



on Fire and Building Safety in Bangladesh

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## STEERING COMMITTEE QUARTERLY FACE TO FACE MEETING – MINUTES

**Date:** Wednesday 17<sup>th</sup> & Thursday 18<sup>th</sup> October, 2017

**Time:** 9am – 5pm. 9am – 2pm

**VENUE:**

Accord office

AJ Heights Building, 4th Floor

Cha – 72/1/ D

Progati Sarani, North Badda, Dhaka - 1212

**ATTENDEES:**

**Chair:** Ted Southall & Mathias Bolton

**Company signatories:** Karl Fagerlin, Jochen Overmeyer, Ted Southall

**Trade Union signatories:** Christina Hajagos-Clausen, Mathias Bolton, Jenny Holdcroft, Roy Ramesh (17<sup>th</sup> only), Amirul Haque Amin (17<sup>th</sup> only)

**Witness signatories:** Scott Nova

**Accord Executive Team:** Rob Wayss

**Accord staff:** Tatiana Delany, Joris Oldenziel, Michael Bride, Miriam Neale

**Apologies:** Aleix Gonzalez, Marissa Pagnani, Santiago Martinez-Lage Sobredo, Christy Hoffman, Ineke Zeldenrust, Dan Rees

## AGENDA ITEMS

### 1. Introductions

- Rob welcomed those members of the Steering Committee present to the Accord office. Ted and Mathias volunteered to co-chair the SC meeting in Dan's absence.

#### 1.1 Agree meeting agenda and any items of AOB

Agenda agreed with following changes:

- The Trade Union representatives requested to include a discussion on the 24 month termination period in conjunction with worker relocation conditions under agenda item 3.2 inspections & remediation
- Jochen noted that a letter was sent to the SC from a signatory brand on 3<sup>rd</sup> October 2017 regarding the 2018 Accord. The SC agreed to discuss the letter under agenda item 4.1.

### 2. Governance

#### 2.1 Review last meeting agreed actions:

Rob updated the SC on the following outstanding action:

- The Working Group (Rob, Christy, Scott, Marissa, Santi and Karl) on Political strategy has met on two occasions since the June SC meeting. The group met most recently in late August to develop a letter to submit as an exhibit in one of the court cases related to the functions of the Accord foundation in implementing the commercial terms memorialised in the Accord agreement.

**Action:**

- **Secretariat to re-circulate a copy of the working group on political strategy exhibit letter to the SC.**

#### 2.2 Advisory Board (AB) Update (Paper 1)

Rob updated the SC on the outcomes of the 12<sup>th</sup> AB meeting held on 23<sup>rd</sup> August 2017.

- The AB was advised on the amendments to the Article 21 protocol regarding group termination, was updated on the inactive factories remediation fund and on the status of coordination with the Alliance on common factories. The Accord also briefed the AB on the status of the 2018 Accord.
- Srinivas Reddy, ILO Country Director, updated the AB on the status of the National Tripartite Plan of Action's (NTPA) Remediation Coordination Cell (RCC). The RCC is the transitional mechanism supported by the National Social Partners, ILO and donors to develop a functioning and adequate national industrial safety regulatory body. Srinivas clarified that the RCC is not the same as BGMEAs Shonman platform.
- The IndustriALL federations raised a concern with the Accord regarding the harassment of safety committee members. Michael explained the proactive work that the Accord carries out to deal with complaints cases on retaliation.

Rob informed the SC that the Accord's monthly bi-lateral BGMEA meetings have not been held since the announcement of the 2018 Accord in July, but these will be resumed after this Steering Committee meeting.

## 2.3 Dispute Resolution Process

### Update on notices of intent and charges

As per the communications procedure related to the Dispute Resolution mechanism agreed in June 2016, the SC are updated on a recent notice of intent to file charges. The Secretariat and the SC were copied on an intent of notice to file charges from the Global Unions that relates to a specific remediation financing request. The notice cites that the factory is high risk and therefore the Article 22 obligations apply for the tier 3 brands. The SC noted the content of the letter from the Global Unions. The SC company reps reserve their opinion that Art 22 is not applicable to Tier 3 factories.

## 3. Management Reporting (Executive Office pt. 1)

### 3.1 Review last meeting agreed actions:

- Ted explained that the SC brand reps presented to the brand caucus at their June meeting on the need for companies to update their commercial terms with their suppliers to explain that business is contingent on their supplier meeting Accord obligations. The SC brand reps explained the legal consequences brands may face if they do not update their terms and conditions accordingly. The SC agreed that this message should be re-iterated at the next brand caucus meeting.
- Rob informed the SC that the Accord has not addressed the structural inconsistencies in the Accord building standard with the Alliance and the NTPA, in order to agree on structural remediation standards where there are discrepancies.
- The Accord has not carried out an exhaustive cost benefit analysis to determine if retroactively obtaining fire design and electrical design final copies is tenable, but in consultation with Accord engineers it seems that the best option is to prospectively introduce software to obtain design drawings via electronic software.
- Ted to provide the final analysis of 'in progress' issues across LCW's factory base to the SC. Ted provided a summary of LC Waikiki's analysis which indicates currently that remediation across LC Waikiki's factory base will be 96% completed by the end of the 2013 Accord.

#### Action:

- **SC brand reps to share best practice examples & sample language from commercial terms with their suppliers to explain that business is contingent on their supplier meeting Accord obligations with the caucus meeting in November 2017. SC brand reps to ask brands to share what T&Cs they have in relation to the Accord.**
- **Accord to address structural inconsistencies in Accord building standard with the Alliance and the NTPA to agree on remediation standards.**

## Inspection Program & Remediation

### Structural update since June 2017 SC meeting

Rob presented an update to the SC on the structural engineering department and structural remediation progress and thanked Miriam for her involvement

over recent months supporting the structural department to implement new systems and improve efficiency.

- The Accord has committed extensive effort to supporting and capacity building the structural department and has created an assistant lead engineer position on a trial basis and has promoted a case handler to work with the assistant lead engineer to implement structural escalation triggers and operational systems efficiencies.
- The structural department is in the process of introducing a post DEA remediation/retrofitting CAP.
- The department has recently introduced scheduling efficiencies based on objective criteria and up-to-date FFC data.
- Jochen raised the issue of DEA re-submissions and asked for an update on efficiencies the Accord has taken to speed up this approval process. Rob confirmed that part of the role of the Assistant Lead Structural Engineer is to support the monitoring and tracking of DEAs and foresees measurable improvements in the short-term. Miriam shared that whilst many DEAs have been approved, in 45% of cases, DEAs need to be re-approved due to changes in the structure of the building often identified during the DEA verification visit.

#### Proposal to hire an external engineering firm to support and speed-up the DEA process (paper 5)

Rob summarised the Secretariat's proposal to hire an external engineering firm to support and speed-up the DEA process. Rob explained that the benefits of utilising an external engineering firm would be two-fold. Firstly, the Accord expects the input from the international firm's engineers will improve the submission quality of DEAs and expect in some cases more precise comments from their DEA/EA reviews from the engineering firms inspected factories are utilizing for DEA/EA work submitted to the Accord. Secondly, utilising external engineers to review some DEAs will free up Accord engineers (currently at maximum capacity) to carry out an increased number of verification inspections and retrofitting monitoring inspections.

#### **Action:**

- **The SC agreed that Rob would review the initial proposal to utilise external engineers in the Accord DEA review process. Rob to report back to the MC with a proposal for agreement and suggested numbers to trial this approach.**

#### Brand average CAP completion rates in case of inactive responsible supplier CAP completion.

Jochen informed the SC that some brands are concerned about their initial CAP progress rate falling.

- Tatiana clarified that the brand progress rate is calculated based on all responsible factories (active and inactive responsible). In January 2017 the SC discussed a brand's responsibility for their inactive responsible factories on completion of remediation. The SC agreed that when an inactive factory completes its CAP (initial and new findings) then a signatory company is no longer responsible for that factory and it shall be removed from the inactive, responsible brand's list. In order to implement this decision, the factory has to be removed from a brand's responsible factory list and accordingly it is no longer counted in their average progress rates.
- Jenny commented that this only matters if the brands are being monitored based on their average progress rate and confirmed that the Global Unions are no longer using this metric to monitor companies.
- Ted explained that some companies are linking staff bonuses and incentives to Accord remediation progress rates. The SC agreed that companies can self-calculate the impact of inactive factories at 100%.
- The SC agreed that there should be no change to the current tracking mechanism for CAP completed inactive responsible factories.

#### Fire safety engineers' training on testing & commissioning (delivered by Jensen-Hughes)

Rob explained to the SC that the Accord has contracted Jensen-Hughes to carry out a three-week training for the Accord fire safety engineers on verification inspections of the testing and commissioning of fire detection and fire suppression systems. The training is heavily based on in-factory training. The factories where the training takes place will receive the actual Accord testing and commissioning verification inspection. The Quality Assurance inspections carried out by Jensen-Hughes in June 2017 flagged a lack of capacity in Bangladesh in testing and commissioning of fire protection and suppression systems.

### **3.3 Safety Committees, all Employee Information sessions & complaints**

#### Safety Committee and Safety Training update

Michael presented an update and summary of the status of the Accord safety committee training program to the SC:

- Each factory Safety Committee receives 21 hours of Accord training.
- The number of factories participating in the safety committee training program has risen from 42 in August 2016 to 839 factories on 1<sup>st</sup> October 2017.
- The Accord has made 1,025,000 unique worker contacts so far through the all-employee meeting program.
- The Accord issues a letter of recognition to the factory when the Safety Committee completes their training. The Accord also issues individual letters (Eng/Bangla) to each Safety Committee member upon completion of the training program.
- Most factories involved in the pilot safety committee training program have had some problems with the functioning of the safety committee. The Accord is working with these factories to reconstitute the safety committee and re-engage the factories.
- The first all-employee meeting takes place before the first safety committee training program, the second all-employee meeting takes place after the fourth training session. This way the safety committee has received some training and support to deal with worker complaints.
- Michael talked through the safety 'Walk Through' done by the safety committee representatives at the factory, explaining that so far it has been successful despite requiring a lot of case management by trainers.
- Michael highlighted two challenges that the Accord faces in running the safety committee training program; 1) traffic constraints meaning the schedule needs adapting 2) Union federation involvement at the initial meeting. Some factories push back if the Trade Union has solidarity members in the factory but not a registered trade union. Furthermore, despite the Accord pushing for their involvement, in only 60% of cases where they have informed the Accord they have solidarity members, does the trade union federation representative attend the meeting. The Accord's labour liaison officer does a lot of work to remind and chase Trade Union federations to attend these meetings. Jenny responded that she and Roy would follow up with the IBC affiliates on the benefits of attending initial meetings.

#### Complaints update

Michael presented an update to the SC on most recent developments relating to the Accord complaints mechanism, highlighting the fact that the Accord has received 205 complaints in the last 6 months, of which 131 fell under the OSH complaint remit.

- Jochen asked whether the Accord has a maximum capacity threshold for dealing with complaints and how the Accord plans to manage the increasing number of complaints. Rob responded that the Accord has always anticipated that the number of complaints would increase with the increase in the number of all-employee meetings.
- Jochen asked if the Accord could ensure that safety complaints are diverted through the safety committee before coming to the Accord. Michael and Rob explained that it would be contrary to a principal element of the Accord to make the complaints mechanism more difficult for workers to access. Michael explained that non-OSH complaints are filtered out at the initial investigation. Furthermore, the safety committee is involved in the monitoring and resolving of a complaint too, facilitated by the Accord dedicated trainer.
- Karl asked for clarification on what assessment is carried out to determine if a complaint is in scope. Michael responded that complaint is deemed in

scope if the matter is related to health and safety and related to an Accord covered factory. Michael shared some examples of health and safety complaints cases which have been successfully resolved, including insects in drinking water, insecticide use in the factory burning worker's eyes and maternity leave cases where workers were terminated when pregnant to illustrate this decision making process.

- Karl asked Michael how the Accord assesses excessive overtime in a complaints case. Michael responded that firstly the Accord is mostly contacted regarding payment or non-payment of overtime. These complaints are immediately forwarded to the brands and are not covered under the complaints Accord mechanism because they are not in scope. However, if it is clear that the complainant's working hours were extreme then the Accord would investigate this complaint.
- Jenny commented that whilst she agrees that overtime is a health and safety issue, she would like some clarification on the parameters of what is considered an occupational safety and health complaint under the Accord complaints mechanism. Rob and Michael explained that the Accord complaints mechanism is based on the SC-approved Worker Participation Working Group proposal of 2014 and Accord Article 18<sup>1</sup>. The SC discussed the scope of the Accord complaints mechanism and debated whether if a safety issue is not included in the safety committee training program it should be covered under the Accord complaints mechanism. Jenny noted that if the Accord starts to delineate specific occupational safety and health complaints then this will provide a limiting definition. Christina and Mathias supported Rob's point that the complaints mechanism is functioning well and all OSH complaints (with one exception) have been successfully resolved and therefore there does not need to be a change to the scope of the complaints mechanism. Michael noted that the few brands who have contacted the Accord to request clarification on the scope of the complaints mechanism have met with the Accord and these questions have been addressed on a case-by-case basis.
- Rob explained that the Accord engineers are required to summon the safety committee co-chairs to attend follow-up inspections, opening and closing meetings. The Accord is working closely with the engineering department to ensure the engineers understand that this is an important part of the Accord work.
- Ted asked how the Accord measures the success of the safety committee training program. Michael explained that the Accord does not have specific KPIs to assess the success of the program however this is being worked on. Michael noted that one of the indicators that can be measured is the volume of complaints and % of resolved cases.

**Action:**

- **Secretariat to present an update on the complaints mechanism at the next SC meeting**
- **Michael to share a copy of the presentation slides with the SC**

Proposal on cases of violence at Accord covered factories (paper 6)

Rob explained that in the June 2017 SC meeting the Secretariat was tasked with developing a special protocol for immediate termination (similar to the fraud protocol) for cases of violence in Accord covered factories. Rob summarised the discussion at the previous meeting and explained that Paper 6 is similar to the approved fraud protocol, whereby the decision would rest with the Steering Committee in each case of immediate termination.

- Jenny asked for clarification of what kind of violence this protocol covers. The SC revisited minutes from the last meeting and clarified that the scope of the proposal should be violence in relation to the Accord for e.g. reprisal cases only. Rob agreed to revise the proposal accordingly, but advised the SC that the elements of the proposal related to zero tolerance consequences are still relevant for the SC to consider.
- Scott asked the SC to consider the balance needed between providing an incentive to stop the violence and ensuring the violence stops. Mike

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<sup>1</sup> "The Safety Inspector shall establish a worker complaint process and mechanism that ensures that workers from factories supplying signatory companies can raise in a timely fashion concerns about health and safety risks, safely and confidentially, with the Safety Inspector. This should be aligned with the Hotline to be established under the NAP."

commented that suppliers don't believe they could be terminated in relation to worker rights or violence issues. The Accord has only terminated one factory for failure to reinstate a worker and the factory did not believe it would be terminated until the termination letter was issued. The SC agreed that the key is a credible threat of termination.

- Scott noted that there is a risk in having a policy where immediate termination is based on one instance of violence, because there is a value in having the opportunity to be able to change the behaviour of an employer in any meaningful way. Rob concluded that the protocol misses the opportunity for a supplier to avoid termination if a resolution is reached between the supplier and complainants or workers facing violence to stop the current violence, prevent further violence, and remedy associated wrongful disciplinary or employment actions against aggrieved workers.

**Actions:**

- **The Secretariat to consider whether changes to the escalation protocol or complaints protocol are required to cover cases of violence under the complaints process and draft an emergency application to the escalation procedure for circulation to the SC.**

**5.1 Skip to agenda item Budget and Accounting (to allow for financing remediation on Day 2)**

Danny Van Opmeer joins the SC meeting via skype.

Quarterly Budget (budget vs. actual) (Paper 7)

Rob summarised the most significant variance in the quarterly budget.

Rob explained that he does not have a proposal for this SC meeting with regards utilising budget surplus. However, Rob informed the SC that he will be proposing to utilise some budget surplus to hire external engineering firms to carry out further technical training and support, carry out inspections and quality assurance inspections.

**Meeting adjourned Day 1**

**Mathias chaired Day 2**

**4. 2018 Accord Next Steps**

**4.1 Next steps**

SC agreement for Secretariat to draft transition proposal for SC consideration. (papers 8a & b)

Tatiana explained paper 8a and talked through some of the operational priorities which the Secretariat needs to consider transitioning into the 2018 Accord, for example budgeting needs, FFC contract, database requirements & updating of protocols. The Secretariat explained that the Accord will need to move on some of these issues quickly in order to be ready to implement the 2018 Accord.

Jenny confirmed that the Secretariat can scope out all terms of the 2018 Accord which clearly affect operational procedures and bring a plan to the SC meeting in February 2018 for adapting the procedures. Mathias summed up that the SC agreed to the Secretariat drafting a transition plan, as per the proposal, excluding the actual drafting of any new policies or changes to existing Accord policies.

Joris asked for SC approval to publish a one-page communication for brands explaining how to sign the 2018 Accord (Paper 8b) on the Accord website. Jochen agreed that the proposed paper is generally needed. The SC proposed the following amendments to the paper prior to publication:

- Move “continue to promote FOA” to the key features section
- Include “brand commitment to ensure safety remediation is completed and financially feasible”
- Remove capitalization where unnecessary
- Remove reference to the timeframe of the 2018 Accord

Jochen expressed his opinion that there are other new features in the 2018 Accord not elaborated on in this paper. The SC agreed that information on other new features could be included in a FAQ paper

**Action:**

- **Secretariat to bring a 2018 Accord plan to the February 2018 SC meeting for SC consideration, absent any drafts of changes to policies and protocols.**
- **Secretariat to develop a 2018 Accord external communications FAQ paper for Management Committee review. Brand SC reps to forward any FAQs received by signatory companies to the Secretariat to be incorporated in the draft FAQ paper.**

Decision on extra Accord 2018 Caucus Meeting in November

Jochen explained that a number of signatory companies have requested an extraordinary caucus meeting to discuss and address questions raised about the 2018 Accord. The SC Brand reps have agreed to a meeting on 22nd November in Amsterdam where 2018 issues can be discussed and addressed. Rob noted that if the caucus has a meeting to discuss 2018 queries then the answers will need to be agreed with the global unions.

**Actions:**

- **SC brand reps to draft answers to brand’s FAQs which are likely to be raised at the extraordinary caucus meeting on 22<sup>nd</sup> November and share these with the Trade Unions for their agreement prior to the 22<sup>nd</sup> November.**

**Management Reporting – Executive Office (pt.1): return to Inspections & Remediation**

Remediation financing requests referrals (paper 9a, b)

Joris summarised the financing remediation papers (Paper 9a and 9b) noting that to date 107 remediation finance requests from factories have been received. At the June 2016 it was agreed that the Secretariat would bring any cases to the SC where brands may not be exercising all of their responsibilities under Article 22. Joris talked through each case referred to the SC for decision on next steps.

Jochen asked to be sent the financing remediation report further in advance of SC meetings in order to be able to discuss and try to resolve the cases with the brands. Joris agreed that he would share the report earlier with the SC, but asked if the Secretariat could be included in copy in any discussions between Jochen and the brands regarding the finance cases. This is because it is difficult to keep on top of the cases if different information is being shared with Jochen from that being shared with the Secretariat. The SC agreed that if a brand has additional information on a specific finance case then this needs to be sent to the Secretariat.



**Actions:**

- **The SC supported the EDs decision as acting CSI to terminate under Article 21 the proposed factories**
- **Secretariat to include information on which factories are part of a group and the amount of financing requested from each factory for the outstanding remediation in future financing remediation papers.**

Inactive Factories Remediation Fund implementation update (paper 9c)

Joris summarised Paper 9c and explained that an inactive factory fund announcement was sent to 114 eligible factories in May 2017. In July, the Secretariat sent an individual message, copying brands, to each factory, and the case handlers then followed up individually in any case where financial support has been requested.

- 9 full applications have been submitted
- 13 factories have expressed interest in the fund
- 7 have said they are not interested and do not need financial support
- 3 factories have since been terminated

The 9 applications are under review by the Secretariat. Final decisions will be presented to the Steering Committee representatives designated for the Inactive Fund (Ted and Christina) prior to informing the factories. The Secretariat has forwarded two cases for approval to the SC Representatives

The SC discussed the need for an external communication plan around the announcement of the first two fund allocations being granted and the SC agreed to the Accord issuing a press statement on the Accord website and distributing to media contacts.

**Actions:**

- **Secretariat to draft a press statement announcing the allocation of the first grants under the inactive factories remediation fund**

Regualification period of 24 months after escalation

Jenny asked the SC brand reps for their response to the Trade Unions closure/relocation proposal. Jochen summarised that the SC brand reps are being asked to agree on language on closures and relocations in the 2013 Accord, in light of the agreed language in the 2018 Accord. Jochen explained that the SC brand reps are not able to change the 2013 Accord contract between individual brands and the unions. Jochen suggested, however, that the SC brand reps could agree to a protocol regarding closures and compensation, on condition that this protocol is not enforceable by the Trade Unions signatories under Article 5. The SC brand reps will explain to the brand caucus that they have not changed the 2013 contract but that they promote the policy. Jochen suggested that the wording in the proposed protocol would be defined in the same way as the relevant clause from the 2018 Accord.

Jenny recapped the April 2017 SC brand representatives' proposal to reduce the termination period under Article 21 and the SC caucused to discuss whether to reduce the termination period.

The SC agreed that the new protocol on worker payments in closure cases will apply to all factories which relocate from this date forwards.

**Action:**

- **Secretariat to amend escalation protocol to reflect the SC agreed change to the requalification period for suppliers after termination under**

#### **Article 21**

- Secretariat to draft a protocol for closure and related compensation cases using the related wording from the 2018 Accord and inserting one additional sentence to state that this protocol is not subject to Article 5. This policy will apply to any closure case going forward.
- Secretariat to write to all current terminated suppliers to explain the Accord's change of policy regarding the requalification period after termination. Secretariat to include in the wording of the letter that this change does not apply to cases of fraud or violence.
- Secretariat to include an agenda item at the next SC meeting on the requalification period in cases of fraud and violence.

#### **Management Reporting – Executive Office (pt.2)**

##### **Review last meeting agreed actions:**

- Rob updated the SC that according to legal advice received from Latham & Watkins, the Accord can carry over surplus funds from the 2013 Accord to the 2018 Accord.

##### **Signatory Management**

###### Annual Fee Issues/Outstanding Fees (paper 10)

Rob directed the SC to paper 10 summarising that the Accord is owed \$1.5million in annual fees for Year 5: Rob noted that Year 5 fees were payable on 1<sup>st</sup> June 2017. The Secretariat proposes to write a formal letter to all signatory companies owing Year 5 fees.

###### **Action:**

- **Secretariat to write to all companies with outstanding Year 5 fees**

#### **6 Communications**

##### **6.1 Review last meeting agreed actions:** No outstanding actions

##### **6.2 External Communications**

###### Quarterly Aggregate Report (paper 11)

Joris summarised the changes to the QAR (data as at 1<sup>st</sup> October 2017) explaining that this QAR has elaborated in more detail on the safety committee training program and that information based on CAP categorisation data was included for the first time. The SC approved the QAR for publication

##### **6.3 Stakeholder Engagement**

Rob updated the SC on recent stakeholder engagement:

- The Accord recently participated in a two-day ILO strategy program with the RCC and also met with the Chief Inspector of Boilers.
- Joris informed the SC of a request from the OECD inviting Accord brands to present on their contractual obligations in their business contracts and codes of conduct with suppliers as they relate to implementing and complying with the Accord at the OECD garment and textiles conference on 30<sup>th</sup>

and 31<sup>st</sup> January 2018. The SC welcomed this invitation and asked Joris to forward the OECD invitation email to SC brand reps for their consideration.

**AOB**

Upcoming SC meeting dates

The SC confirmed the following dates for their next two SC quarterly meetings:

- 1<sup>st</sup> and 2<sup>nd</sup> Feb 2018
- 9<sup>th</sup> and 10<sup>th</sup> May, 2018

**Close of Meeting**