he mentioned as a sort of speculative comment was the differing comfort levels of European companies in their relationship with labor compared to the cultural norm here. And I am just struck by that as an issue, and I wanted to ask you your opinion about it.

We are in the midst of a major debate here where there is an effort to block appointments to the National Labor Relations Board, or to try to find an accord that would allow four out of five NLRB members to be appointed so there could be a permanent stalemate against the NLRB doing their job. That effort is supported by major spokespeople and organizations for broad American corporations, like the U.S. Chamber of Commerce.

Is it your perception in the reaction of North American companies to the Accord that arbitration is a point of dispute, but that there is a reticence to sign on to an accord that encourages labor organizations to form and flourish because they are actually, on our own turf, very reticent about labor organizations and the right to organize and flourish?

Ms. DRAKE. I would say that is the conclusion that one would draw from the evidence, and it really is unfortunate that the President put up a slate of nominees that represent all sides of the issue on labor and that it is being blocked. If the United States does not have a functioning National Labor Relations Board, that goes all the way down to the site, the small-factory level, and will prevent probably most organizing efforts from succeeding in the United States because the employer side will stop the election, put in a complaint, the complaint cannot be decisively resolved, and things will not move ahead.

So it is a very aggressive antiworker stance to not want to have a National Labor Relations Board at all.

Senator KAINE. And with respect to the Accord in particular, since I am not familiar with the substance of the Accord, does the Accord only address sort of building code safety conditions, or does the Accord also address the ability of workers to associate and organize in a protected status?

Ms. DRAKE. It does, and it particularly gives workers the right to refuse to enter and work in a workplace that they feel is an immediate threat to their health and safety. Having to respect worker rights and having to recognize that workers can stand up for themselves and say I am not going to go into that death trap today I think is, for some in the industry, they do not want workers

to have that ability to stand up and speak up for themselves to improve their own working conditions and their livelihoods.

Senator KAINÉ. And so this is a speculative question, but take it for what it is worth. If the Accord had just had conditions within it about building code and fire safety and things like that, but had not had any conditions dealing with the protection of workers' rights, is it your opinion that it would have been more acceptable to the North American garment companies?

Ms. DRAKE. I cannot say whether they would have signed. I would say I think it would be much more acceptable.

Senator KAINÉ. All right. Well, this has been fascinating testimony on a very, very challenging topic, and I think both of you acknowledge that there is a significant complexity. I do think we are maybe on the verge, with the USTR recommendation to the White House and the industry effort to come together behind some set of principles that they could agree with, both of those happening in relatively short order, that we are on the verge of being able to come back and say, OK, now that we have some more facts on the table about what the response is likely to be from the private sector and the U.S. Government, it would probably be helpful for us to analyze that again soon.

I am the junior member on a 19-member committee, but I will certainly recommend to the chair that we come back and follow up on both of those matters in short order.

And with that, the committee hearing is adjourned. Thank you for your participation.

[Whereupon, at 12:56 p.m., the hearing was adjourned.]

#### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

##### RESPONSE OF LEWIS KARESH TO QUESTION SUBMITTED BY SENATOR ROBERT P. CASEY, JR.

*Question.* As you stated in your written testimony, the United States is a key market for Bangladeshi goods, importing \$5 billion in 2012.

- What signal would suspension or termination of Generalized System of Preferences (GSP) benefits send to the government and factory owners in Bangladesh as well as U.S. brands and consumers? Is this an effective tool?
- Why has it taken the U.S. Government 6 years to review Bangladesh's GSP eligibility, following acceptance of the AFL-CIO's petition in 2007?

*Answer.* On June 27, 2013, President Obama decided to suspend GSP trade benefits for Bangladesh based on a determination that Bangladesh "has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country." The administration hopes that the GSP action will give further impetus to the Government of Bangladesh's efforts to address longstanding issues related to worker rights and worker safety.

The experience of the last 30 years suggests that GSP can be an effective mechanism for advancing worker rights. Over the years, the U.S. Government has used GSP reviews of worker rights with many beneficiary countries to bolster our dialogue with these countries on worker rights and effect meaningful change.

One of the objectives of a GSP worker rights review is to encourage the relevant country to undertake measures to address the key concerns that led to the review. Over the last several years, the U.S. Government worked with the Government of Bangladesh to identify such measures and to urge that these measures be implemented. In late 2012, the administration came to the conclusion that the worker rights situation in Bangladesh had deteriorated and that suspension of benefits might be warranted absent significant near-term progress in improving worker rights and worker safety. While the Government of Bangladesh has taken some actions to address the situation, the progress was insufficient to meet the statutory criterion to continue its GSP benefits.

RESPONSES OF ASSISTANT SECRETARY ROBERT BLAKE TO QUESTIONS  
SUBMITTED BY SENATOR ROBERT P. CASEY, JR.

*Question.* Do you assess that the Government of Bangladesh has the capacity and will to enforce its labor standards and building codes? What is the U.S. Government doing to assist the Government of Bangladesh to fight corruption and improve enforcement capacity in this sector?

*Answer.* The recent tragedies in Bangladesh underscore the urgent need for the Government of Bangladesh, factory owners, international buyers, and workers to come together to strengthen respect for workers' rights and ensure safe and healthy working conditions. We are encouraged by recent initial efforts on the part of the Government of Bangladesh and the Bangladeshi exporters' associations to improve labor standards and inspect and enforce the fire and building codes. We are encouraging the Bangladeshi Government to take additional steps to improve worker rights, including the right to freely associate and engage in collective bargaining, so workers can effectively negotiate improved working conditions and wages.

We actively engage with the highest levels of the Government of Bangladesh, factory owners, international buyers, and civil society on these issues. We are already supporting capacity-building for trade unions in Bangladesh and help fund International Labor Organization (ILO) programs targeting the garment and shrimp sectors. The Department of Labor is currently seeking project proposals to improve fire and building safety in the garment industry in Bangladesh. The United States strongly supports Bangladesh's tripartite national action plan on fire safety, and the joint statement by tripartite partners issued at the end of the ILO's high-level mission on May 4. The U.S. Government is also discussing a joint effort with the European Union, the Government of Bangladesh, and the International Labor Organization to assist Bangladesh in bringing working conditions and respect for workers' rights in the garment sector in Bangladesh in line with international labor standards.

*Question.* I am concerned that proceedings before the International Crimes Tribunal in Dhaka, Bangladesh, have provoked violent protests and created a volatile political situation in the country. While the U.S. Government should fully support the prosecution of the most serious crimes of international concern and the ending of impunity, we should also ensure that criminal justice is carried out in a manner that is consistent with international human rights obligations, including procedure, fairness, and transparency.

- Do you assess that the ICT trials meet international standards of procedure, fairness, and transparency?
- What are the U.S. Government and the international community doing to ensure that witnesses are protected from retaliation?
- What is the status of Shukho Ranjan Bali, a prosecution witness who was allegedly abducted before he could testify?
- What is your assessment of how the confirmation of death sentences and the expected issuance of additional verdicts will affect the political situation in the country?

*Answer.* The United States supports bringing to justice those who committed atrocities during Bangladesh's Liberation War. We believe that any such trials must be free, fair, and transparent, and in accordance with international obligations. Bangladesh has agreed to uphold these requirements through its ratification of international agreements, including the International Covenant on Civil and Political Rights. As Bangladesh addresses the legacy of atrocities committed during the Liberation War, and as we await further verdicts by the Bangladesh International Crimes Tribunal (ICT), the United States continues to urge the Government of Bangladesh to adhere to its treaty obligations, including through a fair and public hearing by a competent, independent, and impartial tribunal, and by fully respecting the rule of law. Although we have seen some progress, there remain significant concerns regarding the law, rules, and procedures used by the tribunals and we believe that further improvements to the ICT process are needed to ensure these proceedings meet international standards. The Shukho Ranjan Bali situation directly relates to our concerns about adequate protection for witnesses in Tribunal proceedings. Although the Government of Bangladesh has denied any role in his alleged abduction, we continue to encourage the government to ensure the safety of all its citizens, including trial witnesses. Human Rights Watch has called for the Government of Bangladesh to conduct a credible investigation into the alleged abduction.

*Question.* On May 5–6, 2013, protests led by Hefazat-e-Islam resulted in numerous deaths. Both Amnesty International and Human Rights Watch have called for independent investigations into the deaths.

- Will the State Department also call for an investigation?

*Answer.* The Government of Bangladesh gave permission to Hefazat to demonstrate peacefully. However, upon close review of the evidence, it appears that Hefazat violated these terms through clashes with police, violence, and looting. To prevent further violence, the Government dispersed the protestors. Independent sources estimate the number of dead closer to 12, far fewer than the hundreds alleged. Nonetheless, we have consistently counseled the Government to use non-lethal methods of crowd control and have expressed our concern about the recent rise in violence in Bangladesh in the wake of a series of general strikes (hartals) that have significantly disrupted and endangered the daily lives of Bangladeshis throughout the country. These disruptions incur direct costs on Bangladeshis, including by preventing ordinary citizens from doing their jobs, and end up hurting the Bangladeshi economy. The Embassy continues to closely engage with all parties to urge calm, encourage dialogue, and ensure that protests are peaceful. Freedom of expression is one of the hallmarks of a democracy, and we encourage all Bangladeshis to peacefully express their views.

*Question.* Some Bangladeshi Islamist groups, including Hefazat-e-Islam, have demanded the imposition of antiblasphemy laws, similar to those in place in Pakistan.

- What is your assessment of how such laws could affect religious freedom in Bangladesh?
- What is the State Department doing to support legal and constitutional reforms that increase protections for religious minorities and women in Bangladesh?

*Answer.* We are encouraged by the Bangladeshi Government's strong support for the country's tradition of tolerance, secularism, and women's empowerment in response to recent demands for the imposition of antiblasphemy laws by some Bangladeshi Islamist groups, including Hefazat-e-Islam. In addition, the Government of Bangladesh has rejected the call for new antiblasphemy laws as unnecessary. We support the right of freedom of expression, set forth in the International Covenant on Civil and Political Rights, to which Bangladesh is party, and continue to press the government to improve protections for women, girls, and members of religious minorities. We continue to work with the Government of Bangladesh to advance the rights of women and marginalized populations. We also continue to support the NGO community and civil societies' efforts to do the same.

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RESPONSES OF LEWIS KARESH TO QUESTIONS SUBMITTED BY  
SENATOR JEANNE SHAHEEN

*Question.* Mr. Karesh, it is my understanding that the Office of the U.S. Trade Representative is leading the administration's review of Bangladesh's Generalized System of Preferences (GSP) trade benefits. In your testimony, you mentioned that through the GSP program, Bangladesh has made some progress, but that USTR has become increasingly concerned by serious backsliding on worker rights and conditions in the last year alone.

During the second panel of the Senate Foreign Relations Hearing on labor issues in Bangladesh, it was mentioned that suspending GSP trade benefits for Bangladesh would inhibit future U.S. Overseas Private Investment Corporation (OPIC) projects.

- Can you speak to the impact on OPIC projects in Bangladesh if the President were to decide to remove GSP trade benefits?

*Answer.* On June 27, 2013, President Obama suspended GSP trade benefits for Bangladesh based on a determination that Bangladesh "has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country." The suspension will take effect 60 days after the President's proclamation taking this action is published in the Federal Register. Since OPIC must also take into account worker rights criteria in assessing its country-level program eligibility, the President's action will also affect OPIC programs. It is USTR's understanding that, once the suspension of Bangladesh's GSP trade benefits takes effect, OPIC will be prohibited from supporting future investments in Bangladesh. However, suspension of GSP benefits will not affect existing projects to which OPIC has already made a legally binding commitment.

OPIC's existing portfolio in Bangladesh, which will not be affected by the suspension, amounts to \$13.3 million and is focused on telecommunications and humanitarian and development services.

*Question.* In your assessment, what would be the other possible outcomes of removing GSP benefits?

*Answer.* USTR is not aware of other impacts on U.S. programs of the suspension of GSP benefits.

*Question.* We are hearing the right words from the Government of Bangladesh, but are we really seeing the necessary actions to address the serious shortcomings in worker rights and labor conditions in the country?

*Answer.* The President's decision to suspend GSP trade benefits for Bangladesh was based on a determination that the Government of Bangladesh is not taking the necessary steps with respect to worker rights.

In a statement released shortly after the President's action was announced, Ambassador Froman said, "Our GSP statute requires certain basic standards for worker rights and worker safety as a condition of eligibility. Over the past few years, the U.S. Government has worked closely with the Government of Bangladesh to encourage the reforms needed to meet those basic standards. Despite our close engagement and our clear, repeated expressions of concern, the U.S. Government has not seen sufficient progress toward those reforms. The recent tragedies that needlessly took the lives of over 1,200 Bangladeshi garment factory workers have served to highlight some of the serious shortcomings in worker rights and workplace safety standards in Bangladesh. While taking this action today, the administration is also initiating new discussions with the Government of Bangladesh regarding steps to improve the worker rights environment in Bangladesh so that GSP benefits can be restored and tragedies like the Rana Plaza building collapse and Tazreen Fashion factory fire can be prevented. The Obama administration is committed to reflecting American values in our trade policy, including with regard to the rights of workers worldwide."

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RESPONSES OF ASSISTANT SECRETARY ROBERT BLAKE TO QUESTIONS  
SUBMITTED BY SENATOR JEANNE SHAHEEN

*Question.* Assistant Secretary Blake, in response to the deadly collapse of Rana Plaza, we've seen some American companies express a willingness to work to improve labor conditions in Bangladesh and others have decided that it is simply too risky and too damaging to their brand and reputation to continue to source from apparel Bangladesh.

It is my understanding that roughly 80 percent of the garment workers in Bangladesh are women.

- How real is the possibility of a mass exodus from Bangladesh by some of the other big name brands and how would such a move impact these women who have gained new independence and improved the lives of their families as a result of this work?

*Answer.* The growth of Bangladesh's ready-made garment industry has contributed to impressive gains in employment, particularly for women, and development successes over the past few decades. Of the over 4 million garment workers in Bangladesh, approximately 80 percent (3.2 million) are women. The State Department continues to actively engage with U.S. companies on worker rights and safety in Bangladesh, especially in light of the Rana Plaza and Tazreen Fashions' tragedies. We understand that some U.S. companies are taking individual actions to remedy the immediate situation, but we also continue to encourage U.S. brands to take collective action that leverages these efforts and involves all the key stakeholders in Bangladesh, including the government, factory owners, and civil society. While a few brands have made the choice to source products from other countries, there are many others committed to working with Bangladesh to resolve challenges to fire and building safety and worker rights.

*Question.* In your assessment, would a decision to suspend the Generalized System of Preferences (GSP) trade benefits for Bangladesh change the calculus of some retailers and apparel companies who are currently undecided on how best to proceed?

*Answer.* The United States has been considering for some time options regarding GSP benefits for Bangladesh. The current review of the GSP program signals the United States' strong interest in Bangladesh's ability to meet international labor



standards, particularly in the area of worker rights. Our decision is imminent. Regardless of the decision, we are preparing a roadmap of the types of changes we see as needed to improve worker rights and fire and building safety in Bangladesh. It should be noted that U.S. imports from Bangladesh under GSP are modest. In 2012, Bangladesh's exports under the GSP program totaled only \$34.7 million—or less than 1 percent of Bangladesh's \$4.92 billion in exports to the United States for that year. The GSP program does not include apparel or other ready-made garments.

*Question.* From the testimony received by the Senate Foreign Relations Committee, it would appear that there are differing opinions on how best to address the serious issue of worker rights in Bangladesh.

- What is the State Department doing to build consensus with all stakeholders and especially the private sector retailers and apparel companies?

*Answer.* Improving labor rights and working conditions—as well as all human rights—is one of our key foreign policy objectives worldwide. The recent tragedies at factories in Bangladesh underscore the urgent need for the Government of Bangladesh, factory owners, international buyers, and workers to come together to strengthen respect for workers' rights, including ensuring safe and healthy working conditions. The United States actively engages with the highest levels of the Government of Bangladesh, Bangladeshi exporters, and international buyers on these issues, as well as with the International Labor Organization. We regularly cite our concerns about labor rights in Bangladesh, including factory conditions, in our annual Human Rights Report and in our bilateral consultations, including during the recent U.S.-Bangladesh Partnership Dialogue in Dhaka. Additionally, discussions of worker rights and safe working conditions are part of the current review of Bangladesh's trade benefits under the GSP program. We also have an ongoing high-level dialogue with U.S. buyers that source from Bangladesh about workplace safety and the role that buyers can play in strengthening respect for the rights of workers, including ensuring safe and healthy working conditions. In March, and again in May, we reviewed our expectations of U.S. companies' engagement in Bangladesh and shared a "Best Practices for Companies Operating in Bangladesh" document (please see attached). The U.S. Government is currently discussing a joint effort with the European Union, the Government of Bangladesh, and the International Labor Organization to bring working conditions and respect for workers rights in the garment sector in Bangladesh in line with international labor standards.

#### ATTACHMENT

##### UNITED STATES GOVERNMENT RECOMMENDATIONS ON BEST PRACTICES FOR COMPANIES WITH OPERATIONS IN BANGLADESH—U.S. DEPARTMENT OF STATE (MAR. 11, 2013)

On Tuesday, March 5, 2013, Assistant Secretary of State for Democracy, Human Rights, and Labor Michael Posner and Assistant Secretary of State for South and Central Asia Robert Blake hosted a conference call with over 70 U.S. brands and civil society groups to discuss fire safety issues in manufacturing facilities in Bangladesh. On the call, Assistant Secretary Posner and Assistant Secretary Blake summarized important labor rights issues, including the status of the Aminul Islam case, union registrations, and legal reforms. They also outlined what the U.S. government views as best practices for companies with operations in Bangladesh. Eric Biel, Acting Associate Deputy Undersecretary for International Affairs at the Department of Labor, discussed his recent trip to Bangladesh, including numerous meetings on fire safety and labor law reform, and possible areas for bilateral technical assistance.

Unsafe working conditions in Bangladesh were brought into the international spotlight by the Tazreen factory fire of November 2012, the worst of many deadly manufacturing fires in the country in recent years. The ILO has been engaged with the Government of Bangladesh on a Tripartite National Action Plan on Fire Safety to address this issue, and as of today the Plan is being finalized by the Ministry of Labor and Employment. They also have worked with the Government to identify necessary steps, including reforms to labor law and an improved and more transparent union registration process, to create an "enabling environment" for the establishment of a Better Work program.

The National Action Plan and Better Work program both offer opportunities to sustainably improve labor standards in Bangladesh and could both benefit from the support and cooperation of international buyers, including in coordination with buy-

ers' own initiatives. The practices outlined below are recommendations from the U.S. government to U.S. brands as they promote respect for human rights and international labor standards, as well as encourage engagement with the Government of Bangladesh and other stakeholders on these issues.

1. *Act Collectively*: Companies should work together to figure out how they can make a difference collectively. And it's important that responses meet three criteria: they're credible; they're relevant; and they're effective. There are several ongoing collaborative initiatives in various stages of development. We encourage companies to link efforts on labor and human rights with collaborative work being done through multi-stakeholder initiatives, third-party auditors, industry associations, and cooperative agreements. The Tripartite National Action Plan on fire safety may offer entry points for buyers and civil society to support and enhance a Bangladesh-owned process to improve fire safety.

2. *Develop Broad Principles and Policies and Procedures for Implementation*: Companies should have clearly defined labor and human rights principles, policies and procedures that guide their behavior and that of their suppliers and subcontractors. Such policies should be based on internationally recognized human rights and international labor standards and there should be effective and transparent means of monitoring compliance. Senior leadership of the companies should visibly support such efforts and encourage implementation throughout the entire supply chain.

3. *Develop Credible Internal Benchmarks*: In order to assess progress and effectiveness, companies should have internal metrics to manage and measure performance on labor and human rights.

4. *Conduct Independent Third-Party Verification*: Third-party verifiers should assess performance of company policies and procedures. Inspections by verifiers should be thorough, timely, unannounced, independent, and include confidential interviews and consultations with workers about workplace conditions. Inspections should look at serious and common hazards, implementation of the local law and respect for internationally recognized human rights and international labor standards, and mechanisms for tracking noncompliance with company policies and procedures.

5. *Corrective Actions and Penalties*: Corrective action may be necessary to address non-compliance with company policies and procedures at any point in the supply chain. When suppliers are found to be in non-compliance, there should be timely identification and financial or technical assistance to help address hazards in factories. There should be contractual penalties for non-compliance that are clear and meaningful. Also, when non-compliance is discovered, corrective actions should be shared with stakeholders to the extent possible and appropriate to disseminate lessons learned and best practices for avoiding or mitigating future incidents.

6. *Cultivate Worker Voice and Education*: In manufacturing facilities within a company's supply chain, buyers should seek to engage with workers to (a) promote education; (b) prevent retaliation against those reporting hazards; and (c) compensate workers, including those put out of work during corrective actions. Companies should communicate with workers through legitimate representatives selected by the workers themselves, and should avoid factories where no such representative mechanism exists.

7. *Share Information*: Companies should share information with each other, stakeholders, and relevant host government officials about factories that fail to comply with policies and procedures or corrective measures, so as to bring the greatest leverage to bear with the greatest effect, and to avoid undercutting each other's efforts. Information-sharing will ensure maximum coordination and knowledge.

8. *Work with Stakeholders*: Draw on the expertise and experiences of other companies, NGOs, unions, the ILO, the Government of Bangladesh, and others to develop sophisticated responses to the current human rights challenges.

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RESPONSES OF ACTING ASSOCIATE DEPUTY UNDERSECRETARY ERIC BIEL TO  
QUESTIONS SUBMITTED BY SENATOR JEANNE SHAHEEN

Mr. Biel, while we have heard that positive steps are being taken in Bangladesh in response to the tragic Rana Plaza collapse that resulted in the deaths of over 1,100 garment workers, I am concerned about the enforcement and oversight side of this issue, especially given the shocking statistic stating that at least 60 percent of the garment factories in Bangladesh are currently at risk of collapse.

In your testimony, you mentioned that, given the size of the garment industry in Bangladesh, the government's inspection capacity is grossly inadequate, despite recent plans to increase the number of inspectors. The Government of Bangladesh needs to do more.

*Question.* In your view, can we rely on the Bangladeshi Government to ensure the adequate enforcement of oversight at this point for its garment industry? Is this truly an issue of capacity for the government?

*Answer.* The Government of Bangladesh has the primary responsibility for the enforcement of national labor law with respect to worker rights and workplace safety in the ready-made garment sector. At the same time, and as noted in my testimony before the committee on June 6, the U.S. Government recognizes that, at present, Bangladesh's Ministry of Labour and Employment does not have a sufficient number of labor inspectors to satisfy this substantial responsibility, and many of the current labor inspectors also lack adequate training and resources.

Addressing these significant shortcomings so that the Government can fulfill its responsibility is a great challenge for the Government and other stakeholders. We are encouraged that, as part of the joint statement issued on May 4 following the high-level visit of the International Labor Organization led by Deputy Director General Hounghbo, the Government of Bangladesh committed to hire an additional 200 labor inspectors within 6 months, and to provide budgetary authority for a minimum of 800 new inspectors.

Donor countries, including the United States, can play a role through technical assistance and other funding programs. To that end, on June 13 the U.S. Department of Labor's Bureau of International Labor Affairs, where I serve, announced a \$2.5 million competitive grant solicitation to fund improvements in the enforcement and monitoring of fire and building safety standards in the ready-made garment sector in Bangladesh. This technical assistance, one part of the broader strategy to address labor enforcement issues, will fund one or more recipients to: (1) strengthen the Bangladesh Government's ability to improve its enforcement of fire and building safety standards, and (2) build the capacity of worker organizations to effectively monitor violations of fire and building safety standards and abate related hazards in the ready-made garment sector.

The two-part program design recognizes the lead responsibility of the Government of Bangladesh, while at the same time acknowledging the central role that workers and their representatives must play in improving conditions in the workplace, especially given existing capacity issues of the Government.

In addition, as noted in my testimony before the committee, the powerful Bangladeshi garment industry, as well as the international buyers and retailers that source products from Bangladesh, must do more to address worker rights and workplace safety issues in the sector. While the responsibility of the Government remains paramount, the private sector also has a clear role to play, such as through financing safety improvements or training management in appropriate fire safety responses—and by ensuring that workers' rights to advocate on behalf of their interests in the workplace are respected.

*Question.* During your testimony, you mentioned that "legal gaps" exist in the export processing zones of Bangladesh. Can you elaborate on this important point? Can the U.S. Government play a more constructive role in this regard?

*Answer.* Industrial relations in the export processing zones (EPZs) of Bangladesh are governed by a different labor law than the law that generally governs industrial relations in Bangladesh. While most labor issues in the private sector are subject to the Bangladesh Labour Act 2006, administered by the Ministry of Labour and Employment, the administration of the EPZs (where approximately 250,000 workers are employed) and enforcement of EPZ-specific labor law is the responsibility of the Bangladesh EPZ Authority (BEPZA). When the Government of Bangladesh adopted the EPZ Workers Association and Industrial Relations Act (EWAIRA) in 2004, it was intended as a phased approach and an interim measure. EWAIRA expired in 2008, but instead of completing the transition to full coverage of the national labor law, the separate EPZ law was reauthorized in 2010 as the EPZ Workers' Welfare Society and Industrial Relations Act (EWWSIRA)—with additional restrictions rather than expanded rights for workers. The U.S. Government has noted these concerns publicly, including specific cases, in the 2012 Human Rights Report on Bangladesh.

As reflected in the detailed comments of the International Labor Organization's Committee of Experts on the Application of Conventions and Recommendations, the EPZ law falls short of international standards in a number of fundamental ways. For example, since 2004, the EPZ labor law has provided for a blanket prohibition against strikes in any EPZ. That provision of the law is scheduled to sunset at the end of 2013; if that sunset does take effect, it would provide for a legal right to strike beginning in 2014. However, given continuing restrictions on the right to strike, such as a 15-day limit, a "public interest" exception, and a 75-percent voting

threshold requirement, the U.S. Government believes it unlikely that strikes will be permitted in practice within EPZs, even with the expiration of the full prohibition.

Other areas of concern identified with respect to EPZ law and governance include:

- The law constrains the establishment of “Workers’ Welfare Societies” (the term used for the strictly limited form of worker organizations within EPZs) through burdensome membership and referendum requirements.
- It prohibits the affiliation of such associations between zones or with any political or nongovernmental entity.
- It provides for unfettered BEPZA discretion (exercised by the BEPZA Executive Chair, a position that has been filled by the Office of the Prime Minister with senior military officials) in the cancellation of a Society’s registration.
- It prohibits Societies from obtaining or receiving any funds from any outside source without the BEPZA Executive Chair’s prior approval.
- It permits elected leaders of the Societies to be terminated by employers with the concurrence of the BEPZA Executive Chair.
- In addition to such gaps in the law, worker organizations have reported that BEPZA fails to enforce even the limited protections of the law, and has actively created additional obstacles to the registration of societies and to the limited associational rights of workers.

The U.S. Government continues to engage with the Government of Bangladesh regarding these and other concerns about lack of freedom of association in the EPZs. The issue has been and remains an important part of the continuing review of Bangladesh’s eligibility for benefits under the Generalized System of Preferences (GSP) trade program. We also encourage the Government of Bangladesh to take the measures recommended by the ILO’s Committee of Experts to bring its law and practice into full conformity with international labor standards.

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WRITTEN TESTIMONY SUBMITTED BY PETER J. KAUFMAN

It is a great honor to be asked to make a statement regarding labor in Bangladesh. I would like to acknowledge the critical importance of this committee and this hearing. Two catastrophic events in Bangladesh over the last several months have focused worldwide attention on egregious labor, safety, and human rights violations that exist in Bangladesh today. First, the terrible fire in November that killed almost 200 people and then the recent building collapse that killed upwards of 1,200 people and both disasters occurred in garment factories. Since then, there has been intense media scrutiny of Bangladeshi labor as well as uproar and protests from numerous human rights groups and the public at large. Therefore, the committee’s focus on “Labor in Bangladesh” could not be more urgent and timely.

As an observer of labor and the industrialization of Bangladesh in the fashion industry for some 30 years, I have witnessed notable progress in terms of growth and development. Yet Bangladesh is unique and can be frustrating. Despite progress in some sectors, Bangladesh remains an underdeveloped country. Per capita wages make it one of the poorest countries on earth.

BANGLADESH

The fashion industry is usually the first industry to invest in developing countries because it is an industry that requires minimal labor skills. I use the term “fashion industry” rather than exclusively the “garment industry” because the range of product is more inclusive: garments, home products such as bedding, decorative pillows, handbags, jewelry, shoes, hosiery and other accessories. Especially in the case of accessories, hand work is often required. Post-World-War-II Japan was considered a developing country. U.S. consumers in the 1950s and 1960s were flooded with imports with a “Made in Japan” label. Hard goods gradually replaced soft goods as Japan became a more sophisticated manufacturing country. As countries progress in this manner, labor becomes prohibitively expensive and the cost of fashion items is no longer competitive. In addition, since hard goods have a higher price tag so their manufacturing is encouraged. This helped Japan’s trade deficits and increased their GDP. Therefore, the fashion industry moved in to countries such as South Korea, Taiwan, Hong Kong, the Philippines, etc. These countries were ripe for development. Today, “Made in China” is on almost every type of product. This is largely due to two factors: our “free market” environment and China’s remarkable success story of industrialization. Observing these trends over many years, Bangladesh has not accelerated at the same rate as the other countries mentioned here. Indeed, it has unusual burdens that keep it back from more rapid growth. Unemployment is already rampant. Only by virtue of trade legislation does a very poor country like

Bangladesh have the ability to compete with China. Without this tariff relief, the entire Bangladeshi economy would be in chaos.

In order for a developing country to attract investment it must have: (a) political stability; (b) a reliable infrastructure that includes roads, reliable shipping via sea and air; and (c) a motivated and reliable labor force. When I first visited the country in the early 1980s, Bangladesh had only (c) a reliable labor force. Doing business there was out of the question. The factories that did exist had appalling working conditions. Excluded were the most basic amenities such as proper lighting, sanitation, and safe housing. The Port of Chittagong, nearest to the capital city of Dhaka, was primitive. In fact, it was famously unreliable due to the fairly regular sinking of cargo ships as a result of typhoons and other natural disasters. Not only was the quality of the merchandise unreliable, there was also a lack of on-time delivery. Additionally, the lead times for manufacturing were excessively long—often more than 6 months—because basic materials such as fabrics, findings, and thread, had to be imported from South Korea or Taiwan. It is a tribute to the great spirit and work ethic of the Bangladeshi people that some progress has been achieved.

Today, 30 years later, Bangladesh remains basically an agricultural country. Men still work primarily in the fields. Women often work in the factories. Thus women are most vulnerable to the vicissitudes of working in factories with substandard conditions. Yet significant progress has been made in some areas.

After 30 years, Bangladesh still lags behind in heavy and medium-level industries while other countries in central and east Asia are key players in the automobile industry. Although infrastructure has improved significantly in some areas, other areas of the country still lack reliable power, telecommunication, transportation, water and gas. Continuing governmental instability coupled with an entrenched bureaucracy puts additional burden on the existing manufacturers and inhibits investment. Due to its long colonial rule, economic discrimination and government nationalization of this industry, growth has been slow. While we can place much of the blame on these economic and geopolitical factors, the fact remains that too many factories have existed in the same conditions for the last 30 years. Indeed a very large percentage of the employees working in fashion products still have no expectation of safety, hygiene, fair pay, and human rights.

On the positive side new, state-of-the-art factories have been built including some in heavy industries. These private enterprises are making a remarkable contribution to the national economy. In the garment business, for instance, I visited vertical sweater and knitwear facilities. Yet historically Bangladesh had only specialized in woven fabrics. These factories met every international standard of safety, fair wages, and human rights. Today, the combined tally of the so-called “ready-made garments” along with the entire textile sector not only make an enormous contribution to this country’s GDP, it is also, by far, its largest export.

#### BEYOND BANGLADESH

In September, just prior to the November fire in Bangladesh, there was another catastrophic incident. The New York Times reported that “Fire ravaged a textile factory complex in the commercial hub of Karachi early Wednesday, killing almost 300 workers trapped behind locked doors and raising questions about the woeful lack of regulation in a vital sector of Pakistan’s faltering economy. It was Pakistan’s worst industrial accident, officials said, and it came just hours after another fire, at a shoe factory . . . had killed at least 25.” The Times goes on to report: “every exit but one had been locked . . . and the windows were mostly barred. In desperation, some flung themselves from the top floors of the four-story building, sustaining serious injuries or worse, witnesses said. But many others failed to make it that far, trapped by an inferno that advanced mercilessly through a building that officials later described as a death trap.” Indeed, the Pakistan Institute of Labor Education and Research, a labor rights group, said that “151 workers died in similar accidents in 2011.” According to the Institute: “The state was partly responsible for the deaths . . . because its civil servants silently and criminally allow violation of laws and regulations established to ensure health and safety provisions at work.” There are striking parallels to Bangladesh. While I applaud the committee’s focus on Bangladesh in these hearings, I respectively point out that sweatshops such as these, often equally dangerous, exist all over the world. I have personally been witness to horrific examples in Africa, in China, Guam, Central America, and Indonesia to name a few. Even in the United States there have existed clandestine factories in Queens, Brooklyn, and Long Island, not to mention in border towns from Texas through southern California.

Labor Behind the Label, a human rights organization, reported about the incident in Pakistan: “the fire follows a pattern of negligence occurring not just in Pakistan

but throughout the garment industry. Brand and retailers must therefore take more action to address the root causes of such disasters.”

#### A CULTURE OF CHEAP LEADS TO GREED

The culture of “cheap” in the United States (and elsewhere) takes a terrible toll on human beings at the other end. As consumers, we are offered the “\$17” dress—at full price—in trendy stores. As retailers, brands, and importers squeeze for higher profits, their “sourcing executives” that place the orders on the ground must squeeze at the other end. A result of this is subcontracting, which occurs despite official contracts and “Letters of Credit” specifically prohibiting it. At the local factory level, owners and management also press for profitability. When the retail price becomes impossibly cheap while the cost of labor and materials remain the same, someone must pay the price. Those at the lowest end of the food chain are the ones who pay. The factory laborers are forced to endure horrendous conditions. Since there is already rampant unemployment in many of these countries, workers have no choice but to work in horrendous conditions for \$50 a month. While it is true that some retailers and brands did have direct knowledge of factory conditions, the reality is that “subcontracting” or “outsourcing” can and does occur everywhere in the world.

As we examine the supply chain, from consumer to laborer, there is yet another human factor beyond mere profitability: greed. Surely this is a motivating factor when factory managers and supervisors block fire escapes due to overcrowded conditions. Surely this must be a motivation when fire extinguishers are intentionally removed or misplaced. Loading far too many sewing machines into electrical outlets incapable of handling them is yet another example. Imposing long working hours in order to maintain profits is another example. It is also well documented that factory supervisors will beat their employees into working “harder” and “better.” Surely there exists a “culture” in Bangladesh that allows such horrific violations to perpetuate. It is not only appalling and inhumane but illegal.

#### SUMMATION

Internationally, garment production on behalf of U.S. companies in factories with exploitative policies and hazardous working conditions has fueled anti-Western sentiment. Recent Islamist riots in Bangladesh have added to the country’s striking death toll and increased pressure on its endangered fashion industry. Given that a large percentage of fashion industry manufacturing worldwide is located in the Muslim world, Islamist radicals use these catastrophic incidents as propaganda tools undermining public opinion of the West, but also potentially undermining the stability of already faltering regimes. By demanding ethical, humane garment production we can better the U.S. fashion industry’s reputation and prevent some of the violence and instability that hinders workers from making a proper livelihood.

I know that this committee will be considering powerful and well-intentioned efforts to improve factory conditions for laborers in Bangladesh. One approach could be along the lines of threatening with removing tariff relief if conditions are not improved “soon enough.” But this is not the correct approach. If such legislation is imposed, Bangladesh will no longer be competitive in the fashion-related products that make up the bulk of their GDP and their exportation. If this should pass, I do entirely agree that the industrialists, factory owners, management and supervisors will be punished. These terrible factories will finally close. However, along with them, the many good factories that already observe human rights and international guide lines will close as well. The “good” factories make up a large percentage of the total volume. Most significantly, the ripple effect of such legislation is that it will most profoundly affect the tens of thousands of innocent laborers who are already victimized. Surely, it is preferable that workers can have a choice whether or not to work under current conditions and in improving conditions rather than joining the millions who are already unemployed. I believe that there is an alternative strategy: Allowing retailers, brands, and manufacturers to take responsibility for business on the ground. Without orders, there is no business and therefore there can be no factories. Collectively, they should take responsibility for improving conditions, enforcing international labor standards and as well as working in tandem with local representatives to address safety issues in every country they source from.

I see that significant progress is already in work. There are too many to list. For instance, Phillips-Van Heusen recently announced that they had signed an important agreement: “the Clean Clothes Campaign (CCC) together with Bangladeshi and international human rights organizations worked with PVH (owner of Tommy Hilfiger and Calvin Klein) concerning Bangladesh, whose industry has suffered from

a spate of . . . fires involving brands such as H&M, Zara, and GAP. The agreement provides for independent inspections, training, and worker's committees on health and safety issues." Indeed there are all kinds of announcements by a variety of retailers and brands who are investing to improve the infrastructure in Bangladesh. Both Walmart Stores and Gap Inc. are meeting with "industry associations and the Bipartisan Policy Center to develop a plan to improve fire and safety regulation in Bangladesh factories."

However, no one yet has ever brought all these important retailers, brands, and manufactures to the table to collectively use their enormous buying power to change conditions on the ground. Inspired by recent experiences I had at the United Nations including such initiatives as Fashion4Development, Every Woman Every Child and the Millennium Development Goals (MDGs), I founded a nonprofit called Fair Fashion™. The primary directive of Fair Fashion™ is to bring industry to the table—for the first time—to collectively use their buying power to improve conditions on the ground. If orders en masse are withheld, conditions will change. We suggest a symposium in the very near future to address this very issue. Eventually a consortium or coalition would be formed consisting of the most important retailers, brands, and manufacturers to address such issues as working conditions on the ground in addition to strategizing how to help developing countries create sustainable factories for the future. This process would be ongoing.

I truly believe that harnessing the collective buying power of the most important retailers, brands and manufacturers will not only make the necessary changes but will also enable the people of Bangladesh to stay employed during this period of transition. An agreement has been signed in the EU spearheaded by H&M that includes all their major retailer and brands. Thus far most U.S. companies have refused to sign on fearing liability. The symposium will enable their U.S. counterparts to draft something analogous, but in language that is more practical. Using the EU agreement as a pro forma, their American counterparts will put their enormous collective buying power behind this agreement. The effect will have not only immediate change, but the right kind of change in the future.

Finally, once again, I would respectfully like to point out to the committee that Bangladesh is not alone. The September fire in Pakistan that occurred just preceding the two disasters in Bangladesh is only one of many such incidents that occur far too frequently. Perhaps the only difference is that these occur "under the radar." This problem is not just about Bangladesh. Indeed, sweatshops exist in many countries throughout the world. This is a global problem and should be addressed as such and as soon as possible.

I would like to thank the committee again for allowing me to submit this statement and my point of view as part of the official record.

WRITTEN TESTIMONY SUBMITTED BY KALPONA AKTER, EXECUTIVE DIRECTOR,  
BANGLADESH CENTER FOR WORKER SOLIDARITY (BCWS)

#### I. INTRODUCTION

Chairman Menendez and Ranking Member Corker, thank you for the opportunity to submit written testimony on the struggle of garment workers to secure basic labor rights in my home country of Bangladesh. Given the thousands of workers who have recently lost their lives or been severely injured working in Bangladesh's apparel export sector, this hearing could not be more timely.

My name is Kalpona Akter. I went to work in a garment factory in Bangladesh when I was 12 years old. I went to work because my father had a stroke and the family needed money to cover basic living expenses. My mother and I started working in the factory together, but my mother had a 2-month-old infant and so had to quit, so my 10-year-old brother and I were the ones who had to sustain the family. I was paid \$6 a month back then for working up to 450 hours per month in sweatshop conditions. I worked for 8 years at that factory, but I was fired because I began organizing my coworkers to form a union so we could have better wages and conditions. I went to work for another union and then in 2000 I cofounded the Bangladesh Center for Worker Solidarity, a labor rights advocacy organization that conducts research, offers worker training, and works closely with trade unions, such as the Bangladesh Garment Industry Worker Federation, to help workers know how to claim their rights.

#### II. BACKGROUND

The garment export industry is a major employer in Bangladesh, with over 4 million workers, more than 80 percent of whom are women, mostly from poor, rural

backgrounds. They make clothing for export, mostly to the U.S. and European brands and retailers who have flocked to the country to take advantage of rock-bottom wages. Bangladesh's garment workers are the lowest-paid in the world, with an industry minimum wage of about \$38 a month—due to inflation; this cannot buy any more than the \$6 that I used to earn.

#### *Dangerous Factories*

Aside from long hours and low wages, apparel sector workers often work in factories with chronic safety problems. Since 2005, over 1,800 workers have died and thousands more were severely injured in garment factory fires and building collapses. These deaths and injuries could have been prevented had basic safety measures been in place and had workers' right to refuse dangerous work been respected.

While the recent tragedies at Tazreen Fashions and Rana Plaza, in which at least 1,239 workers died making clothing for export, have understandably attracted international attention and condemnation, the fact is that most of the 5,000 garment factories in Bangladesh are not up to fire and building safety code—they are death traps. Any day more workers could be burned alive or crushed when a building collapses. In fact, since Tazreen, and not counting Rana, there have been at least 44 incidents in the Bangladesh garment industry in which a total of 16 workers were killed and at least 691 workers were injured.<sup>1</sup>

#### *Widespread union and worker repression*

On paper, Bangladeshi workers do have the legal right to form unions and collectively bargain with factory owners. In reality, attempts to unionize the country's garment workers are ruthlessly suppressed, with activist workers harassed, blacklisted, or worse, with tacit government approval.

Last year, my friend and colleague Aminul Islam, a garment worker-turned-labor-organizer who worked for the Bangladesh Garment & Industrial Workers Federation and the Bangladesh Center for Worker Solidarity, was killed, his body—bearing marks of torture—dumped on a highway. The government has failed to find or prosecute his killers, but we believe his murder was intended to create a climate of fear among other labor activists. He had been detained, tortured and jailed on previous occasions by security forces in the 2 years prior to his disappearance.

### III. BEYOND THE NUMBERS: STORIES FROM SURVIVORS

While the statistics of death and injury in recent months are astounding and have broken records, the numbers alone may not capture the pain and suffering of families who lost their loved ones and of all the severely injured workers who lost arms and legs, many amputated on site at Rana Plaza in rescue missions to pull workers from the rubble. Let me share just a few stories from workers who survived:

#### *Tazreen Fashions—Fire on November 24, 2012*<sup>2</sup>

- Rehana jumped from the 4th floor window of Tazreen Fashions and was knocked unconscious. She broke her leg. Doctors told her she will need to be on crutches for the rest of her life.
- Reba was the breadwinner in her home. She jumped from the 3rd floor of Tazreen Fashions. She cannot work because of the pain. Her husband is sick. She has two sons, one of whom just qualified to get into the military college. She doesn't know how she can afford it.
- Rowshanara jumped from the 3rd floor and still has severe pain in her back and legs. She was visibly in pain after sitting too long with us. She is single and gets by on loans. She has two teenage children in school she doesn't want to force to go to work, but she worries how she'll get by.
- Deepa worked on the 3rd floor. She saw the fire and tried to escape to the 2nd floor. The factory manager padlocked the door and told everyone to keep working. Workers were crying and searching for a way out. A mechanic yelled to come to the east side of the building where he had created an exit. She jumped from the 3rd floor and fell unconscious, breaking her leg. Deepa was 4 months pregnant and lost her baby.
- Sumi decided to jump from the 3rd floor rather than perish in the factory because she wanted her family to be able to identify her body. She broke her leg and arm and could not move. Her family borrowed money to pay for medical bills before the Association funds arrived. Two weeks before Rana Plaza, she came to the U.S. to urge retailers and brands to join the enforceable and binding Accord on Fire and Building Safety.
- Nazma said she would have died had she waited 10 minutes more to jump. She saw the manager locking the gate to the second set of stairs and grabbed him by the collar to stop him, but he ignored her. She cut her arms trying to get



through a window to reach a bamboo scaffolding. She broke her backbone. Now, she can't carry anything or do household work. She has three children. Her stipend was spent on medical care and her children's education. Her 14-year-old son had to leave school to go to work.

*Rana Plaza—Building Collapse on April 24, 2013*<sup>3</sup>

- Rabeya was working at New Wave Style Ltd. in Rana Plaza the day it collapsed. She has two sons and two daughters—and works because her husband's income is not sufficient to support the family. "I did not want to go to work. But we were threatened by the owner that we would not get our salary if we didn't show up," she said.

Describing what happened when the building collapsed, she said: "Upstairs, suddenly I saw some workers running. I also tried to save myself. But I could not and fell down. A part of ceiling had fallen on me and my legs were stuck between metal rods. Meanwhile a big wall had fallen on my chest, breaking my sternum. It took 2 hours to free myself from the trapped condition. After that I could move a little bit. I fell down and screamed, "Father . . . save me! People rescued me when they heard my scream."

Still in the hospital, Rabeya is facing a long recovery and an insecure future. Her face and nose have been crushed, her two legs broken, and her chest bones broken. "Now, this is the outcome of my decision to support my family. I have become a burden on my husband and my children," she said.

- Moriom, 28 years old, lost her right hand in the Rana Plaza building collapse and today fumes in anger and concern about her bleak future: "None of us wanted to go to the factory that day. They forced us to go there. It was end of the month; we would not get paid for that day if we were absent. We are very poor, and we cannot bear that loss," she said. Moriom has a daughter and a son living with her mother in a village. Her husband left her long time ago. They were going to school. She is now uncertain about their future: "I am the only earning family member. How I will work now?" she said very sadly.

#### IV. THE BANGLADESH SAFETY ACCORD

The Accord on Fire and Building Safety in Bangladesh is a legally binding, enforceable agreement between companies and unions, created to improve safety in the Bangladesh garment industry.<sup>4</sup> Negotiations for the Accord began in the months following a fire on December 14, 2010, which killed 29 workers who were trapped inside a factory supplying several U.S. companies: Abercrombie & Fitch, Carters, Gap Inc, Kohl's, PVH, Target, and VF Corporation. Since then, Abercrombie & Fitch and PVH have signed onto the Accord. All told, the Accord now has 41 companies as signatories including brands and retailers from a dozen countries,<sup>5</sup> two global unions—UNI and IndustriALL, and Bangladeshi unions.

The Accord includes independent safety inspections with public reports; mandatory repairs and renovations to address all identified hazards; and a central role for workers and unions, including worker-led safety committees in all factories and access to factories for unions to educate workers on how they can protect their rights and their safety, including their right to refuse unsafe work. The heart of the Accord is the commitment by companies to work with their suppliers to secure financing, maintain orders, and ensure renovations and repairs are completed to make factory buildings in Bangladesh safe.

*How the Accord will save lives*

I am confident that had the Accord been operational in the factories before the disasters, workers' lives would have been spared at Tazreen and Rana Plaza.

*Mandatory renovations, with brands ensuring financing*

First of all, if the Tazreen and Rana factories had been covered by the Accord, the inspections would have revealed major safety problems and resulted in the U.S. and European brands and retailers being required to ensure financing for mandatory renovations. Tazreen would have undergone renovations to make the staircases fireproof, add additional exit doors, and upgrade electrical wiring. Rana Plaza would probably have been closed down due to the illegal construction of the building on top of unstable swampy ground, which was then worsened by the illegal additions of several floors beyond the five permitted floors. The warning signs of a safety hazard had been evident for a long time: workers told me that the building would shake on a regular basis as a result of the three heavy industrial generators in the building. While Rana Plaza would have been closed, under the Accord, the brands would have been required to ensure that the factories continued to pay workers their reg-

ular wage or helped them to find employment at neighboring factories, while the factories were either renovated or relocated to safer buildings.

*Right to refuse illegal work*

Garment workers in my country live in such poverty that they cannot afford to lose even a day of work. So when workers at Rana Plaza were told they would not receive their salary if they didn't show up—some were even told they would lose a month's salary for not returning the day after the cracks appeared—they returned to work. Perhaps some of the workers believed what they heard on the loudspeaker on the morning of April 24, "All the workers of Rana Plaza, go to work. The factory has already been repaired."<sup>6</sup> Others, while likely skeptical about the safety of the building, perhaps felt at a loss of other options for putting food on the table for their children, and so decided to prioritize their family's survival over concern for their own safety that tragic day. The behavior of management in this case is a blatant denial of workers' right to refuse dangerous work. Under the Accord, workers would not have to choose between such stark options: starve or risk your life. Instead, there is a third way, a path of reason, where workers' are not discriminated against for refusing dangerous work and they receive their regular pay while safety measures are put into place at their worksite, whether that means major building renovations or moving the factory to a new site.

At Tazreen, when the fire started, for workers on some floors their usual sweatshop job became a circumstance of forced labor. Sumi Abedin, a garment worker who worked on the fourth floor, said that when the first person on her floor smelled smoke, and she and her coworkers started to move for the stairs, her supervisor said it was a false alarm and ordered them back to work, locking the collapsible metal gate between the floor and the main staircase. The supervisor said to ignore the fire alarm—that it was just a false alarm—and told them to keep working. The factories in my country are under such high production quotas and tight turnaround deadlines from U.S. and European brands that supervisors will sometimes ignore a fire alarm in order to not lose precious production time. This circumstance would have been avoided under the Accord, which requires respect for workers' right to refuse dangerous work and prohibits brands from cutting orders from a supplier that makes repairs or upgrades necessary to protect workers' lives.

Workers in my country are afraid to organize; their legal right to freedom of association and collective bargaining is not guaranteed. Under the Accord, companies are required to allow union access. If workers' at Rana had bargaining rights, perhaps they could have exercised collective action and refused to return to work the day after cracks appeared in the walls.

*Public reporting of audit results*

After the September 11, 2012, fire at Ali Enterprises factory in Karachi, Pakistan, killed 259 workers who were trapped inside, Social Accountability International (SAI)—a New York-based group—came under intense scrutiny by labor rights advocates and the media.<sup>7</sup> The root of the concern was twofold: first, auditors accredited under SAI's system had given the factory a clean bill of health only weeks before the fire, and second, SAI refused to disclose any reporting from the audit, citing confidentiality agreements. I ask: how is it that SAI can justify keeping their knowledge of the factory confidential when the case involves the largest factory fire in known history in the global garment industry?

Another auditing firm, the Business Social Compliance Initiative (BSCI), had certified two factories in Rana Plaza, New Wave Style and Phantom Apparel. The Web site of another factory in the building, Ether Tex Ltd, advertised a BSCI audit as well, and that it had also passed inspection for the Service Organization for Compliance Audit Management (SOCAM). Clearly, we can't count on these auditing firms to ensure safety for our workers, particularly when BSCI (despite having health and safety requirements in its code) disclaims any responsibility for worker deaths in the premises it had certified by saying: "The reasons for the collapse of the factories seem to be related to the poor infrastructure of the Rana Plaza building. BSCI focuses on monitoring and improving labour issues within factories and relies on local authorities to ensure the construction and infrastructure is secure."<sup>8</sup>

In my country, where the majority of garment factories are not in compliance with fire and building safety code, it is unacceptable for an auditor to ignore construction and infrastructure issues. Under the Accord, independent inspections will be conducted by experts in fire and building safety, and compiled audit results will be made publicly accessible as well as available to the union signatories, which can in turn inform workers on any hazards identified. At the same time, as signatories to a legally binding agreement, the companies that are part of the Accord must ensure that the factory buildings are brought up to code.

*Why industry alternatives won't help*

Facing mounting international criticism for refusing to join the Bangladesh Safety Accord, a group of North American brands, led by Gap and Walmart, have indicated they will launch their own scheme purporting to address fire and building safety issues in the Bangladesh garment industry.

While the full details have yet to be released, the companies haven't given us any reason to believe that their program will include the core elements of the Accord which are so essential to preventing more tragic deaths: transparency of audit results, union involvement, and real respect for workers' right to refuse dangerous work—all in a legally binding and enforceable agreement in which brands ensure that factories have the financial wherewithal to carry out needed fire and building safety repairs. And it's telling that Gap and Walmart didn't even bother to meet with workers' representatives while developing this new public relations stunt.

There is no credible reason why retailers like Gap and Walmart should not join the 41 companies that have already signed the Accord on Fire and Building Safety in Bangladesh and make a real commitment to worker safety. Instead, they continue to barrage the public with new programs and initiatives that simply repackage the failed programs of the past that led to the deaths and injuries of workers in hundreds of incidents in Bangladesh's garment industry in recent years.

Under the Gap/Walmart scheme, even if companies agree to remediate and finance repairs, we have no guarantee that they will actually do so and we cannot hold them accountable because they refuse to make contractual commitments to worker safety.

Walmart routinely violates their voluntary, nonbinding code of conduct and breaks their promises to workers for safe and decent working conditions. Why should workers trust any new voluntary, nonbinding commitment by Walmart?

## V. RECOMMENDATIONS TO THE U.S. GOVERNMENT

In order to improve safety conditions in factories in my country supplying the U.S. market, and to protect workers lives, with this testimony I urge the U.S. Government to:

(1) Urge all U.S. brands and retailers whose clothing was made at Tazreen and Rana Plaza to pay the full and fair compensation they owe to the injured workers and to the families of the workers who were killed.

(2) Call on all U.S. brands and retailers that source clothing from Bangladesh to sign onto the Bangladesh Safety Accord, joining with 41 other companies, including three U.S. companies: Abercrombie & Fitch, PVH, and Sean John Apparel.

(3) Mandate the U.S. Joint Military Exchanges to join the Bangladesh Safety Accord, and to mandate all other apparel brands sold in the Exchanges to do the same.

(4) Require all U.S. brands and retailers to publicly disclose the locations of their supplier factories as well as make available a copy of all current and future audit reports.

(5) Call on U.S. companies to provide fair commercial terms, including adequate prices and delivery schedules, to make possible factory investment in safe conditions and higher wages, and urge the Bangladesh Government to respect workers' right to freedom of association so it is possible for garment workers to negotiate for higher wages.

(6) Help provide support for mental health services for garment workers dealing with long-term trauma as a result of factory fires and building collapses.

(7) Join with the United Kingdom in taking a new approach to export-led development programs by not only providing significant financing to ensure the Bangladeshi apparel industry is made safe and decent for workers, but also publicly acknowledging, as Minister Duncan did this week, the responsibility U.S. brands and retailers have to workers making the products they sell.<sup>9</sup>

## End Notes

<sup>1</sup>As catalogued by the Solidarity Center, during November 24, 2012, to May 31, 2013; on file with the International Labor Rights Forum.

<sup>2</sup>As incorporated in U.S. House of Representatives floor statement submitted for the record of June 5, 2013, by U.S. Representative George Miller, Ranking Member of House Committee on Education and the Workforce.

<sup>3</sup>These worker stories were collected by an outreach committee that the Solidarity Center office in Dhaka organized with its partners, including BCWS.

<sup>4</sup>A copy of the Accord is available at <http://laborrights.org/safetymou>.

<sup>5</sup>As of June 4, 2013, the companies in the Accord include Abercrombie & Fitch, Aldi, Benetton, Bonmarche, C&A, Carrefour, Charles Vögele, Comtex, El Corte Inglés, Esprit, Fat Cat, G-Star, H&M, Helly Hansen, HEMA, Hess Natur, Inditex (Zara), JBC, John Lewis, KIK,

LIDL, Loblaw, Mango, Marks & Spencer, Mothercare, N. Brown group (SimplyBe, High&Mighty, etc.), New Look, Next, Otto Group, Primark, PVH, Rewe, Sainsbury's, Sean John Apparel, s.Oliver, Stockmann, Switcher, Tchibo, Tesco, V&D, and WE Group.

<sup>6</sup>As reported by Pintu, 18, and Shilpi, 21, workers at New Wave Bottom Ltd, one of the factories in the Rana Plaza building, recalling the loudspeaker announcement they heard the morning of November 24, 2013. This testimony was collected by an outreach committee that the Solidarity Center office in Dhaka organized with its partners, including BCWS.

<sup>7</sup>See for example, this December 7, 2012, New York Times article: <http://www.nytimes.com/2012/12/08/world/asia/pakistan-factory-fire-shows-flaws-in-monitoring.html>.

<sup>8</sup>As printed on BSCI Web site; retrieved on June 5, 2013: <http://www.bsci-intl.org/news-events/news>.

<sup>9</sup>As reported on June 4, 2013, by the BBC: <http://www.bbc.co.uk/news/uk-22777071>.

WRITTEN TESTIMONY SUBMITTED BY AKRAMUL QADER, AMBASSADOR OF BANGLADESH  
TO THE UNITED STATES

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ



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Honourable Senator Robert Menendez  
Chairman  
US Senate Committee on Foreign Relations  
Dirksen Senate Office Building  
Washington DC

RE: Hearing on Labour Issues in Bangladesh

Honourable Senator Menendez,

I have the honour to make this submission to the esteemed Senate Committee on Foreign Relations in regards to the above hearing.

I shall deeply appreciate the support extended by your office for disseminating the attached documents to the Committee members and staffers as well as any interested official.

As regards the labour issues in Bangladesh, on the behalf of the Government of Bangladesh I would like to draw the Committee's attention to the attached document that ,I hope, would be properly put in the official records.

Sincerely,



Akramul Qader

## **Labour Issues in Bangladesh: A Submission to the Senate Foreign Relations Committee**

**6 June 2013**

**By Akramul Qader  
Ambassador of Bangladesh to the USA**

Bangladesh's labour intensive readymade garments (RMG) industry provides a lifeline for over four millions of poor workers, over 80% of whom are women. With an annual export figure of around \$20 billion, the garments sector accounts for roughly 93% of Bangladesh's total export earnings. Garments workers represent over 90% of Bangladesh's total employment in the industrial sector. It is obvious that any discussion on Bangladesh's labour condition centers on the practices in one single sector which is RMG.

Creation of a labour friendly environment in the garment sector was one of the key electoral pledges of the present government. To bring in the most urgent reforms in the country's labour law and ensure a safe work environment, Prime Minister Sheikh Hasina, at the very early stage of her current administration initiated a dialogue with the multiple stakeholders at home and abroad.

### **Measures to advance labour welfare**

The most notable of the recent initiatives are touched below:

- I. Implementation of Minimum Wages Structure: Minimum wage in the garments sector was enhanced by 82% which was effective since 1<sup>st</sup> November, 2010. The minimum wage is applicable for the fresh recruits during the first three months of probation period a successful completion of which enables workers to draw salaries on a higher scale. Minimum wages has been declared in 38 sectors out of 42 sectors. Recently in response to the demand of the workers and considering the socio-economic conditions of the country, the Government has formed a new Wage Board to recommend minimum wages for the RMG Sector. The process is in progress.
- II. New Trade Unions: During January to May, 2013 a total of 22 trade unions in the RMG sector were registered with the Department of Labour. This shows much improvement in the rate of trade union registration over the last five years. To sustain the process the Government has simplified rules which are reflected in the revised Bangladesh Labour Act, 2006.
- III. Implementing ILO Better Work programme: To successfully implement the programme with support from ILO and IFC, the ILO carried out a diagnosis assessment in 2011. The Ministry of Labour and Employment has approved a project namely "**Promoting Fundamental Principles and Rights at Work in Bangladesh**" based on the findings of the diagnostic assessment. The project will contribute to building a solid ground for implementing the Better Work Programme. Amendments to the 2006 Act was one of the pre-conditions for beginning the programme. Since the concerns raised by the Better Work officials have been duly addressed through amendments in the labour law, it is expected that the Better Work programme would be implemented fast.

- IV. Setting up a garments village: The Government has initiated implementation of a project to establish a Garments Industrial Park at Bousia of Munshiganj district near Dhaka. For this purpose a committee has been working with the concerned parties. In collaboration with the industry, the government plans to provide dormitories/low cost housing facilities to the garments workers.

#### **Amending the Labour Act of 2006**

The Cabinet has approved the Labour Law Amendment Bill 2013 to change as many as 76 sections and include 7 new provisions. It is expected that the amendments would be passed in the ongoing session of the parliament. The amendments were proposed in consultation with multiple stakeholders such as labourers, trade union leaders, experts, employers etc. Prominent features of the amendments are as below-

<b>Issues</b>	<b>2006 Act</b>	<b>2013 Amendment Bill</b>
Trade Unions	Upon receipt of application for registration, the Director of Labour was required to send the names of the of workers intending to form Trade Unions to factory owners/ management for verification purpose. [Section 178 (3)]	This particular provision has been repealed. Verification will be done by the Director of Labour himself under new section 179 (2A)
External Experts	There was no provision of hiring 'external experts' by the CBA/trade unions during collective bargaining with the factory owner/ employer.	A new section '202-A' has been included which will enable CBAs to hire external experts to assist them in bargaining. Any dispute or disagreement with regards to external expert will be resolved by the Director of Labor through arbitration.
Participatory Committee :	i) Participatory committee (with equal number of representatives of employer and trade unions/CBAs) was to be formed by the employer. [Section 205 (1)] ii) The representatives of the trade unions for the participatory committee was to be 'nominated.' [Section 205 (4)]	i) Participatory committee will be formed by the employer in direct collaboration with the workers. ii) The labour representatives in the Participatory committee will be 'elected', not 'nominated'.
Group Insurance	Government may, introduce group insurance, in the establishments wherein minimum 200 permanent workers are employed. [Section 99]	Group insurance for factories with minimum 100 workers has been made compulsory. The factory will deliver the insurance money to the spouses after collecting from the insurance companies in case of death of a worker. They will have to pay it within 90 days of claiming the insurance money in any case.
Registratio	The employers were at liberty	New section 3A has been included which

Issues	2006 Act	2013 Amendment Bill
n of contractors	to hire workers from contractors irrespective of their registration	obliges the contractors that supply temporary labour/ workers to factories on a contractual basis, must be registered by the Government.
Rights of terminated workers	The employer could evict a worker whose services has been ceased from employer-provided accommodation. [Section 32 ]	Proviso added to Section 32 - a worker residing in employer provided accommodation, whose service has been ceased, <b>cannot be evicted until and unless all his dues are paid.</b>
Safety	Existing safety provisions have been amended to ensure better and safer workplaces	i) The employer will ensure the exit paths are unlocked and the staircases/paths in the factories are kept open during the working hours to meet any emergency. [Sec 72 (a)] ii) A worker cannot be made to work until all personal safety/protection equipments are provided to him/her. [Sec 78A] iii) Employer will bear the treatment expenses of a worker injured by occupational/safety hazard. [Sec 82 (2B)] iv) Safety Committees will have to be formed in the factories having more than 50 workers.[Sec 90A]
Health centre/Clinic	There was provision to provide with first-aid appliances in factories (Section 89)	The owners will have to setup a permanent Health Centre(s)/Clinic to ensure the health of workers at the factory where up to 5,000 people are working. [Section 89 (6)]
Payment of wages and other benefits	Section 124 - All wages shall be paid in current coin or currency notes or bank cheque.	i) Section 124A included for payment of wages to bank account or through other electronic means ii) section 124B included - disputes regarding payment of an existing or ceased worker will be settled by Chief Inspector within maximum 20 days.
Minimum wages board	Section 139, 140 & 142 - prescribes formation and function of minimum wage board which would be constituted upon application from employers or workers.	Section 140A included - Government may form wage board as and when it seems necessary and declare new minimum wages for any particular industry. Government may also declare new minimum wage by notification in official gazette without re-constituting wage board.
Gratuity	'Gratuity' which is payable on termination of employment was equivalent to 30 days' wages for every completed year of service or for any part thereof	Gratuity for workers who have been working for more than 12 years would be equivalent to 45 days' wages



Issues	2006 Act	2013 Amendment Bill
Establishment/building safety	in excess of six months; Section 326 (1) (a) - for The Government may require that previous permission in writing be obtained in the prescribed manner from the chief Inspector for the construction or extension of any factory or class of factories;	New inclusion - consistency between the structural design of the building and factory lay-out has to be maintained.

### **Industrial Safety**

#### *Government level initiatives*

- **Ministerial to look after one single sector:** March 2013: Government formed an 11-member empowered Ministerial Committee to address all issues related to RMG sector: The Committee was functional before the tragic Rana Plaza accident.
- **Tri-partite declaration:** In presence of the ambassadors of Bangladesh's leading trade partner countries such as the USA, Canada, European Union, Japan a Government-Employers-Workers tripartite Joint Declaration was signed in Dhaka on 4 May 2013. The Joint Declaration is now the reference point for future, time-bound actions/specific steps, especially by the end of the year. An Action Plan has been taken to implement the declaration.
- **Legal support to repressed workers:** Government is constituting a Workers' Assistance Cell- to ensure legal rights of the repressed workers. Since February 2013 a hotline has been operational for timely interactions between employers and workers to redress complaints.
- **Fire-safety Task Force:** Under a National Tripartite Action Plan, a Task Force on Fire Safety is at work comprising representatives of the industry, academia and other governmental stakeholders.
- **A year-long crash program** is currently under implementation to train at least one owner and nine mid-level management from each factory.
- **A Committee led by the Textile Minister** is at work since April 2013 to undertake physical inspection of the factories. This committee is expected to submit a comprehensive report on unsafe factories shortly. Besides Bangladesh Institute of Development Studies (BIDS) has been assigned to undertake a baseline survey on factory conditions so the unsafe work places are immediately identified and brought to compliance.

#### *Industry level initiatives*

- Bangladesh Garments Manufacturers and Exporters Association (BGMEA) has collected complete factory building inspection reports including load bearing calculation by professional engineer(s) from most of its members. The BGMEA has undertaken a random survey on 20% of its member factories to ascertain the accuracy of the submitted reports.

- The BGMEA expects to complete a review of the structural integrity and fire safety of buildings housing export oriented garments factories by November this year and take necessary corrective measures. This Association is currently developing a mega workers' database across the industry.

*Initiatives from buyers*

An important development after the Savar building collapse is the signing of a legally binding agreement by the European retailers to improve fire safety and building code compliance. The agreement calls for retailers to stop doing business with any factory that refuses to ensure the required safety mechanisms and for workers and trade unions to have a say on safety issues. Some of the US retailers have been implementing individual safety programmes. Bangladesh government is in consultation with the US retailers to explore if the latter can come up with any initiatives similar to their European counterparts.

**Workers' rights at the Export Processing Zones**

Bangladesh Export Processing Zones Authority (BEPZA) is an autonomous organization under the Prime Minister's Office that operates 08(eight) Exports Processing Zones (EPZs) in Bangladesh. At present, there are 415 industrial enterprises in operation, where 3, 58,772 Bangladeshi workers are employed. 64% of the EPZ workers are women. The total investment in these enterprises is over US\$ 2,679.6 million from 37 countries including the USA.

With a view to ensuring the labour rights and right to form Workers Welfare Association (WWA) in the EPZ enterprises according to the ILO Convention 87 and 98, Bangladesh Government enacted the 'The EPZ Workers Welfare Association and Industrial Relations Act 2010(EWWAIR Act-2010)' in 2010. The Act provides the definition of 'The Workers Welfare Association (WWA)' which is the Collective Bargaining Agent (CBA) for the industrial unit. The WWAs have the right to negotiate directly with the employer on wages, working hours, promotion, increment and other terms and conditions of employment. Technically, EPZ Workers Welfare Associations are as good as Trade Unions; only difference being absence of right to call strike by WWAs. However from December 2013, they will have the right to call strike too.

BEPZA also ensures office/space for all WWAs, and so far 155 enterprises have provided office/space for the WWA. WWAs enjoy the right to form a federation. To facilitate that BEPZA has been preparing the working details.

BEPZA recognizes that Workers' Welfare Associations are needed to enable the workers to realize their legitimate demands. At the same time, it is necessary to ensure that actions are not politically motivated and influenced by others, who are not related to the activities in the EPZs. Therefore, WWAs are not allowed to have any contact with political parties and NGOs under Article 80.1 of the Act. As per EWWAIR Act, 2010, the workers have full freedom to approach directly to Counselors to resolve their complaints/disputes, if any.

**Ensuring justice in Aminul Islam murder case**

The Government of Bangladesh remains seriously concerned over the death of Mr. Md. Aminul Islam, an office bearer of Bangladesh Centre for Workers Solidarity (BCWS), and

stands committed to unearth the incidents and motives behind the death to bring the alleged perpetrators to justice.

According to police reports, a dead body was found on 05 April 2012 at 7:00 am on Tangail-Mymensingh Highway in front of Brahminshasan Women College under Ghatail Police Station in Tangail District. There were some marks of injury on the dead body but no marks of violence or trace of blood were found near the spot. Following post-mortem conducted by the local Civil Surgeon, the dead body was buried as it could not be identified at that time, including by the local people. A case was filed in this connection at the Ghatail Police Station on the same day. The photograph of the dead body was published in different dailies for identification.

Later, one Mr. Rafiqul Islam claimed to the police that the victim mentioned in one of the press reports that came to his notice was his elder brother Md. Aminul Islam (40), son of Mr. Mafit Uddin Akandh (late) of Hijalhati Police Station, Kaliakoir, District: Gazipur. He also informed that the deceased Md. Aminul Islam was an organizer of Bangladesh Center for Workers' Solidarity (BCWS) and also a leader of Bangladesh Garments and Industrial Workers' Federation.

Following a petition by the deceased's brother, the Court gave directives for disinterring the dead body for identification. This was subsequently carried out by a local executive magistrate, where upon Mr. Rafiqul Islam confirmed the deceased's identity and carried the dead body to their village home for burial. Mr. Rafiqul Islam gave an account of the reported incidents when Mr. Aminul Islam was last seen alive and filed a case with the police naming one Mostafiz for his alleged involvement in the death of his brother. The case was referred to the Court, and the local police carried out further investigations and conducted drives to arrest the accused who had reportedly gone into hiding.

The Government accorded top priority to investigate the case, and formed a high-level committee headed by an Additional Secretary of the Ministry of Home Affairs to monitor progress with the investigation. The case was transferred to the Detective Branch of Police of Tangail for thorough and detailed investigation under the supervision of an Additional Superintendent of Police. Subsequently, the case was transferred to the Criminal Investigation Department (CID) in October 2012 whereupon the Department initiated its further investigation on 16 November 2012. The family members of the deceased have also been asking for the case to be taken up by CID. The American Federation of Labour and Congress of Industrial Organization (AFL-CIO) also made a recommendation to this effect. In the meantime, the Court issued arrest warrant against the accused Mr. Mostafiz on 6 January 2013 who, along with another suspect, remains absconding.

The Government will remain engaged with the case to ensure that the ongoing investigations lead to its expeditious disposal, and would continue to maintain its 'zero tolerance' policy towards all sorts of violence and violation of rights against workers.

#### **Registration of BCWS**

Department of Social Welfare (DSW) cancelled the registration of Bangladesh Center for Worker Solidarity (BCWS) on July 17, 2011 due to non-compliance of the conditions stipulated in the concerned Ordinance and also for non-submission of the accounts and non-publishing of the annual report. Subsequently, BCWS filed a writ with the High Court against the cancellation. **Now the BCWS registration depends on the verdict of the court.**

NGO Affairs Bureau (NGO-AB) cancelled the registration of BCWS on 03 June 2010 when intelligence agencies reported their direct involvement in provoking the workers to create anarchies in the name of establishing their rights. It was then referred to High Court and after completion of legal procedure; NGO-AB is now waiting for BCWS's re-registration with DSW.

Government is committed to ensure speedy disposal of the issue of BCWS' re-registration.

#### **Resolving Kalpana Akhter and Babul Akhter cases**

Labour leaders Babul Akhter and Kalpana Akhter were allegedly involved in agitation, unrest and the subsequent violence and vandalism on the day of the declaration of new wage in the garment sector in 2010. Six cases were filed against them based on specific allegations which are still under consideration in the Higher Court.

The two labour leaders are currently on bail. The Ministry of Home Affairs has given due instructions to the law enforcing agencies to take measures so that the trial can complete expeditiously.

#### **Bangladesh remains thankful to the Senate Foreign Relations Committee**

Bangladesh Government is thankful to its foreign friends and trading partners who have stood beside it during a very critical time of its trading history. The Government of Bangladesh would like to convey its high admiration for all members of the Senate Foreign Relations Committee who over the years have demonstrated a keen interest in Bangladesh's development and relations with the USA. Bangladesh government firmly believes that the June 6 hearing would offer a valuable direction for all stakeholders in terms of having a fresh sense of options and imperatives for further expanding bilateral trade. Bangladesh cannot be more thankful to the Foreign Relations Committee for the hearing's timing which also coincides with the decision on the petition to suspend/restrict Bangladesh's GSP status.

Bangladesh would like to take the opportunity to reiterate its stance that though Bangladesh's garments export is not covered by US-GSP, withdrawal of this benefit would create a serious branding problem in business with others. The industry is likely suffer a serious image problem. As overseas trade is critical for the life and living of millions of its poor workers, a barrier free market access would help Bangladesh generate more jobs for workers. A regressive measure is not expected to do any good to any corner, neither the low budget US consumers nor Bangladeshi workers .

Government of Bangladesh is sincere to improve the living condition of its workers who constitute the very backbone of Bangladesh economy and remains open to engage with any stakeholder, all development partners including the USA, for implementing any interesting idea.