

Update on Bangladesh Accord for Building and Fire Safety Implications for FWF's Enhanced Monitoring Programme Bangladesh (September 2020)

2013 Accord (15 May 2013 – 31 May 2018)

The Accord was created in response to the Rana Plaza factory collapse on 24 April 2013, which killed 1,133 people who were working there and critically injured thousands more. The Accord was established to help prevent such a tragedy from happening again. The Accord on Fire and Building Safety in Bangladesh is a legally binding agreement between global brands/retailers and IndustriALL Global Union and UNI Global Union global trade unions to work towards a safe and healthy garment and textile industry.

About 220 brands (and importers) joined the Accord. Some 1,600 factories, producing for member companies, were covered under the Accord programme. As of 31 May 2018, when the 2013 Accord concluded, 85% of the safety hazards identified during initial inspections across all Accord factories, had been fixed.

2018 Transition Accord (1 June 2018 – 31 May 2021)

The 2018 Transition Accord entered into effect on 1st June 2018. This agreement is a continuation of the 2013 Accord, which was signed by global unions and brands on 15th May 2013 and expired on 31st May 2018. Some 200 brands (mostly previous signatories) continued to support the Accord, which would allow the finalization of the remediation for the 1,600 covered factories. Remediation rate now stands at 91%.

The agreement of the Transition Accord indicates that, at the end of the set timeframe (1 June 2018 - 31 May 2021), the work will be handed over to a national regulatory body, supported by the International Labor Organization, to be carried forward from that point. In December 2019, an assessment was to take place by the Accord Steering Committee to determine whether there is a national regulatory body ready to take over the roles and responsibilities of the Transition Accord. If the Steering Committee determines that no such body is ready, this agreement shall be extended for a further 12 months. Should such a body be ready to take up the work before the ending date, the Accord Steering Committee may decide to terminate the effort as appropriate to the overall goals of the program.

However, before the Transition Accord was due to start in June 2018, Smart Jeans Ltd., a Bangladeshi manufacturer, challenged the Accord's decision to terminate the factory in court. As a result, the Bangladesh High Court put a restraining order on the Accord's inspection programme. This meant that the Accord would have to leave the country after 30 May 2018. At the request of the Bangladesh government, the High Court postponed the date to 30 November and declared that the domestic inspection agency - the Remediation and Coordination Cell - would need to be ready at that same time to take over. The Accord office filed an appeal to lift the restraining order. The Supreme Court decision on this appeal was postponed multiple times since 30 November.

Finally, on 19 May 2019, the Accord presented a memorandum of understanding (MoU) to the Appellate Court in Bangladesh in relation to the High Court order which would have closed the Accord Bangladesh office operations. The MoU calls for the establishment of a new national RMG safety entity to be called the RMG Sustainability Council (RSC). The MoU was signed by the Accord Steering Committee and the BGMEA and has the endorsement of the Government of Bangladesh. The MoU has been accepted by the Appellate Court and will result in the 2018 Transition Accord and Accord Bangladesh office and operations continuing in Bangladesh for 281 working days until May 2020.

RMG Sustainability Council (as of 1 June 2020)

During the 281-day transition period until end of May 2020, the Accord in Bangladesh worked intensively with the BGMEA so that they gain an intimate knowledge of the Accord's day-to-day work, operations, systems, protocols, data management, and disclosure related to the core functions of the Accord: inspections & remediation, safety training, safety complaint resolution, and public reporting. To this end, a BGMEA team consisting of a technical officer and an engineer was assigned to work with the Accord Bangladesh office to ensure this knowledge and full understanding of the Accord operations is transferred. During this same period, the BGMEA and Accord Steering Committee will finalize the practical details related to the establishment and functioning of the RSC, including funding, decision making structure, how to engage with brands, etc.

On 14 January 2020, representatives of the BGMEA and the Steering Committee of the Accord on Fire and Building Safety in Bangladesh (Accord), met in Dhaka to finalize the establishment of the "RMG Sustainability Council (RSC)" by signing a Transition Agreement and agreeing Articles of Association for the RSC. The Transition Agreement includes a number of important elements:

- Documented decisions, policies and protocols developed by the Accord will be carried over to the RSC as these have proven effective and expedient.
- All existing transparency features of the Accord will be maintained, including full public disclosure of inspection results and remediation activities.
- Factories currently covered by the Accord shall be carried over to the RSC retaining their remediation status and any outstanding remediation requirements as per the factory's Corrective Action Plan.
- All operations, staff, infrastructure, and functions of the Accord Office in Bangladesh will be transferred to the RSC.
- The RSC will appoint a Chief Safety Officer, retaining the same independence, autonomy, authorities, and reporting requirements practiced by the Accord.
- The Safety and Health complaints mechanism established under the Accord will continue to operate independently and autonomously.

After the transition period, the RSC eventually took over all Accord Bangladesh operations and inherited the Accord infrastructure and staff as of 1 June 2020.

The RSC in Bangladesh is a non-for-profit company governed by a Board which consists of 3 parties: BGMEA/BKMEA, (inter)national unions and brands. The three parties represented in the Board have set up so-called 'Special Purpose Vehicles', sort of associations registered in The Netherlands (for brands, unions) and in Bangladesh for BGMEA/BKMEA. These three SPVs are jointly the owner of the RSC. This set up was chosen to protect parties concerned from any personal liability concerns.

One of the SPV will be the Accord Foundation in Amsterdam, which will be contract partner of the brand members. Brands would thus not have to enter into an agreement with a Bangladesh entity that is governed under Bangladesh law. The Accord Foundation will collect the membership which will be used to finance the operation of the RSC in Bangladesh. In this regard, it is important to note that brands that signed the 2018 Transition Accord will remain legally bound until May 2021. Related membership fees will cover the first year of operation of the RSC. The Accord Foundation would subsequently propose a new agreement to the member brands that would ensure continued operations of the RSC after May 2021. This is expected to happen within the course of 2020, but at least before May 2021. Brands would have the possibility to continue or opt out.

Implications for Fair Wear member brands

FWF will maintain the current way of assessing brands' performance during the annual brand performance of Fair Wear member brands sourcing in Bangladesh. For clarity sake, please note the following changes marked in red:

- a) Those members that signed the Accord, **including the 2018 Transition Accord (in force until May 2021) and subsequent agreement that governs the RSC**, and are following up are eligible to receive an Advanced score on the respective sub-indicator for Bangladesh (under indicator 2.7).
- b) Those members that didn't sign, but source from factories that are inspected in accordance with the standards agreed upon under [National Tripartite Plan of Action](#) **(which is the basis for Accord inspections)**, and that can show follow-up on remediation as per an approved Corrective Action Plan are eligible to receive an Intermediate score.
- c) When a factory is terminated by the Accord, **including Transition Accord and subsequent agreement that governs the RSC**, the brand is to phase out production. Continuing to source from Accord/RSC-terminated factories will lead to an Insufficient Score.
- d) Those members that did not sign the Accord/**Transition Accord or RSC**, and source from factories that are not inspected in accordance with the standards agreed upon under National Plan of Action, or cannot show follow-up on remediation of an approved Corrective Action Plan are categorized as Insufficient.
- e) When a brands scores insufficient two years in a row, the brand would be placed in 'Needs Improvement', which could lead to suspension of membership the year after and ultimately termination of FWF membership.