

Report on responsible business conduct in the textile and garment supply chain

Recommendations of the Italian NCP on implementation of
the OECD Guidelines for Multinational Enterprises



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What are the OECD Guidelines for Multinational Enterprises?

The "OECD (Organization for Economic Co-operation and Development) Guidelines for Multinational Enterprises" (hereafter "Guidelines" or GL) annexed to the OECD Declaration on International Investment and Multinational Enterprises of 1976 are the broadest set of recommendations on responsible business conduct that governments address to enterprises. The 46 adhering governments (34 OECD countries and 12 non-OECD countries) aim to improve the foreign investment climate and to enhance the contribution that multinational enterprises can have on sustainable development and long-term social progress.

The Guidelines have the support of enterprises, trade unions, and non-governmental organisations, as expressed to the OECD by the Business and Industry Advisory Committee (BIAC), the Trade Union Advisory Committee (TUAC) and by the civil society organisations (OECD Watch).

The Guidelines address **multinational enterprises**, namely "*companies or other entities established in more than one country and so linked that they may co-ordinate their operations in various ways*". Globalization and the transnational scope of supply chains, together with the direct entry of small and medium enterprises on the international scene, mean that numerous subjects are called upon to apply the guidelines, and the recommendations are extended to business relations along the supply chain. While acknowledging that **SMEs** do not have the same capacities as multinationals, the adhering governments encourage them to follow the guidelines as closely as possible. The guidelines apply to public and private companies and to public-private partnerships.

The updating of the GL in 2011 underlined, among other things, their intent to protect human rights, in keeping with the United Nations Report on Business and Human Rights and the Guiding Principles that followed.

The recommendations contained in the Guidelines aim to forestall the negative impact that an enterprise's web of activities and relations can have in particularly sensitive matters, and to encourage positive actions.

In order to identify, prevent, and mitigate these negative impacts, enterprises are recommended to carry out risk-based due diligence.

The recommendations apply to all of the fields of activity of multinational enterprises: disclosure, human rights, employment and industrial relations, the environment, combating bribery, bribe solicitation and extortion, consumer interests, science and technology, competition, and taxation. The text also contains the implementation procedures involving National Contact Points (NCPs) and the OECD Investment Committee. The Investment Committee assists the NCPs in carrying out their activities.

The National Contact Points (NCPs)

These are the bodies through which adhering governments contribute to the effective implementation of the Guidelines. They operate according to the principles of visibility, accessibility, transparency, and responsibility.

The NCPs are tasked with disseminating the Guidelines and helping enterprises further their implementation, while managing the "**specific instances mechanism**" which provides for a mediation and conciliation platform for any issue that may arise between an enterprise and a stakeholder. This particular characteristic sets the Guidelines apart from any other international instrument to promote business responsibility.

The Italian NCP

The Italian National Contact Point was instituted by the government with Law 273/2002, art. 39 and subsequent ministerial decrees. The NCP is located in the Ministry of Economic Development – General Directorate for Industrial Policy, Competitiveness, and Small and Medium Enterprises (DGPICPMI), and is organized as follows:

- The Head of the NCP is the *pro tempore* Director General of the DGPICPMI, who is responsible for adopting the NCP's final deeds and represents the NCP;
- The NCP Secretariat comprises one executive and several officials from the General Directorate. It is in charge of operational management, files and processes the specific instances submitted to it, prepares the programme to promote and disseminates the Guidelines, and drafts the annual report to be sent to the OECD.
- The NCP Committee comprises representatives from interested Ministries and from stakeholders and is endowed with consultative functions.

The Committee provides the NCP with key support in defining strategic guidelines and serves as an essentially in promoting and implementing them with the represented categories. The members of the Committee are the Ministries of Economic Development; of the Environment and the Protection of Land and Sea; of Foreign Affairs; of Economy and Finance; of Justice; of Labour and Social Policy; of Agricultural, Food, and Forestry Policy; and of Health. Additionally, there is a representative from the State-Regions Conference. Trade associations are represented by the Italian Banking Association (ABI), Confindustria, CNA, and Confartigianato. Also represented are the trade unions: CGIL - CISL - UIL, the National Council of Consumers and Unions, and UNIONCAMERE. (<http://www.oecd.org/corporate/mne/>; <http://pcnitalia.sviluppoeconomico.gov.it/en/>).

Table of contents

I. FOREWORD	4
II. INTRODUCTION	6
1. Some data on the ready-made garment industry in Bangladesh	6
2. Some data on the clothing industry in Italy	7
III. RESPONSE TO THE RANA PLAZA ACCIDENT	9
3. International institutional initiatives	9
4. Initiatives led by industry, trade unions, and stakeholders	11
IV. THE OECD GUIDELINES AND DUE DILIGENCE IN THE SUPPLY CHAIN	15
V. OPERATIONAL RECOMMENDATIONS ON IMPLEMENTATION OF THE OECD GUIDELINES IN THE TEXTILE AND GARMENT SUPPLY CHAIN	17
5. Adopting a policy for responsible supply chain management	17
6. Mapping the supply chain in the textile and garment sector.....	21
7. Identifying the risks in the textile and garment sector supply chain.....	24
8. Risk prevention in the supply chain through appropriate management and monitoring systems	29
9. Remedial measures	36
10. Traceability and transparency of information	38
11. Summary of the NCP operational recommendations	41
ANNEXES	44
Accord on Fire and Building Safety in Bangladesh.....	45
Statement by the National Contact Points for the OECD Guidelines on Multinational Enterprises	52
List of the organisations involved in NCPs consultations	54
Documents	56

I. FOREWORD

Bangladesh has seen rapid economic growth over the last two decades, driven mainly by the ready-made garments sector (RMG). The RMG industry in Bangladesh employs about 3.5 million workers, mostly women. The sector is experiencing constant growth and is the main driver of the country's GDP through exports to foreign markets, which take place in large part on the basis of supply agreements with major multinational brands.

Alongside the economic data one must consider the innumerable workplace tragedies, the fires and factory collapses that caused the deaths of thousands of men and women, including the fire at the Tazreen fashion factory on November 24, 2012, which killed 112 workers, and the collapse of the eight-story building known as Rana Plaza, located in the Savar industrial district northwest of Dhaka, on April 23, 2013, which killed 1,138 workers, mostly women, and injured an additional 2,000 or so. According to public information sources, the eight companies that were housed in Rana Plaza supplied – either directly or indirectly through agents - numerous international brands, including several Italian companies.

Accidents such as these, which are all too frequent in Bangladesh, are generally caused by the failure to observe safety regulations in the workplace, faulty electricity wiring, overcrowded factories, and working conditions that fail to guarantee labour rights and protect workers' health.

These events caused a strong reaction in the international community, and numerous initiatives have been launched at various levels by multinational enterprises, ONGs, civil society, trade unions, governments, and international organisations.

These initiatives, together with the reform of the labour laws and the activities of the Government of Bangladesh, mark the beginning of a process to improve labour conditions and strengthen workers' rights, which process should continue to consolidate in order for multinational enterprises to find a context in which basic human rights are respected and continue to contribute to local development.

The Report was issued in the framework for the actions of the Italian National Contact Point (NCP) for the implementation of the “OECD Guidelines for multinational enterprises” annexed to the OECD Declaration on International Investment and Multinational Enterprises of 1976, which are the broadest set of recommendations that governments address to enterprises for responsible business conduct¹.

The activities of the Italian NCP build upon the **Joint statement of the NCPs of June 25, 2013**² which acknowledged that abandoning production in Bangladesh might further worsen the condition of workers there, and encouraged the implementation of OECD initiatives – in collaboration with subjects such as the International Labour Organization (ILO), the Office of the United Nations High Commissioner for Human Rights (UN OHCHR) and local stakeholders – to define the strategies and best practices for carrying out risk based due diligence along the supply chain. Likewise, NCPs have engaged to undertake, where appropriate, consultations with enterprises in the textile and garment sector and with stakeholders, to support and participate in the OECD's work concerning the Guidelines, and to support the implementation of any robust and credible initiatives agreed upon with stakeholders and firms and coherent with the OECD Guidelines and with ILO standards, such as the “*Accord on Fire and Building Safety in Bangladesh*”.

¹ For more details on the Guidelines and on NCPs see this report's back cover and: [http://pcnitalia.sviluppoeconomico.gov.it/en/
http://www.oecd.org/corporate/mne/](http://pcnitalia.sviluppoeconomico.gov.it/en/http://www.oecd.org/corporate/mne/)

² DAF/INV/NCP/RD(2013)67, Statement of the NCPs annexed to the Report

Following up on the Joint Statement of the OECD NCPs, on September 29, 2013 the Italian NCP approved a **Bangladesh Action Plan**, which was agreed in the NCP Committee, with the goal of encouraging companies in the textile and garment supply chain to embark upon, continue, and boost due diligence processes along the supply chain with a multi-stakeholders approach, and to play an active role in international agreements.

The Plan develops around two lines of action:

- 1) Involvement of textile companies operating in Bangladesh to: understand the corporate management actions adopted in business relations with the supply chain, present international initiatives such as the *Accord on Fire and Building Safety in Bangladesh* and invite them to adhere, provide companies with opportunities for training and assistance concerning the topics covered in the Guidelines, due diligence, international initiatives on Bangladesh, etc.
- 2) Analysis of the supply chains in the textile and garment sector in order to identify widespread practices and pinpoint the problems encountered in the sustainable management of the supply chain; proposing actions to remedy these problems.

This Report, of June 2014, is one of the expected results of the Action Plan and contains recommendations for enterprises, both those operating in Bangladesh and, more broadly, for those operating along the textile and garment supply chain.

These are **operational recommendations** aiming to improve responsible management processes for the supply chain **in compliance with the Guidelines**.

More specifically, the Report was drafted on the basis of extensive consultations with all stakeholders: enterprises, trade associations, consumer associations, trade unions, NGOs, ILO, UNICEF, and experts in the relevant sectors. Four meetings were held with enterprises, and another 10 with all the subjects consulted, in addition to another dedicated meeting with the NCP Committee. Information was collected through questionnaires targeted to the specific respondents, telephone interviews, and in-person interviews. Additionally, available documentation was analysed as regards both the Bangladesh case and, more generally, the issue of sustainability along the supply chain.

The NCP thanks all the companies and other subjects who collaborated actively in the initiative³. We also thank the OECD NCPs involved in national initiatives, in particular the French NCP, which the Italian NCP asked for advice, benefiting from France's experience in drafting its own Report⁴.

The recommendations included in this Report should be considered an initial response to the search for effective solutions. **The NCP will continue, with a follow-up action**, to work on the issue of the supply chain in the textile and garment sector, involving all stakeholders with the goal of bringing Italian enterprises up to speed with international processes, and it will collaborate with Italian embassies abroad. The enterprises contacted by the NCP, like all the other stakeholders consulted, have expressed a willingness to collaborate.

As anticipated, the Report of the Italian NCP fits into a broader scope of action by the **OECD** concerning the tools to be made available to multinational enterprises for due diligence along the supply chain. This initiative had been launched during the *Global Forum on Responsible Business Conduct of 2013* and will be reviewed during the Global Forum of June 2014⁵.

³ See the list annexed to the Report

⁴ Report by NCP of France on Implementation of the OECD Guidelines in the Textile and Clothing Sector, DAF/INV/NCP/RD(2013)67

⁵ <http://mneguidelines.oecd.org/globalforumonresponsiblebusinessconduct/programme-26-june-2014.htm>

II. INTRODUCTION

1. Some data on the ready-made garment industry in Bangladesh

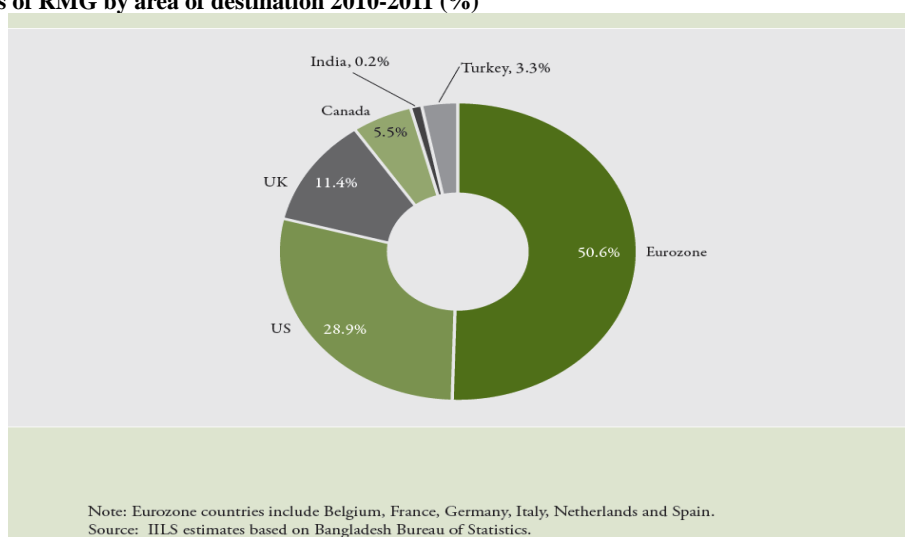
Bangladesh is one of the most densely populated countries on the planet, with over 160 million people living in an area of about 144,000 square kilometres. During the last decade, the country has experienced steady growth, at an average rate of 6.2% a year. In this context, the ready-garment industry, along with remittances from migrant workers, account for the lion's share of GDP. The RMG sector is worth about US\$ 20 billion a year and accounts for about 15% of GDP. The sector's productive structure comprises mainly local medium, small, and micro-enterprises (only 5% of which are owned by foreign entrepreneurs). The lack of investment in R&D, the constraints in accessing credit and obtaining construction permits, and the poor protection of intellectual property are some of the factors that hinder adequate development in the sector, with the result that its main competitive advantage rests on the low cost of labour. These problems are compounded by a general failure to protect workers' rights.

Until December 1, 2013 the minimum wage (in force since November 2010) was 3,000 taka (about US\$ 39) a month, which is about half of the minimum wage in other major clothing exporters in Asia such as Cambodia (US\$ 80), India (US\$ 71), Pakistan (US\$ 79), Sri Lanka (US\$ 73) and Vietnam (US\$ 78)⁶. In December 2013 the minimum wage was increased by 77%, to US\$ 68 a month.

The ILO, in a recent report titled “*Bangladesh, Seeking Better Employment Conditions for Better Socioeconomic Outcomes*” examined the socio-economic and labour contexts in Bangladesh.

The document shows that in 2010-2011 exports of RMG products accounted for 77% of total Bangladeshi exports and amounted to 4.8% of all RMG exports worldwide. During the global economic crisis of 2008-2010 these exports dropped by only two percentage points, which may be due to the fact that consumers in advanced economies turned to purchasing cheaper clothing. As the figure below shows, the Eurozone is the main export market, followed by the U.S.A, the U.K., and Canada.

Graph 1 – Exports of RMG by area of destination 2010-2011 (%)



Source: ILO Report, “*Bangladesh, Seeking Better Employment Conditions for Better Socioeconomic Outcomes*”, 2013

⁶ *Bangladesh, Seeking Better Employment Conditions for Better Socioeconomic Outcomes*- Studies on Growth with Equity, International Labour Organization (International Institute for Labour Studies), 2013. Information and data in the following paragraphs are drawn from the ILO Report.

Nevertheless, working conditions in the sector are among the worst in the world. The accidents described in the foreword highlighted major problems with safety in the workplace. In particular, producers built factories in violation of the government's safety regulations, while the government itself failed to adopt adequate measures to ensure vigilance and compliance with the rules.

There are over three million textile workers, mostly women (80%), accounting for almost 45% of total industrial employment. About 20 million people directly or indirectly depend on this sector to make a living.

In spite of economic growth, informal employment rose from about 75% of total employment in 1999-2000 to over 87% in 2010. The gap between youth and adult unemployment was about 20 percentage points and increased in recent years, while the gender gap in employment was 32%.

GDP growth and positive trends regarding the fundamentals of the economy have not reduced poverty and underdevelopment, which remain alarmingly high, as the ILO report itself points out.

2. Some data on the clothing industry in Italy

In 2011, the clothing industry in Italy comprised 31,350 companies employing about 222,000 workers⁷. In 2010, turnover produced abroad amounted to 8.9% of total turnover produced in Italy. The value added of the garment sector vis-à-vis the manufacturing sector as a whole is 3.7% and the value added by large companies to the sector is about 30%⁸.

The Report of the National Agency for Internationalisation (ICE) for 2012-2013⁹ shows a significant increase in the trade surplus, caused mainly by the fall in imports (-8.2% compared to 2011) rather than the growth of exports (+3.2%). Purchases from abroad decreased, turning around a two-year trend; exports also increased much more slowly than in 2010-2011.

Continuing a trend that began several years ago, 2012 saw an increase in the average unit value of exports together with a contraction in their quantity (-3.5%); this trend suggests that Italian companies are focusing on exporting high-quality products and on an ability to capture the demand from the newly-wealthy classes in emerging markets.

The fall in imports of clothing items held true for all of Italy's main suppliers, the only exceptions being purchases from Spain, which grew by 13%, and from Bangladesh, which increased by about 10% compared to 2011. The data from Bangladesh marks a re-balancing of the value chain towards the outsourcing of goods to countries with low labour costs.

Turning to exports, data from 2012 indicate a dynamic framework: while sales to traditional EU partners continue to fall (-2.3% on average compared to 2011), direct exports to nearby markets, such as non-EU European countries, continue to rise (4.3%), as do exports to more distant markets, such as North America (17.3%) and East Asia (13.5% increase compared to 2011). Sales to partners such as the United Arab Emirates also continue to grow, albeit minimally.

Italy is once again the world's second largest exporter of items of clothing, in spite of the small decrease in market share experienced in 2012. Among Italy's main competitors, China's share grew by 40% in 2012, while Bangladesh and Vietnam are also emerging, both accounting for a larger share of global exports in this sector than they did in 2012.

⁷ ISTAT, manufacturing of clothing, excluding fur items.

⁸ ISTAT report on the competitiveness of the productive sector, 2014

⁹ *L'Italia nell'economia internazionale*, ICE Report 2012-2013. The ICE is the national agency for the promotion and internationalization of enterprises

Table 1 – Items of clothing – global market shares of Italy and its main competitors

Paesi ⁽¹⁾		2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
1	Cina	23,2	24,8	29,6	33,2	36,2	36,0	36,8	39,7	39,4	40,6
2	Italia	7,0	6,9	6,7	6,4	6,6	6,9	6,1	5,6	5,6	5,4
3	Germania	4,3	4,5	4,5	4,5	4,9	5,2	5,4	5,1	5,0	4,7
4	Bangladesh	2,5	2,7	2,6	3,0	2,9	3,2	3,8	3,9	4,4	4,6
5	Turchia	4,2	4,3	4,2	3,2	3,4	3,7	3,6	3,5	3,3	3,5
6	Vietnam	1,6	1,6	1,6	1,8	2,1	2,4	2,7	2,9	3,1	3,5
7	India	2,5	2,5	3,0	3,0	2,9	2,9	3,2	3,0	3,0	2,6
8	Francia	3,0	3,0	3,0	2,8	3,0	3,2	3,1	2,8	2,7	2,6
9	Spagna	1,4	1,5	1,5	1,5	1,6	1,7	2,2	2,0	2,2	2,4
10	Paesi Bassi	2,1	2,1	2,1	2,1	2,1	2,2	2,3	2,3	2,4	2,1
Totale principali esportatori		51,9	53,9	58,7	61,6	65,5	67,3	69,3	70,9	71,1	71,9

(1) Si veda nota 1 Tavola 4.1

Source: ICE, based on data from Eurostat and national statistics institutes

(2) The order in which the countries are ranked is that of 2012. Countries listed 1. China, 2. Italy, 3. Germany, 4. Bangladesh, 5. Turkey, 6. Vietnam, 7. India, 8. France, 9. Spain, 10. The Netherlands. Last line: Total

III. RESPONSE TO THE RANA PLAZA ACCIDENT

The Rana Plaza collapse highlighted a systemic problem of critical working conditions in Bangladesh, to be tackled with the involvement of all stakeholders, including the government, institutions, the private sector, workers, and civil society.

On the institutional front, and in addition to the actions of individual governments, numerous initiatives have been adopted by international organisations, including those by the European Union and the ILO, which have the advantage of being multi-stakeholder initiatives involving the Government of Bangladesh.

Additionally, initiatives were adopted with a more direct involvement of multinational enterprises, trade unions, and non-governmental organisations for improving labour conditions (such as the Accord) and compensation for victims (such as the Arrangement).

3. International institutional initiatives

The **Global Sustainability Compact**¹⁰ (EU- Government of Bangladesh and ILO) launched on July 8 by the European Commissioner for Trade De Gucht, the Foreign Minister of Bangladesh Dipu Moni and the Director General of the ILO Guy Rider marks a political commitment to improve the working, health, and safety conditions of workers and encourage responsible behaviour on the part of enterprises in the garment sector.

The Compact sets goals and deadlines in three different areas:

- The reform of labour law in Bangladesh by 2013 to strengthen workers rights, in particular regarding freedom of association and the right to collective bargaining, and to improve the health and safety of workers;
- The recruitment of an additional 200 labour inspectors by the end of 2013, to ensure regular inspections in compliance with labour laws;
- The improvement of the building and fire safety, especially structural safety of ready-made garment factories by June 2014.

The ILO will help in coordinating these actions and mobilise the necessary technical resources.

The Government of Bangladesh has committed to becoming eligible for the Better Work programme (see below). The European Union will continue to support Bangladesh in its efforts to improve the working, safety, and health conditions of workers and to promote responsible business conduct in the ready-made garment industry through ongoing initiatives such as the Technical and Vocational Education and Training (TVET) and Better Work and Standards (BEST) programme, in addition to providing additional funding and capacity building within the framework of development aid for 2014-2020.

Even before the Rana Plaza tragedy, the ILO¹¹ had launched a programme, together with the Government of Bangladesh, to promote initiatives to improve working conditions. All such initiatives were included in the **National Tripartite Plan of Action on Fire Safety and Structural Integrity (NTPA)** that was drafted after the fire at the Tazreen factory in November 2012 and

¹⁰ The full title is: "Compact for Continuous Improvements in Labour Rights and Factory Safety in the Ready-Made Garment and Knitwear Industry in Bangladesh". The U.S.A. have joined the Compact.

¹¹ For all ILO initiatives visit www.ilo.org

negotiated on March 23, 2013 by the **ILO**, the **Government of Bangladesh** and **local business organisations**.

In implementation of the NTPA, the **Improving Working Conditions in the Ready-Made Garment Sector Programme**¹² was developed, based on the tripartite statement on the part of the government, employers, and workers¹³.

The programme, which is already being implemented, rests upon five pillars:

- Assessment of building security and fire prevention systems;
- Strengthening of inspections on safety in the workplace and fire prevention systems;
- Capacity-building and awareness-raising concerning health and safety systems in the workplace by working together with factory committees, workers, and management;
- Assistance, rehabilitation, and professional training for accident victims so that they may return to work or seek self-employment;
- Implementation of the Better Work Bangladesh programme.

In particular, **Better Work Bangladesh**¹⁴ is a partnership between the International Labour Organization (**ILO**) and the World Bank's International Finance Corporation (**IFC**) launched in October 2013, following up on the changes to the labour code of July 2013 (see below) to improve compliance with labour laws and competitiveness in global supply chains.

The goal is to assess the compliance of 500 factories in the RMG sector with national and international labour laws and norms (retribution, contracts, health and safety in the workplace, working hours). Better Work counsellors are recruited locally and trained to carry out in-factory assessments with the support of consultancy services. The programme, which will last three years, is carried out in partnership with the government, employers, workers, international clients, and other relevant stakeholders. In-factory assessments began in the second semester of 2014 and will include assessments of compliance with international standards on the part of subcontractors.

UNICEF is also active in Bangladesh. In 2014-2017 it will launch a multi-stakeholder project (involving local public bodies, associations, enterprises, NGOs, international organisations, investors, and auditors) aiming to define a shared strategy to combat child labour. The project will have several phases: a stakeholder engagement study to identify the critical factors that impact the rights of children and young women working in garment factories; a pilot study for the development of a toolkit referencing ILO and UNPGs standards; a multi-stakeholder initiative for awareness-raising activities and policies in support of the rights of children living in urban slums; integration of the "*Children's Rights and Business Principles*" drafted by UNICEF, the UN Global Compact and Save the Children, in the policies of the main trade associations, auditors, and national investors¹⁵.

Regarding child labour, the **ILO** standards are the international reference instruments to address the issue, and the Organization also works with specific programs in this area such as the International Programme on the Elimination of Child Labour (IPEC)¹⁶.

¹² Funded by Canada, the Netherlands, and the United Kingdom.

¹³ The partners are: the Ministries of Labour, Construction, and Public Works, the National Tripartite Committee on Fire and Building Safety, the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), the Bangladesh Knitwear Manufacturers and Exporters Association (BKMEA), the Bangladesh Employer's Federation (BEF), the National Coordination Committee for Worker's Education (NCCWE), the IndustriALL Bangladesh Council (IBC), and the Bangladesh University of Engineering and Technology (BUET)

¹⁴ The programme shall be funded by Switzerland and the United States, and through a broader ILO programme by the Netherlands and the United Kingdom. At the global level the Better Work programme is funded by Australia, the Netherlands, and Switzerland.

¹⁵ <http://www.unicef.org/csr/47.htm>

¹⁶ ILO Conventions n.182 e n. 138. For further details on ILO programmes: <http://www.ilo.org/global/topics/child-labour/lang-en/index.htm>

As mentioned in the foreword, the Rana Plaza tragedy was tackled in an **OECD** framework during the Global Forum on Responsible Business Conduct (June 2013), in the presence of Secretary General Gurría and the Foreign Minister of Bangladesh Dipu Moni. The event's concluding remarks highlighted the danger of rapid growth, such as that taking place in Bangladesh, if not accompanied by adequate labour law reform, the importance of maintaining the production of garments in Bangladesh as a source of jobs and income, the need to coordinate the various ongoing activities at the international level, and the importance of the OECD's role in promoting due diligence.

The sustainability of the supply chain in the textile and garment sector will also be discussed during the 2014 RBC Global Forum, on which occasion an informal ministerial meeting will be held on June 26, 2014, promoted by the French and Dutch ministers responsible for the implementation of the Guidelines. Attending ministers will be asked to examine the opportunities provided by development cooperation and agreements on trade and international investment to promote responsible business conduct.

Thanks to a national political context that is more in tune with labour-related problems and committed to solving them, and in response to encouragement on the part of the international community, in July 2013 Bangladesh approved a **reform to the labour law**, which dated back to 2006¹⁷. Progresses were made with regards to the aspects such as: mandatory safety measures in factories, and mandatory safety committees comprising workers and employers for companies with more than fifty employees; the removal of obstacles to the constitution of company unions (as of today there are 248 company committees) and compulsory collective insurance.

4. Initiatives led by industry, trade unions, and stakeholders

On May 13, 2013, in the wake of the Rana Plaza collapse the **Accord on Fire and Building Safety in Bangladesh** was signed between multinational enterprises and international trade unions. The Accord addresses customers (brands, traders, suppliers) of Bangladeshi factories.

The goal is to implement a programme of reasonable measures for the health and safety of workers, in order to ensure that the Bangladeshi RMG industry will be safe and sustainable for the next five years.

So far the Accord has been signed by about 170 multinational enterprises from 20 different countries, mostly in Europe – including Italy's Benetton, Chicco, Prénatal, COIN-OVS group¹⁸ – and North America, together with two international trade unions (IndustriALL Global Union and Uni Global Union) and several Bangladeshi trade unions¹⁹. The Clean Clothes Campaign, the Worker Rights Consortium, the International Labour Rights Forum and the Maquila Solidarity Network are NGO witnesses to the Accord. The ILO acts as the independent chair and as a subject able to provide technical and organisational support during the implementation phase of the Accord.

The Accord is a legally-binding agreement, of a duration of five years, to implement a fire and building safety programme in Bangladesh.

¹⁷ Act No. 30 of 2013 Bangladesh Gazette Additional Issue Published by the Authority Monday, July 22, 2013

¹⁸ This group adhered in June 2014

¹⁹ For more information and a full list of all the signatories see <http://www.bangladeshaccord.org>

The key points of the Accord are:

- Credible control systems through independent inspections on the part of experienced inspectors,
- Prevention and compliance with safety norms on the part of the factories involved,
- Support for the implementation of safety measures in factories through providing easier access to funding and making a long-term commitment to the volume of commercial orders,
- Training of workers and their participation in health and safety committees,
- Mechanisms for workers to raise complaints and the right to refuse to work under unsafe conditions,
- Transparent information on factory inspections and their outcome²⁰.

The signatories undertake to:

- Provide a list of their suppliers, and designate them as falling into three categories depending on production volumes and supply levels (tiers 1, 2 and 3);
- Make sure that suppliers accept inspections and implement remediation and worker training measures;
- Negotiate terms of trade with the suppliers in order to make it financially feasible for them to maintain safety in the workplace and implement remediation measures;
- Make an annual financial contribution to the Foundation created to manage the Accord in order to cover the costs of inspection and monitoring efforts. The maximum highest contribution is set at US\$ 500,000 (the contribution of each individual signatory is calculated in proportion to the annual volume of each company's garment production in Bangladesh relative to the respective annual volumes of garment production of the other signatory companies);
- Maintain the volume of production with tier 1 and 2 factories for at least two years;
- Maintain long-term sourcing relationships with Bangladesh for the entire duration of the Accord (2013-2018).

Of the 3,500 factories active in Bangladesh, 2,300 will be undergo structural and fire safety inspections in compliance with the Accord, while the remaining 1,200 will be inspected by the government in compliance with the shared standards that were adopted.

As of today, according to remarks made by the ILO representatives during the hearing with the NCP, out of about 1,000 factories inspected, 11 must be closed because effective interventions to improve structural soundness and safety are impossible, while upgrades and remediation measures are possible in the others.

In case of factory closures, signatory companies undertake to request their suppliers to maintain a professional relationship with their employees and guarantee their salaries for a period of no more than six months. Failure to do so triggers termination of the business relationship²¹.

This framework agreement between enterprises and trade union is unprecedented in terms of the number of signatories, details of the commitments made, transparency of information, and participatory process. This model can be applied to other contexts similar to Bangladesh.

Following the Accord, the operational agreement known as the **Arrangement** is the result of a shared effort on the part of the government, the local and international garment industry, trade unions, and NGOs working together as part of the Rana Plaza Coordination Committee²² with the aim of developing a full, independent process to provide support to the victims of the accident and their families in keeping with international labour standards.

The Arrangement, which has established a claims process, will be implemented by a series of local organisations and international experts to assist the victims, their families and their employees in submitting claims, undertaking medical assessments, assessing the level of payment to be made to each beneficiary, and providing the necessary support during the follow-up phase. The process

²⁰ See: <http://www.bangladeshaccord.org/wp-content/uploads/2013/10/Accord-final-report-20131007.pdf>.

²¹ The text of the Accord is annexed to the Report.

²² The Coordination Committee comprises representatives from the government of Bangladesh (Bangladesh Ministry of Labour), Bangladeshi industrial concerns (the Bangladesh Garment Manufacturers and Exporters Association – BGMEA and the Bangladesh Employers Federation - BEF), global brands and retailers, (Primark, Loblaw, Bonmarche and El Corte Ingles), Bangladeshi and international trade unions (IndustriALL Bangladesh Council (IBC), the National Coordination Committee for Worker Education (NCCWE), IndustriALL Global Union) and Bangladeshi and international NGOs (the Bangladesh Institute for Labour Studies - BILS) and the Clean Clothes Campaign). For more details see: <http://www.ranaplaza-arrangement.org/>.

includes an assessment of the losses sustained by each family, the medical needs of injured workers and the provision of adequate medical care when needed. The process will be overseen by the Coordination Committee and carried out with the support of independent commissioners and outsourced services. The ILO is the neutral chair of the Coordination Committee.

All contributions go to the **Rana Plaza Donors Trust Fund**, established in January 2014 and managed by the Coordination Committee, which will avail itself of a “compensation model” along the lines of international labour agreements concerning injuries in the workplace (ILO Convention No.121). This model is based on the victim’s previous salary, life expectancy, and seriousness of the injury. The ILO is the only trustee and shall act exclusively upon instruction by and in accordance with the modalities, terms, and conditions indicated by the Coordination Committee.

The Rana Plaza Donors Trust Fund is open to donations from any organization, company, or individual wishing to make a financial contribution in support of the victims of the Rana Plaza accident and/or their families. The identity of the donor and the amount of the donation will not be made public by the bank or the trustee, unless specified otherwise by the donor.

As of April 30, 2014 the Trust Fund has collected a total amount of US\$ 17 million. Commitments made amount to about US\$ 200,000 and a number of other claims are being examined. The amount necessary to compensate all victims is estimated at about US\$ 40 million²³.

During the NPC hearings, objections were raised by companies concerning the actual practicality of the Arrangement and of the Trust Funds as concerns the “claims process” and the modalities with which it is implemented, in addition to the modalities used to calculate the contributions. One company pointed out that victims are being compensated through a local NGO and other companies agreed that it would be best to encourage the adoption of forms of victim compensation and assistance through structured organisations operating full-time in the area and able to identify victims, support them, and ensure actual compensation for damages sustained.

Moreover, the industry also gave rise to the **Alliance** for Bangladesh Worker Safety is an association of North American apparel and retail companies who joined together to develop and launch the **Bangladesh Worker Safety Initiative**, a five-year undertaking to improve safety in RMG factories in Bangladesh and put forward joint, concrete solutions to issues that impact the global apparel and retail industries. The group comprises 26 companies responsible for most North American imports of RMG from Bangladesh, produced in over 700 factories.

The Alliance has undertaken to carry out safety assessments in all these factories by July 10, 2014. These assessments are carried out in accordance to the Alliance’s Fire Safety and Structural Integrity Standard, developed by a group of experts from the Alliance and the Accord on Fire and Building Safety, and which complies with the pre-requisites set by the University of Engineering and Technology (BUET) for the NTPA. The Alliance also has a plan to train workers and managers in workplace security, and through its Worker Helpline it aims to provide workers with a reliable, impartial channel to report safety problems anonymously.

According to published data as of 21.05.14, assessments were completed in 519 factories, 83% of the total, and 50% of factories are carrying out necessary remediation efforts. A total of 594,061, workers have been trained, 54% of the total²⁴.

- **Recommendation 1: Adhere to the Accord On Fire and Building Safety in Bangladesh and consider it as a model for the future**

²³ <http://www.abitipuliti.org>.

²⁴ For more details see: <http://www.bangladeshworkersafety.org/>

- **Recommendation 2: Assist and provide compensation to victims through legitimate, reliable, and effective initiatives, such as the Arrangement's Trust Fund, and collaborate with structured organisations operating in Bangladesh and with its government**
- **Recommendation 3: Switch from a reactive approach to a preventive approach, including through the adoption of collective action to tackle systemic problems to be dealt with in the framework of institutional contexts ensuring the impartiality and legitimacy (such as ILO, OECD, UN) and in cooperation with governments, workers and other stakeholders**

IV. THE OECD GUIDELINES AND DUE DILIGENCE IN THE SUPPLY CHAIN

Globalization, which is characterized by the presence of multinational enterprises and complex trans-boundary value chains with disparate supply and production models, has increased the need to find adequate answers for sustainable development. This has brought about the development of policies and tools to manage and mitigate the impact of business activities on certain fundamental goods, and to bring into focus the relationship between enterprises and their stakeholders, especially along the global supply chain, with preventive and remedial functions.

This has also been the case with the OECD Guidelines, the broadest set of recommendations undersigned by governments and addressed to multinational enterprises²⁵, which guidelines were updated in 2011 making reference to, among other things, the “*Protect, Respect and Remedy: a Framework for Business and Human Rights*” approved by the United Nations Human Rights Council (June 2008) and the “*UN Guiding Principles for Business and Human Rights*” (June 2011).

As specifically concerns the matter at hand, the Guidelines²⁶ ask enterprises to:

- **Avoid causing or contributing** to adverse impacts on matters covered by the Guidelines, through their own activities, and address such impacts when they occur;
- Carry out risk-based due diligence to **identify, prevent, and mitigate actual or potential adverse impacts** on matters covered by the Guidelines²⁷, and account for how these impacts are addressed;
- Seek to **prevent or mitigate** a negative impact where they have not contributed to that impact, **when that impact is nevertheless directly linked to their operations, products, or services by a business relationship**²⁸;
- **Encourage**, where practicable, **business partners**, including suppliers and subcontractors, to apply principles of responsible business conduct compatible with the Guidelines.

According to this approach, enterprises have a primary responsibility to avoid causing an adverse impact on matters covered by the Guidelines.

Additionally, it is immediately understandable that the enterprise’s responsibilities extend beyond the corporate perimeter, and that great relevance is placed on relations within the supply chain, defined as the entirety of the enterprise’s business relationships²⁹.

Relationships within the supply chain can take on any number of forms, such as franchising, licensing, or subcontracting.

The term **business relationship** comprises partnerships, entities along the supply chain, and any other State or non-State entity directly linked to the enterprise’s operations, products, or services.

What changes is the enterprise’s expected conduct, as detailed in the commentary on general policies and the chapter on human rights³⁰.

Therefore, if the enterprise:

- identifies a risk of **causing** an adverse impacts, then it should take the necessary steps to cease or prevent that impact and address such impact when it occurs³¹;

²⁵ The Guidelines: contain a broad definition of multinational enterprises, namely: “*companies or other entities established in more than one country and so linked that they may co-ordinate their operations in various ways*”.

²⁶ Guidelines, *General Policies*, § A10-A13

²⁷ The Guidelines’ recommendations on due diligence do not apply to the chapters on Science and Technology, Competition, and Taxation.

²⁸ This is not intended to shift responsibility from the entity causing an adverse impact to the enterprise with which it has a business relationship.

²⁹ See Guidelines, *Commentary on General Policies*, § 14 and 17

³⁰ See Guidelines, *Commentary on General Policies*, § 18,19,20 and *Chapter IV*, §2,3,5

- identifies a risk of **contributing to** an adverse impact, then it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impacts to the greatest extent possible;
- identifies a risk of an adverse impact directly linked to the operations, products, and services of an enterprise with which it has a **business relationship**, and even though it has not caused or contributed to the adverse impact, then it should – on its own or in cooperation with other entities - use its leverage to induce the entity that cause the negative impact to prevent or mitigate it.

Leverage is considered to exist where the enterprise – on its own or in cooperation with other entities – has the ability to effect change in the wrongful practices of the entity that causes the harm, for example through the management of their business relationship.

Due diligence is the main instrument proposed by the Guidelines to manage the supply chain and should always be carried out, although the nature and scope of due diligence, as well as the specific steps to be taken in a particular situation, are influenced by factors such as:

- the size of the enterprise,
- the context in which it operates,
- the specific recommendation in the Guidelines,
- the severity of the adverse impact (such as in the case of human rights violations)³².

The social dialogue and a **multi-stakeholder approach** are key elements for the implementation of the Guidelines. Enterprises are invited to engage in or support social dialogue and private or multi-stakeholders initiatives on the responsible management of the supply chain, while ensuring that initiatives take due account of their social and economic effects on developing countries and of existing internationally recognized standards³³.

³¹ In this case the enterprises causes the harm directly.

³² Guidelines, *Commentary on General Policies*, § 15

³³ Guidelines, *General Policies*, B.2

V. OPERATIONAL RECOMMENDATIONS ON IMPLEMENTATION OF THE OECD GUIDELINES IN THE TEXTILE AND GARMENT SUPPLY CHAIN

This section of the report contains operational recommendations to improve sustainable supply chain management in application of the OECD Guidelines, and was drafted by the NCP as part of its “Bangladesh Action Plan” (see foreword).

The Guidelines do not provide a detailed description of how to implement a due diligence process. The process indicated in the following chapters of this Report is based on the OECD Guidelines (first and foremost the General Policies and Chapter IV on Human Rights) and takes account of the UN Guiding Principles on Business and Human Rights, in addition to considering corporate practices and the available documentation on this issue.

As early as 2011, the Italian NCP, following up on the update to the Guidelines, published with the support of KMPG a “Guide to due diligence in the supply chain”, which was used as one of the reference documents to draft the present Report.

5. Adopting a policy for responsible supply chain management

Before discussing the various phases of due diligence in corporate management, it should be stressed that the first step an enterprise should take is to define a policy for responsible conduct.

The Guidelines provided guidance on how to define such a policy under chapter IV, § 4 on human rights, which states that enterprises should:

- have a policy commitment to respect human rights.

In the commentary to chapter IV § 4, the Guidelines recommend that enterprises express their commitment to respect human rights through a statement of policy that:

- is approved at the most senior level of the enterprise;
- is informed by relevant internal and/or external expertise;
- stipulates the enterprise’s human rights expectations of personnel, business partners, and other parties directly linked to its operations, products, or services;
- is publically available and communicated internally and externally to all personnel, business partners, and other relevant partners;
- is reflected in operational policies and procedures necessary to embed it throughout the enterprise.

This commitment should be made by enterprises through a **statement of policy** in which the enterprise establishes the minimum criteria of responsible conduct it pledges to respect, and the basic criteria informing business decisions. It is thus both a set of rules of conduct for the members of the organization and a tool for governance and for managing relationships in the supply chain.

Generally, enterprises use a code of conduct, that, especially in major multinational enterprises, often make reference to international standards and norms. In some cases they refer to corporate ethical values that may partly coincide with international standards, but that may also diverge from them (such as referring to certain ILO Conventions but not all of them, or only to certain human rights categories), and rarely reference the OECD Guidelines, in spite of the fact that the latter include all of the main ILO conventions and a chapter on human rights.

The codes of conduct of the major enterprises interviewed by the NCP reference the ILO's core conventions and/or the United Nations Guiding Principles on Business and Human Rights and/or UN conventions on children's rights and human rights.

In any events, these statements of policy should always contain, at the very least, a reference to internationally recognized human rights (see box below).

Internationally recognized human rights

According to the Guidelines, enterprises are expected to respect human rights even if a State fails to enforce relevant domestic laws, or to implement international human rights obligations, or acts contrary to such laws or international obligations. In countries where domestic laws and regulations conflict with internationally recognized human rights, enterprises should seek ways to honour them to the fullest extent which does not place them in violation of existing laws (LG, Cap. IV, Commentary § 38).

Which rights?

The Guidelines recommend that multinational enterprises respect, at the very least, internationally recognized human rights expressed in the following general instruments:

- **The Universal Declaration of Human Rights (1948);**
- **The International Covenant on Civil and Political Rights (1966);**
- **The International Covenant on Economic, Social, and Cultural Rights (1966);**
- **The International Labour Union (ILO) Declaration on Fundamental Principles and Rights at Work (1998).**

With regards to workers' rights, the ILO Declaration covers four fundamental principles: the freedom of association and right to collective bargaining, the effective abolition of child labour, the elimination of all forms of forced or compulsory labour and non-discrimination in employment and occupation. All of these rights are covered by the **ILO's eight core conventions**.

Additionally, the Guidelines stress that **where enterprises are involved in activities with adverse impacts on specific groups or populations that require special attention** (women, children, migrant workers and their families, persons belonging to national or ethnic, linguistic, and religious minorities, indigenous peoples, and persons with disabilities), they should take into account additional ad hoc norms that sanction the specific, internationally recognized rights of these groups. These are the Convention on the Elimination of All Forms of Discrimination Against Women (1979); the United Nations Convention on the Rights of the Child (1989); the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990); the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, and Linguistic Minorities (1992); the Convention on the Rights of Persons with Disabilities (2006); and the United Nations Declaration on the Rights of Indigenous Peoples (2007)³⁴.

Generally, the codes of conduct adopted by a multinational enterprise **apply** to all its direct and indirect subsidiaries, and usually, but not always to **the supply chain**. It would be desirable for the code/statement of policy to include indications on relations with suppliers, with whom contractual agreements can then be made mandating them to respect the statement in their relations with subcontractors³⁵.

Some of the enterprises interviewed by the NCP are already implementing a policy to extend the code of conduct to the supply chain, although they have experienced difficulties in doing so, especially with regards to subcontractors.

³⁴ United Nations, *The Corporate Responsibility to Respect Human Rights, An Interpretative Guide*, 2012, p.12.

³⁵ See the paragraph on contractual arrangements with suppliers

The **International Framework Agreements (IFAs) between multinationals and Global Union Federations** could be a starting point to set up the enterprise commitment with reference to labour rights and industrial relations.

To improve its effectiveness, the statement should, in the first instance, identify tools for **monitoring** its **application**, including the possibility of auditing suppliers and requesting corrective measures on their part³⁶.

The **adoption of a statement of policy at the most senior level of the enterprise** encourages the actual implementation of the principles within the enterprise and in relationships with suppliers. Indeed, in order to be effective a commitment to policy should be incorporated in the enterprise's business strategy and management, identifying specific responsibilities and key subjects. One of the most frequent problems lies in a mismatch between the management of business and sustainability objectives, due to insufficient integration and/or cooperation between the subjects responsible for protecting human rights (or sustainability in general) and the operational functions.

Any given **organizational model** isn't necessarily more suitable than another; indeed, solutions may vary from one enterprise to another. In any event, every model should indicate the distribution of **responsibilities** within the enterprise.

In the case of the garment and textile industries, the purchasing manager is a key figure; he or she can help prevent uneven, emergency-driven purchasing policies and ensure that suppliers actually have a productive capacity in line with the volume of orders and comply with social and environmental standards. At the same time, he or she can serve as an 'early-warning system' to identify risks in the field. The quality assurance manager, on the other hand, in carrying out and/or assigning a quality audit, can include in the assessment certain social and environmental aspects that affect the final quality of the product but also its safety or its chemical contents.

One of the enterprises interviewed by the NCP identifies the person responsible for RBC as the quality assurance manager, who reports on procurement and purchases, while the human resources department is involved in internal training programmes. Some enterprises have a CSR manager, in other cases the issue is managed by the external relations or communications office.

It is also important to provide employees with **training and information programmes** on the principles of the firm policy and on issues related to due diligence, so as to provide relevant personnel with adequate skills and knowledge, with a particular focus on purchasing offices (including purchasing offices abroad) and buyers under contract.

In light of the changeable nature of supply chains, it should be established from the onset that the correct **approach** should be **evolutive and flexible**, with information flows and control and reporting processes organised so that necessary information is always available, within the necessary timeframe and in a suitable form, to the various levels of the organization. For this to be possible, enterprises should, among other things, correctly identify the at-risk subjects in the supply chain by **mapping the stakeholders** that interact with the enterprise's activities.

Regardless of the scope of the due diligence adopted by the enterprise – which should be strengthened with regards to human rights - adequate **human and financial resources** should be dedicated to this activity.

Finally, the statement of policy should be **made public** and brought to the attention of all those who interact with the enterprise. This can be done in various ways, provided they are equally effective

³⁶ See paragraph 8

(e.g. delivered to suppliers, annexed to the contract, published on one of the enterprise's online platforms, etc).

- **Recommendation 4: Commit to a “responsible supply chain management policy” at the most senior levels of the enterprise, through a statement of policy to be made public that explicitly references the Guidelines and, at the very least, internationally recognized human rights, including the eight ILO core Conventions**
- **Recommendation 5: Incorporate the responsible supply chain management policy in the enterprise's business strategy and management system, with a particular focus on the purchasing and quality control divisions, identifying responsibilities and dedicating trained human resources and adequate financial resources**
- **Recommendation 6: Adopt an evolutive an flexible approach, adapting company policy to the risks identified as they arise; map relevant stakeholders and collaborate with them**

6. Mapping the supply chain in the textile and garment sector

In an ever-more globalised world, the garment industry is increasingly disaggregated and geographically dispersed, with manufacturing, brokerage, and distribution divided among different regions and countries. The global scenario assigns different roles to different countries: while western countries continue to play the role of brand leader, emerging countries are becoming the main suppliers, and are increasingly in competition with one another.

Before we examine the structure of the supply chain, we must identify the **main phases** of the procurement, production, and distribution of garments. They have different origins depending on the nature and design of the item of clothing, its end market, and distribution channels and modalities.

As depicted in the table below, several macro-phases can be identified:

0. Strategic and product planning (materials and markets); design; preliminary choice of countries
1. Procurement of raw materials and/or semi-finished products
2. Production (2.1. initial processing; 2.2. spinning and weaving; 2.3. dyeing)
3. Additional processing; finishing
4. Packaging
5. Distribution

Tab. 2. The main procurement, production, and distribution phases in the garment sector

Phase	Cotton	Wool	Linen	Silk	Chemical fibres	By-products/waste
0 Strategic planning						
1 Procurement of raw materials and/or semi-finished products						
2.1 Initial processing/prepping of fibres	///	Washing; drying; conversion	Prepping (scutching)	///	Washing; drying; conversion	unrolling
2.2 Spinning and weaving	Spinning	Wool carding and combined cycle;	Spinning	Texturing	Spinning	Wool carding
2.3 Dyeing	Dyeing	Dyeing	Dyeing	Dyeing	Dyeing	Dyeing
3 Processing and finishing	Ribbons, bands, laces, labels passamanterie, tulle, lace, embroideries, crochet	Ribbons, bands, laces, labels passamanterie, tulle, lace, embroiderie, crochet	Ribbons, bands, laces, labels passamanterie, tulle, lace, embroiderie, crochet	Ribbons, bands, laces, labels passamanterie, tulle, lace, embroideries, crochet	Ribbons, bands, laces, labels passamanterie, tulle, lace, embroiderie, crochet	Ribbons, bands, laces, labels passamanterie, tulle, lace, embroideries, crochet
4 Packaging	Packaging of garments and knitwear,	Packaging	Packaging of garments and furnishings	Hosiery, knitwear	Packaging	Knitwear
5 Distribution and end market (bulk, retail, or mass distribution)	Packaging of garments	Garments and haberdashery	Garments	Packaging of garments	Garments	Packaging of garments

Source: Elaboration of the NCP with the contribution of Prof. Giovanni Lombardo, University of Genoa

The crucial starting point from which to tackle the issue of responsible management is understanding the “**structure**” of the **supply chain**, which depicts and describes the web of relations between suppliers (upstream) and clients (downstream), as well as the countries in which the procurement, production, and distribution phases take place.

The links and relationships within the supply chain are varied and complex and this is borne out also in the NCP interviews. The need to respond to the increasingly stringent and varied needs of consumers in an intensely competitive climate makes the management of logistical processes and relations along the entire supply chain a strategic and critical factor. The items made by western brands go through a great many phases of processing, manufacturing, and assembly at the hands of hundreds, if not thousands, of suppliers and subcontractors in numerous different countries.

The sector is experiencing a trend towards gradual displacement to other geographic areas, either as the “**offshoring**” of manufacturing (in the enterprise’s own factories and subsidiaries) or as the “**outsourcing**” of some of the components of the final product (e.g. textiles) or the purchasing of the finished good (e.g. t-shirt). In case of total outsourcing of manufacturing, the enterprise negotiates and purchases finished products, instead of adopting a management process in which the company would have outsourced to its suppliers only certain phases of production.

In this case the enterprise **purchases its supplies directly**, or through **buyers** under contract (especially for large enterprises), or uses the services of **brokers/agents** (especially in smaller, less organized enterprises), who can act on various levels: procurers of raw materials, brokers and representatives for semi-finished textiles, brokers and representatives for textiles for garments, brokers and representatives for finished items of clothing.

Distribution can take place through different channels ranging from multi-brand or single-brand retail to mass distribution. Small manufactures in the RMG sector produce almost exclusively for major brands or mass distribution.

The brand – which lends its name to the product and launches it on the market – is at the centre of the web of relations in the RMG supply chain, and is responsible for the product in the eyes of the consumer. Nevertheless, Global Distribution Organisations (GDO) often dictates conditions in terms of product, delivery times, and price, and takes responsibility for this by using its own brand.

In examining the situation in **Italy**, it must be stressed that the textile and clothing industry as a whole has always been one of the sectors in which Italian manufacturers have excelled.

As Federazione Sistema-Moda Italia³⁷ points out, the textile and clothing industry in Italy has traditionally had a particularly diversified and long supply chain, with the presence of enterprises working both upstream and downstream along the supply chain – such as spinning mills, weaving factories, and throwsters – and enterprises engaged in manufacturing lingerie, undergarments, and other clothing. The supply chain is complete in terms of processes and also in terms of materials, since it includes enterprises that process cotton, linen, silk, and wool, in addition to enterprises working with artificial and synthetic fibres. Manufacturing is usually at the hands of highly specialized small and medium enterprises often focusing on niche markets, although some highly verticalized and organized – including in terms of distribution - multinational groups are present, especially in the luxury segment of the market. Additionally, production is concentrated in a few specific geographic clusters (the so-called district).

As is the case elsewhere, the RMG sector in Italy is gradually shifting towards a supply chain model based on outsourcing and the supply of finished products to distributors (see data on international trade).

³⁷ <http://www.sistemamodaitalia.com/>, SMI is a business association

The source of how much production should be offshored or outsourced depends on various factors, such as:

- labour costs,
- the need for a qualified workforce,
- the need for advanced technology and machinery,
- access to end markets,
- other cost factors (raw materials, energy, transport costs),
- the need to protect intellectual property and prevent counterfeiting,
- the need to control product quality.

To simplify, one could say that the Italian base of production tends to focus on high-value-added goods manufactured mainly in Italy, while the production of mass consumer goods is outsourced to other countries.

Generally, supply chains for high-value-added goods are shorter than those for mass consumer goods, with fewer brokers who report directly to the buyer. Generally, enterprises that purchase high-end goods buy yarn and textiles directly and entrust their suppliers to carry out the subsequent phases.

See the graph on paragraph 7 for depicting the supply chain in the RMG sector and related risks.

- **Recommendation 7: Map the supply chain with regards to the procurement, production, and distribution phases**
- **Recommendation 8: Map the “structure of the supply chain” with regards to the geographic areas where it takes place, the product’s transit modalities, and the various stakeholders (brokers, suppliers, subcontractors), and identify the various upstream and downstream relationships along the supply chain**

7. Identifying the risks in the textile and garment sector supply chain

Once the structure of the supply chain has been mapped out (see paragraph 6) the next crucial step is to identify the risk of adverse impact within the supply chain.

The Guidelines address risk identification in the following terms:

- The risk should be identified by appraising the **actual and potential impacts** on individuals, affected groups or other relevant stakeholders that might be involved in the activities of the enterprise;
- Where enterprises have large numbers of suppliers, they are encouraged to identify general areas where the risk of adverse impacts is most significant and, based on this risk assessment, prioritise suppliers to implement due diligence.³⁸

The more complex the supply chain, the greater the risks, and hence more rigorous and targeted the analysis should be.

The interviews conducted by the NCP confirm the challenges and the critical areas of the textiles and garments industry in the supply chain as recorded in the literature. These risks may be grouped together into three categories:

- Country risk
- Specific sector risk
- Risk related to the structure and the relations within the supply chain.

There are specific risks in each phase in the product life-cycle.

The choice of the geographical areas in which to operate is one of the elements which depends on the strategic decisions taken by corporate management and which determines the enterprises' procurement and investment policies. This makes it necessary to analyse the “**Country Risk**”, namely, the local environment in which the different entities in the supply chain operate in order to identify the risks relating to such aspects as:

- the political and economic environment,
- the rule of law,
- the environmental conditions,
- the conditions of the workers and of the communities.

The **main critical areas** commonly found when establishing a reliable and accurate identification of the risk of adverse impact generally include **the risks of human rights violations** and more specifically, within the textile industry, violation of the rights of children and of workers (including health risks, and safety in the workplace), followed by **environmental impact risks**.

Various **sources of information** may be drawn upon.

There are many official public sources of information, data on the countries where suppliers operate are posted on the Ministry of Foreign Affairs Crisis Unit website,³⁹ Country Factsheets are issued by Italian Embassies and the ICE (Italian Trade Agency) furthermore the SACE (Italian Export Credit Agency) classifies countries according to political and/or economic risk⁴⁰.

Internationally, several bodies issue human rights country fact sheets. Recently, for example, a new partnership initiative was launched, named the *Human Rights and Business Country Guide*, hosted

³⁸ Guidelines, *Commentary on General Policies*, § 16

³⁹ http://www.esteri.it/mae/it/ministero/servizi/unita_crisi/

⁴⁰ http://www.sace.it/GruppoSACE/content/it/consumer/research/global_market/country_risk_update/

by the Danish Institute for Human Rights⁴¹. Information on the risks of the impact on workers are published by the ILO NORMALEX database⁴² which provides information both on the implementation of the ILO Conventions and on labour law for each country. Information could be gathered also directly through the home and host governments and agencies, international organizations, stakeholders etc.

There are also a number of private companies providing country fact sheets covering social and environmental aspects.

Beyond information sources it is also important for the enterprise **to involve the stakeholders** themselves to check and confirm the risks identified with a collaborative approach and transparent dialogue, so that it can not only confirm or fine-tune the results of the analysis performed but also identify any risks and impacts that have not yet become evident. The stakeholders may come from within the supply chain itself (co-workers, customers, suppliers, subcontractors, business partners, trade union representatives...) and from outside (local and international institutions, non-governmental organisations, local public agencies and authorities, experts, etc).

There are also “**specific sector risks**” that is to say the risks of impact forming an integral part of the type of production process and the product itself.

In the textile and garment sector the main risks have to do with:

- the high flammability of fabrics,
- the toxicity of the chemicals used in the production process and incorporated into the products themselves,
- safety of products,
- the management of the water and other natural resources used in the production processes.

The **health risks for workers** can be present from the fibre production phase onwards (for example pesticides’ use is the cause of a great number of deaths in the cotton growing industry). In the case of processing, byssinosis, or “brown lung disease”, is one of the most common diseases and it is caused by inhaling plant dust particles (cotton, linen and hemp). Other risks linked to the use of chemicals in the production process include, as already mentioned, the flammable character of the products themselves.

With regard to **consumers**, one of the employers’ associations interviewed by the NCP reported that according to 2013 RAPEX data, during the past year the European member States had submitted a total of 2,364 reports of hazardous products. Of these, 1,981 were products posing a serious risk to human health and to the safety of consumers. The categories of products most in need of corrective measures were garments, textiles and fashion goods (25%) and children’s toys (25%). The risks most often reported and linked to these classes of goods are chemical risks, the risk of strangulation, and injuries.⁴³

With regard to chemical substances, in Europe there is the **European REACH Regulation**¹, but there still remain problems with the chemical substances incorporated into products despite the attention paid by the customers, including in their contractual commitments, to ensure that the suppliers comply with requirements, as has been evidenced from interviews conducted by the NCP.

The **European Regulation on consumer product safety** (currently being in the approval phase) to define a single safety framework provides for cooperation between the institutions and enterprises, and between enterprises in the supply chain. The controlling mechanisms and penalties are based on systems for assessing the risk to consumers adopted by enterprises before placing the products on the market. In this case, too, the system is based on the importance of prior identification by the enterprise of the risk posed.

⁴¹ <http://hrbcountryguide.org/countries/bangladesh/>

⁴² <http://www.ilo.org/dyn/normlex/en/f?p=1000:11000:0::NO::>

⁴³ RAPEX data processed by the Textiles and Health Association. RAPEX is a European early warning system facilitating the exchange of information between the Member States and the Commission on the measures adopted to prevent or to mitigate the marketing and use of products which pose a serious threat to human health and consumer safety.

Another matter altogether are the “**Risks linked to business relations in the supply chain**”, which is to say, the risks linked to the features of the demand for textile products and the relations established in the supply chain between customers and suppliers. These risks are not limited to the first supply tier (tier 1) but extend to all the upstream and downstream tiers in the supply chain.

The structural features of the textile sector supply chain, such as its fragmentary and scattered nature, increase the risk of adverse impacts because of the difficulties of appraising the reliability of suppliers in terms of their compliance with international standards and of the quality and the safety of the products they supply.

Selecting geographically and culturally far distant partners can also make it impossible for enterprises to systematically and comprehensively manage relations with the partners located in other countries. These risks are further compounded by the risks of **breakdowns in the chain** or unpredictable increases in **transport and distribution costs**.

In the case of the textile industry, and especially the RMG sector, these risks are further compounded by **risks linked to the features of the demand**.

The time factor and the demand for constantly-changing products are simultaneously a critical factor and a competitive factor in the garments industry. On the one hand, there are the high seasons, when it is necessary to meet a consumer demand that is increasingly less influenced by the seasonal nature of the two traditional periods (today there are several collections a year). In addition to this, there are the changing fashion trends, which require an offering of products that are always new, with the result that the product samples have to be constantly changed, and suppliers have to meet increasingly tight market deadlines (fast fashion).

One of the greatest risks that also emerged in the interviews conducted by the NCP is the practice of using subcontractors. The speed and variability of the demand bring pressure to bear on suppliers, demanding shorter delivery times and greater production flexibility, and in order to meet with these demands, suppliers may be pushed to resort to subcontractors which are not always declared and cannot therefore be controlled.

The volatility of supply volumes, with the resultant earnings variability for suppliers and heightened competition between suppliers to find customers means that the suppliers are not investing sufficiently in, for example, the workplaces or in their workers. The short supply period is also creating a series of difficulties regarding the possibility of controlling the supply chain to ensure compliance with contractual agreements, and the audit measures required.

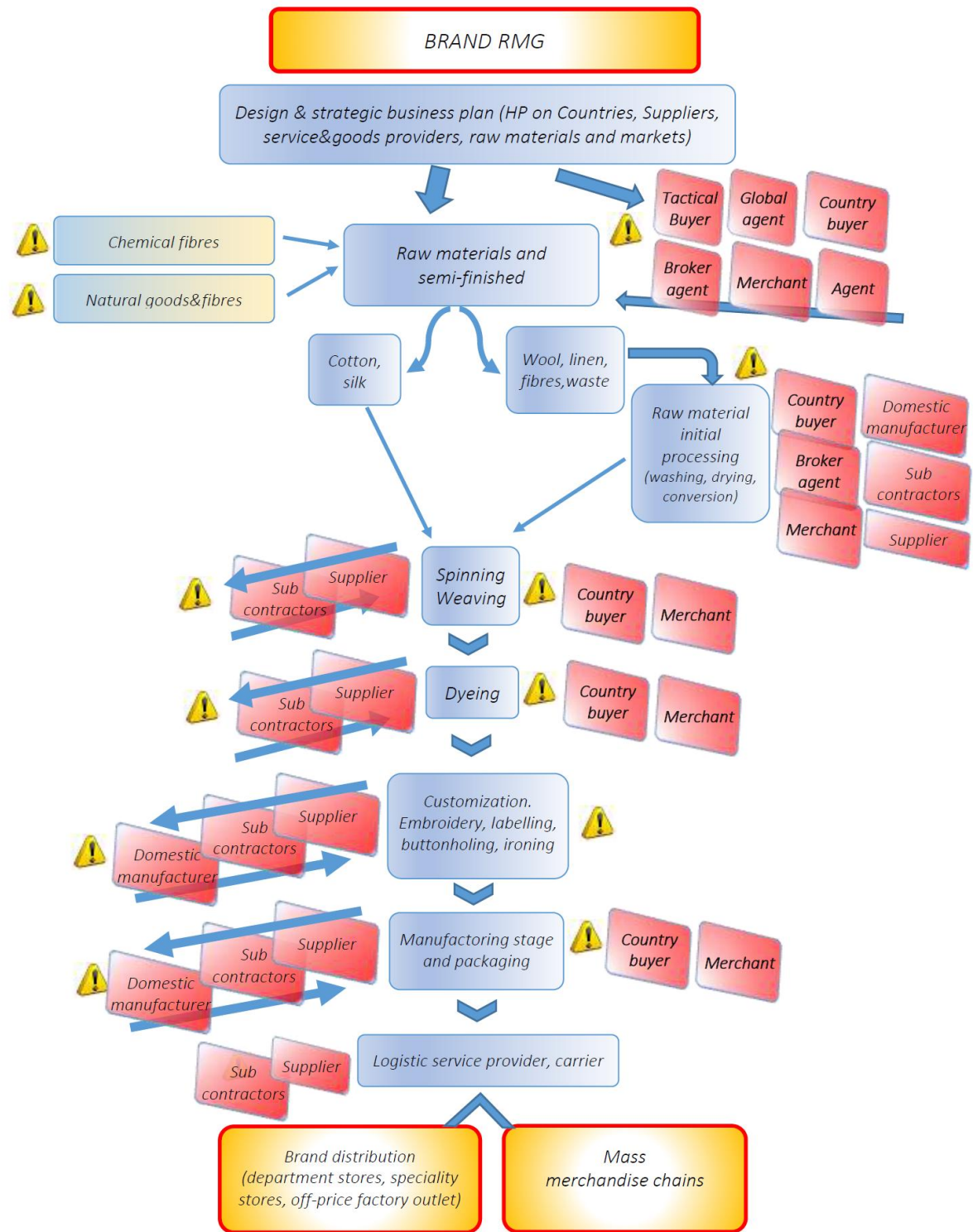
Another critical factor is cost. Faced with rising raw materials, energy and labour costs and a big share of price-conscious consumers' demand in a period of crisis, companies are increasingly seeking cost-cutting solutions. Because of this pressure, buyers have been led to price negotiations with suppliers based on pricing per unit of product.


In this case, too, repercussions on the supply chain can bring pressure to bear on workers' wages, to resort to informal employment and subcontractors and can also have an adverse impact on investment of suppliers in improving production plants and machinery, with a consequent reduction in levels of safety and competitiveness on the part of the suppliers.

Risk identification is an ongoing process which should also include monitoring the way the supply chain is managed (see below).

Consultations by the NCP have shown that not all the potential risk areas are being considered by enterprises in the risk identification process.

The following graph shows the “supply chain structure” of the textile and garment sector, possible relations between actors in the various phases and the risks connected with each phase.



 Country/sectoral/structural supply chain risks to be identified and monitored through *Due Diligence*.

Graph 2: The structure of the textile and garment supply chain and potential risks
NCP elaboration with the support of Prof. Giovanni Lombardo, University of Genoa

- **Recommendation 9: Put in place an effective and flexible system to identify the risks referred to the country in which the enterprise operates, the characteristics of the sector and of the products, the structure of the supply chain and the business relations, in order to identify specific risks for each phase of the product life-cycle**
- **Recommendation 10: Consult all available sources of information and cooperate with institutions and relevant stakeholders to identify the risks and put in place a mechanism of risk assessment based on qualitative and quantitative indicators**

8. Risk prevention in the supply chain through appropriate management and monitoring systems

Once the risk has been identified, enterprises should implement appropriate due diligence procedures to manage the risk on the basis of the assessments made.

The Guidelines provide that:

- Due diligence can be included within broader enterprise's **risk management systems**, provided that it goes beyond the management of the relevant risks to enterprise itself, but also encompasses the risks to rights-holders, and provided that it extends to the supply chain in order to respond adequately to the risks arising in that chain.⁴⁴
- The potential impact should be addressed by adopting **preventive and mitigating measures**.
- The enterprise may continue its relations with the supplier throughout the course of risk mitigation efforts; temporarily suspend the relationship while pursuing ongoing risk mitigation; or, as **a last resort**, disengage with the supplier either after failed attempts at mitigation, or where the enterprise deems mitigation not feasible, or because of the severity of the adverse impact.⁴⁵
- The enterprise should also take into account potential social and economic adverse impacts related to the decision to disengage.

There are various sustainable risk management systems that enterprises can apply, nevertheless, an adequate management system should include at least the following steps:

- supplier selection,
- regulating relations with suppliers,
- monitoring and evaluation system,
- remedial actions and improvement plans.

Before moving on to examine these single phases, it is important to emphasise the fact that an effective method entails overcoming the conventional approach to managing the supply chain to move in the direction of **“a collaborative approach in the relations with suppliers and stakeholders”**.

The trend to changing the management approach has also been reported in a recent study *“From Audit to Innovation: Advancing Human Rights in Global Supply Chains”*⁴⁶ (by SHIFT acting in cooperation with the Global Social Compliance Programme (GSCP)), highlighting the fact that *“As awareness of the responsibility to address social impacts in supply chains has increased, so too has recognition of the limitations of traditional social compliance auditing”*. Adding that *“despite the hundreds of thousands of social compliance audits conducted each year to ensure minimum workplace conditions in companies’ supply chains, there is little evidence that they alone have led to sustained improvements in many social performance issues, such as working hours, overtime, wage levels and freedom of association..”*

Multinational enterprises are therefore gradually changing their approach in order to address the challenges inherent in the social performance of supply chains, moving away from “policeman” to “partner”, or cooperating with their own suppliers, workers and other stakeholders.

⁴⁴ GL, Commentary on General Policies §14 and commentary on chapter IV, §45.

⁴⁵ GL, Commentary on General Policies §22.

⁴⁶ *“From Audit to Innovation: Advancing Human Rights in Global Supply Chains”*, SHIFT, August 2013

Even though there are still enterprises which continue to prefer the prescriptive approach to managing relations with their suppliers, based on rules of conduct and compliance goals, it would be better to become involved with and cooperate with the suppliers through dialogue, assistance, training and so on.

The global dimension of the supply chain today also makes it essential for multinationals and internationalized firms to cooperate between themselves, particularly when they use the same suppliers, and to seek allies outside the business environment. Many of the major adverse impact risks, moreover, are systemic in character and require joint responses to them.

This is the case with Bangladesh, where the Agreement and other instruments have given rise to collective initiatives.

International framework agreements between enterprises and international trade unions can reinforce the due diligence process by providing a source of information on the risks of adverse impacts on labour and industrial relations, and provide a means of resolving any conflict situation.⁴⁷

There are numerous examples of **industry-led multi-stakeholder initiatives** for the sustainable management of the supply chain. Nevertheless, it is to be emphasized that collective initiatives should always be coherent with the Guidelines, the UNPGs and ILO standards and promote social dialogue and multi-stakeholder involvement.

In the textile-garments sector, the *Better Cotton Initiative* (BCI)⁴⁸ is a multi-stakeholder not-for-profit organisation made up of international brands and NGOs which intend to manage the adverse impacts in the cotton industry by managing global standards and through a cotton supplier certification system from the cotton-growers to the resellers, through the Better Cotton Standard System, which proposes a holistic approach based on three sustainability pillars – environmental, social and economic – and comprises all the phases from production standards to control procedures. The system also deals with such issues as forced labour and child labour and child trafficking in the supply chain.

The *Fair Wear Foundation* (FWSF)⁴⁹ is an independent not-for-profit organisation managed by the trade unions, NGOs and employers' associations working with enterprises and factories to improve the working conditions of textile workers. It is therefore a concentrated international verification and auditing initiative addressing working standards set out in the FWF Code on working practices (based on ILO standards).

Multi-stakeholder initiatives to enhance the sustainability of the supply chain in different production sectors includes the *Far Labor Association* (FLA)⁵⁰. This is a joint initiative by enterprises, schools, universities and civil society organisations to improve working conditions in the supply chain factories. The FLA has developed a workplace Code of Conduct based on ILO standards and has created a monitoring, repair and verification process for achieving these standards. This is a brand responsibility to voluntarily adopt the FLA working standards in the factories where their products are manufactured.

Another multi-stakeholder example is the *Ethical Trading Initiative* (ETI),⁵¹ an international alliance of brands, suppliers, trade unions and civil society organisations whose membership agrees to adopt the ETI basic code of conduct on labour practices, based on ILO standards.

The *Global Social Compliance Programme* (GSCP)⁵² is an example of an industry-led initiative to improve the sustainability of the global supply chain by defining a common consensus-based approach based on existing best practices.

Supplier selection is a typical aspect of corporate activity, and one fairly widely-used system is based on self-evaluation of suppliers using specific questionnaires as the basis for supplier selection or as the first step towards risk identification. The limits of this system is the fact that it is based on the trustworthiness of the suppliers.

⁴⁷ TUAC Trade Union Guide, *The OECD Guidelines for Multinational enterprises Recommendations for Responsible Business Conduct in a Global Context*, 2012.

⁴⁸ <http://bettercotton.org>

⁴⁹ <http://fairwear.org>

⁵⁰ <http://www.farlabor.org/fla>

⁵¹ <http://www.ethicaltrade.org/about-eti>

⁵² <http://www.gscpnet.com>

During the course of the interviews conducted by the NCP it emerged that in order to meet the need to select suppliers, some companies not only circulated the questionnaires but also conducted “**pre-audits**” before signing contracts with suppliers. The NCP was told that there are some first-tier suppliers who are moving away from a reactive approach (in response to requests from buyers) towards a preventive approach of voluntarily abiding by commonly-requested standards and certifying the eligibility of their subcontractors, thereby ensuring their customers of their sustainability.

When **managing relations with suppliers**, the Guidelines state that in the due diligence process:

- if an enterprise identifies a risk of contributing to an adverse impact, then it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impacts to the greatest extent possible;⁵³
- when an enterprise has not contributed to an adverse impact, yet that impact is nevertheless directly linked to their operations, products or services by a business relationships it should – acting alone or in cooperation with other entities as appropriate – use its leverage to influence the entity causing the adverse impact in order to seek to prevent or mitigate that impact.⁵⁴

These two actions are directly linked to the risks of adverse impacts connected with the operations of the enterprise in the supply chain, and to the ways in which these risks can be managed.

The Guidelines also add a broader recommendation for enterprises i.e.:

- To encourage, where practicable, business partners, including suppliers and subcontractors, to apply principles of responsible business conduct compatible with the Guidelines.⁵⁵

As already indicated, various factors influence the ability of an enterprise to exercise its **leverage**; that is to say, to induce a supplier or business partner to change its bad practices. These factors include product characteristics, the number of suppliers, the structure and complexity of the supply chain, the market position of the enterprise vis-à-vis its suppliers or other entities in the supply chain, and how crucial that supplier is to the enterprise.⁵⁶

More specifically, these limitations may be due to: ownership (if the company is also a shareholder, it can certainly exercise a great amount of leverage on the supplier); the relative size of the customer and the supplier (it is difficult to influence larger enterprises); the comparative importance of the customer in terms of turnover and volumes purchased; the sensitivity and maturity of the supply in relation to responsible corporate conduct; proximity to the supply chain (direct suppliers are easier to influence); the duration of the contract (short-term relations limit the power to exert leverage); the existence of alternative suppliers.

At all events, the enterprise should do everything possible to exercise its leverage. The Guidelines indicate the **contractual arrangements** that can be used such as management contracts, pre-qualification requirements for potential suppliers, voting trusts, and licence or franchise agreements,⁵⁷ as a means of being able to exercise the power to influence suppliers.

Whatever type of contract is chosen, it is important to ensure that they contain a **sustainability clause** which commits the suppliers to comply with the principles set out in the customer’s statement of policy (see paragraph 5) while giving the customer the right to verify the supplier

⁵³ GL General Policies 11 and Commentary on the General Policies 19

⁵⁴ GL General Policies 12 and Commentary on the General Policies 20

⁵⁵ GL General Policies A13

⁵⁶ GL, Commentary on General Policies 21

⁵⁷ GL, *Commentary on General Policies* § 21

compliance at any moment, either directly or through third parties, through **monitoring and control mechanisms** (see the paragraph dealing with audits).

This is what actually occurs in most of the contracts that have been examined by the NCP.

The most important critical points, as emerged in the hearings held by the NCP, are not inherent to the first-tier suppliers but rather to **subcontractors**, thus the contract should indicate whether subcontractors are authorised, and if so, under what conditions.

Cooperation is to be established with the supplier, and the latter should be obliged to submit a list of subcontractors in order to comply with the contract requirements.

In order to guarantee actual control over any subcontractors, the customer should retain the right to personally inspect and monitor subcontractors actual compliance to the obligations undersigned by the contractor.

However, it is not always the role of the customer to engage in direct contact with subcontractors, nevertheless the former shall require to the supplier to undertake a commitment to monitor the subcontractors (“cascade obligations”) in order to guarantee the sustainability of the chain, and the follow-up of the activities. It would be better, to ensure the best guarantees, for the contract to include an obligation on the supplier to report to the contractor on any adverse impact, whether actual or potential, caused by its subcontractors so that they can, either jointly or separately, take appropriate preventive and mitigating measures or remedies.

Another risk factor that emerged in the course of the consultations was the fact that the brand (customer) and the supplier may not actually have a direct relationship, but the relations may take place through **agents (traders)**. As in the case of the subcontractors, this requires a contract which clearly sets out the commitments required of the trader in its relations with both the customer and its own suppliers. The trader should be considered to be the equivalent of a supplier. Similarly, the customer should reserve the right to conduct inspections on the premises of the trader and supplier.

In relation to the **actions** to be performed by the **suppliers** under their contractual agreements, it emerged from the NPC’s meetings with the professional associations and auditing firms that the suppliers, and especially smaller ones, are often required to meet heterogeneous requests from their large clients. Even working on the basis of similar principles (such as respect for human rights) they may receive different requests (e.g. a request to procure social or environmental certifications of various kinds, different auditing standards, duplication of audits of suppliers or of their subcontractors), to respond to which they are not given adequate time.

Therefore, beside the contractual terms and conditions, once again the approach should not be based on “compliance” alone, but cooperation between the client and the suppliers should be in place, based on standards and practices that are coherent with international rules and standards and commonly agreed upon throughout the industrial sector, as indicated in other parts of the Report.

The contractual conditions may also serve as “**incentives**” to the **suppliers** to fall into line, such as price, volume, the duration of the agreement, and different types of preferential treatment in the event of virtuous conduct.

At all events, the customer should define contractual commercial terms and conditions and other matters, which are compatible with the obligations to prevent and mitigate the risks of the supplier/trader.

The most typical way used by customers to check and assess the activities and results of their suppliers is the **audit**.

The limitations of **social audits** conducted in Bangladeshi factories have emerged in all evidence from the accidents that have occurred. As we have already said, the Bangladesh case is a systematic issue which called out for a collective response.

The above-mentioned SHIFT survey has highlighted the following **critical aspects** that occur over and over again in social audits:⁵⁸

- the lack of precision in the performance information provided by suppliers in the course of the audit;
- the inability of suppliers to address the problems identified;
- the inadequate incentives given and hence the lack of motivation on the part of suppliers to address social issues;
- the presence of systemic problems which lie outside the control of individual suppliers, including the social, statutory and sector context;
- purchasing practices of brands and retailers and the need to continue working on enhancing suppliers' awareness of their role.

These critical aspects were confirmed during the NCP consultations, where certain stakeholders in particular highlighted:

- the need to increase auditing activities and base them upon significant risks rather than formal aspects, thus better defining the objective and scope of audits;
- the short duration and volatility of contractual relations with suppliers, which reduces the capacity for leverage and makes it impossible to carry out adequate audits at regular intervals;
- the fact that the greatest problems concern subcontractors; hence, audits should extend beyond tier 1;
- certain enterprises reiterated the critical need to audit subcontractors.

Trade Unions and NGOs have often denounced the limits of social audits and social certifications, as has done the Clean Clothes Campaign for the textile and garment industry⁵⁹.

In a recent study of the **AFL-CIO Federation recommended** to companies to:

- arrange and support truly independent oversight of the failed workplace social audit systems by teams made up of business representatives, local and international unions, workplace activists chosen by their peers and trusted NGO representatives named by workers;
- reward suppliers with the highest levels of labor rights compliance;
- advise buyer representatives that plants with a history of anti-union discrimination are not acceptable sourcing partners;
- exercise due diligence as described in the UN Guiding Principles⁶⁰.

Various enterprises emphasised the need **to pool** their **auditing** activities and/or their **outcomes** with other enterprises, on the grounds that doing this would benefit both the customer and the suppliers in terms of costs and of standardising activities and expectations. Suppliers in particular would be able to adjust in advance to the standards instead of having to introduce corrective measures at the request of different customers.

⁵⁸ *From Audit to Innovation: Advancing Human Rights in Global Supply Chains*, performed by the SHIFT company in conjunction with the Global Social Compliance Programme (GSCP).

⁵⁹ <http://somo.nl/news-en/companies2019-blind-faith-in-failed-auditing-model-resulted-in-more-than-400-deaths>
<http://www.cleanclothes.org/resources/publications/05-050bsci-paper.pdf/view?searchterm=audit>

⁶⁰ AFL-CIO- American Federation of Labor-Congress of Industrial Organizations, *Responsibility Outsourced: Social Audits, Workplace Certification and Twenty Years of Failure to Protect Worker Rights*, 2013

There are already a number of initiatives led by enterprises or professional associations involving expert auditors in conjunction with other stakeholders. One of these is Sedex-SMETA, although the effectiveness of these initiatives should be continuously assured.

The Sedex Members Ethical Trading Audit (SMETA) has been developed by Sedex Associate Auditor Group (AAG), and comprises three elements:

- A guide to the most common practices for conducting an ethical trade audit
- A common audit report format
- A common corrective Action Plan Report format (APR)

SMETA is designed to reduce duplication of effort when conducting an ethical trade audit for the benefit of *retailers, brands and suppliers*. It has been developed in response to the demand for more easily shareable audit report formats. It is not a code of conduct or a new methodology, or certification process, but describes an audit procedure, which is a collection of good audit practices.

Sedex - Supplier Ethical Data Exchange is a not-for-profit organisation to improve responsible and ethical commercial practices in global supply chains. It has members in more than 150 countries and in 25 industrial sectors ranging from small independent firms to the major multinational retailers.⁶¹

Where necessary, the auditing activities are translated into **Remedial Action Plans (RAP)** or in general into improvement plans. The RAP should also include **mitigation** measures, namely, measures to reduce the probability of the impact occurring by addressing the root causes of the problem and identifying effective solutions.

The auditors interviewed by the NCP said that they are sometimes confronted by “recurrent weaknesses and believe that brands ought to provide systematic training to the suppliers, either individually, or on the basis of joint initiatives. In this case, too, time is not in favour of these plans, apart from the fact that very often the companies prefer to resort to other suppliers who provide better guarantees.

One of the companies interviewed said that while the audits are entrusted to independent experts, the improvement plans are managed directly by the company.

Every company should ask itself which are the most appropriate systems to **prevent and mitigate adverse impacts**, taking in mind the good examples and the negative experience of the past.

- **Recommendation 11: Join and/or develop multi-stakeholder collective actions, setting common sectoral standards - consistent with the OECD Guidelines, the ILO Conventions and United Nations Guiding principles - covering different aspects of sustainability in the supply chain and adhere to International Framework Agreements to reinforce the due diligence process**
- **Recommendation 12: Select suppliers through prior activities (including preventive checks in the case of potential risks) and ask suppliers to commit to respect the rules and principles of its own statement of policy (as defined in par.5)**
- **Recommendation 13: Move away from a “prescriptive” to a “partnership” approach to managing relations with suppliers, helping and encouraging them to cooperate also using specific contractual conditions (guarantees regarding the duration of the business relationship, preferential treatment of virtuous suppliers)**
- **Recommendation 14: Govern relations with suppliers/traders through contractual arrangements making it possible to implement the due diligence even beyond tier 1 of**

⁶¹ For further information: <http://www.Sedexglobal.com/ethical-audits/smeta/#sthash.ti2otc3o.dpuf>

the supply chain (sustainability clause) through obligations towards subcontractors (“cascade obligations”)

- **Recommendation 15: Establish contractual terms and conditions (e.g. commercial terms, delivery timing) that are compatible with the risk prevention and mitigation obligations requested to the supplier/trader**
- **Recommendation 16: Improve the quality and independence of audits, guarantee adequate frequency, encourage the standardisation of activities by avoiding overlapping audits by sharing information/experiences with other companies**
- **Recommendation 17: Arrange, where appropriate, oversight of workplace by technical teams made up of business representatives, local and international unions, trusted NGO representatives named by workers and cooperate with institutions**
- **Recommendation 18: Take remedial action (eg. RAP) based on audit findings and other verification procedures, and assure the follow-up.**

9. Remedial measures

Before presenting the recommendations to enterprises with regards to remedies it is worth remembering that “**access to remedy**” is the third pillar of the UNPGs where the first pillar is the **State duty to protect human rights** and the second pillar the corporate responsibility to respect.

Surely, as part of the first pillar States have the prior responsibility to take all steps to ensure, through judicial, administrative and legislative and other appropriate means that when abuses occur within their territory and/or jurisdiction those affected have access to effective remedies, as the UNPGs states. This is true in Bangladesh and all over the world since human rights are universally recognised rights.

On the second pillar – the corporate responsibility to respect- according to the Guidelines (and the UNPGs) enterprises should:

- Provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have **caused or contributed to these impacts**⁶².

This recommendation contains two principles: firstly, it affirms that the party causing or contributing to an adverse impact on human rights should remedy the situation, and secondly it makes provision for recourse to legitimate procedures.

The importance of the first principle can be clearly understood, because it calls on the responsibility of the enterprise to remedy a situation not only if it has directly caused an adverse impact but also if it has contributed to that adverse impact. This is important in terms of business relations within the supply chain because ‘**contributing to’ an adverse impact should be interpreted as a substantial contribution, meaning an activity that causes, facilitates or incentivises another entity to cause an adverse impact** and does not include minor or trivial contributions.’⁶³

There are different ways in which the enterprise discovers the internal or external adverse impact, and when a company acknowledges that it has caused or contributed to causing an adverse impact the remedies may differ, according to circumstances.

The most important aspect is obviously the **gravity of the adverse impact** which can be measured in terms of its scope (intensity), its dimensions (the number of individuals affected by it) and the inability to restore a previous situation (irremediability).

Remediation can range from a public apology, to monetary or non-monetary compensation, and the prevention of any future damage by taking out injunctions, for example, or through other measures to ensure that it is not repeated.⁶⁴

The second implication of this recommendation is that remediation requires a “**legitimate process**”, which is based on the criteria of legitimacy, accessibility, predictability, equitability, transparency and compatibility with the Guidelines and which is based on dialogue to find agreed solutions.

⁶² Guidelines, *Chapter 4*, § 6

⁶³ Guidelines, *Commentary on General Policies*, § 14

⁶⁴ *The Corporate Responsibility to Respect Human Rights*, United Nations – Human Rights – Office of the High Commissioner, 2012

These mechanisms can be managed directly by the enterprise (*operational level grievance mechanisms*) or in cooperation with the stakeholders.⁶⁵

The reaction to the Rana Plaza accidents in Bangladesh provides evidence of recourse to a multi-stakeholder approach to compensate the victims.

- **Recommendation 19: Resort to legitimate State-based mechanisms for providing remediation if an enterprise cannot or should not do so itself (eg. either judicial mechanisms when legally required, or non judicial like complaints offices, NCPs in States that have signed the guidelines)**
- **Recommendation 20: Resort to legitimate, reliable and effective remedial processes to address issues related to remedies (including resort to operational level grievance mechanisms) which are agreed at institutional level, ensure the right level of effectiveness and are compatible with the Guidelines and the UNPGs**
- **Recommendation 21: Without prejudice of the State responsibility, remedy the adverse impact in the supply chain – including, when appropriate, financial compensation of the victims – when the enterprise causes or contributes to that impact**

⁶⁵ GL, *Commentary on Chapter IV*, § 46

10. Traceability and transparency of information

Communicating information on the activities which the enterprise is deploying with regard to managing the supply chain completes the due diligence process and is the way in which the enterprise informs shareholders, investors, the workforce, the local communities, specific interest groups, the general public and consumers.

In addition to the provisions of the Guidelines on human rights, recommending to enterprises to make public their commitment to respect human rights and communicate it internally and externally to personnel, business parties and all relevant parties⁶⁶ in Chapter III (Disclosure)⁶⁷ companies are recommended:

- To disclose, among other things, supplementary information such as policies relating to the topics dealt with in the Guidelines, and issue regarding workers and other stakeholders;
- To adopt high-quality standards regarding the disclosure of financial and non-financial information including social and environmental information.

Corporate communications can use different **means**. The most commonly used formal reporting instrument, particularly used by listed corporations, are the sustainability report and a number of large multinationals are gradually moving towards integrated financial and non-financial reporting. One of the enterprises interviewed replied that it is quite useful to publish the sustainability report in the case of listed companies in order to relate with international investors, whereas other forms of transparency and disclosure might be more effective for other types of company (cf. below).

The European Parliament and the Council recently approved the European Directive on the **Disclosure of non-financial and diversity information by large companies and groups**.

The directive provides that large companies - which are agencies of public interest and, which according to the data in their financial accounts, employ an average of 500 or more workers during the course of the financial year - should include in their annual report a non-financial statement containing all the information that is needed to understand the development, the performance and the positioning of the company, as well as **the impact of its activities** in relation, at least, to environmental aspects, social and employee-related matters, respect for human rights, and activities to combat corruption and bribery.

The statement should include:

- (a) a short description of the corporate business model;
- (b) a description of the policy implemented by the company relating to these aspects, including the due diligence performed;
- (c) The results of these policies;
- (d) the main risks linked to the enterprise's operations including, where relevant and proportionate, its trading relations, products, or services that are likely to have an adverse impact on the aforementioned aspects, and the way in which the enterprise handles those risks;
- (e) the key non-financial performance indicators of relevance to their particular business.

The directive also lays down appropriate systems for third party audits and controls.

If the company does not intend to pursue policies in relation to any one of these matters, the non-financial statement must clearly explain why.

The directive shall be implemented by all the member states of the Union, which must ensure that the enterprises work according to national, European or international rules. The international standards indicated in the report accompanying the directive include the OECD Guidelines.

The interviews conducted by the NCP with Italian companies in the sector show that the **newness** of the issues relating to the application of due diligence to the supply chain, which have been fundamentally introduced to a significant degree in the various international standards laid down in recent years, are reflected in **the lack of familiarity with the instruments for reporting on the**

⁶⁶ GL Commentary on chapter IV, § 44

⁶⁷ GL Chapter III, § 1-4 and Commentary

due diligence procedures used by companies, the results of these procedures, and the remedies adopted.

It is necessary to move away from a transparency approach based on disclosing only the principles underlying the way the company operates to an approach that illustrates “**how**” the company intends to guarantee compliance with the principles set out in the supply chain – particularly when there are serious adverse human rights impact risks – by providing frequent, accessible, comprehensible and measurable (in terms of quantity and quality) information and without posing risks to effective stakeholders, personnel, or to legitimate requirements of commercial confidentiality on the part of the company and its business partners.⁶⁸

The information should thus be based on **monitoring** and (quantitative and qualitative) **measurement** systems that will fuel efficient and effective **reporting**.

Many international reporting standards have been designed in recent times by public and private entities, and one of the most commonly adopted set of standards by multinational enterprises is the *Global Reporting Initiative*. It introduces a series of indicators regarding the supply chain covering different aspects, such as procurement methods, environmental impacts (emissions, environmental assessment...) and social aspects (human rights, labour practices, a living wage...).

Specific indicators for the sector can provide further useful information. In the textile industry there is the *Sustainable Apparel Coalition* initiative (SAC) which has developed the **Higg Index 2.0** which is an evaluation tool based on indicators for apparel and footwear products developed with a multi-stakeholder approach, which takes account of the *Eco Index*, *Nike's Apparel Environmental Design Tool*, the *Global Social Compliance Programme (GSCP)* and such social and labour instruments as the *SAI Social Fingerprint*, *FLA Sustainable Compliance Initiative*, and so on.⁶⁹

One particularly important issue is ensuring the **traceability of the supply chain**, that is to say, having an information system beginning from the raw materials phase to the end product. This is a practice which is becoming well-established among the major international corporations both in terms of the management measures and to be able to dialogue with consumers who are increasingly suspicious of possible green washing and social washing practices, and, partly due to pressure from the media and on the web, are increasingly more cautious about the conduct of companies in the supply chains.

One experience in this area which could be useful is the work done by the OECD with its **Due Diligence Guidance for Responsible Supply Chains of Minerals** (tin, tungsten, tantalum and gold) from **Conflict-Affected And High-Risk Areas**, to which reference was made recently by the **proposal for a European regulation establishing the European self-certification system** for performing due diligence on the supply chain for importers responsible for the aforementioned minerals and of gold originating from conflict-affected in high-risk zones.⁷⁰

Product traceability is already quite advanced in some sectors (e.g. food and pharmaceuticals), but the supply chain monitoring system always requires this mass of information and data to be managed, and this can be effectively done using **software and web-based** instruments based on IT technologies (barcodes, quick response code etc) which are of particular interest to consumers.

Consumers are also particularly attentive to issues relating to **health and product safety** and to the **indication of origin** of products, as has emerged from various parties interviewed by the NCP (consumers and professional associations).

The NCP gives particular importance to the requirement to indicate origin or provenance, introduced by article 7 of the European Regulation on consumer product safety⁷¹ as a key element of product safety (since it makes it possible

⁶⁸ UNPGS, Pillar II, B, 21

⁶⁹ For further information consult <http://www.apparelcoalition.org/higgoverview/>

⁷⁰ http://Europa.EU/rapid/press-release_IP-14-218_en.htm

⁷¹ Cf. the section on identifying sectoral risks

for national and European institutions to dialogue with the State of origin or provenance of the product), and of consumer information.

Recently great importance has also been given to **environmental and social labeling**, but in some cases these labels overlap and may vary from one country to another.

In April 2013 the European Commission issued the communication “Building the Single Market for Green Products” precisely to define common methodologies for the “**environmental footprint**” of products and organisations, and to identify standardised systems of communication. A number of pilot projects followed, including one on the T-shirt.⁷²

There are also social labeling systems, but greater standardisation is needed, particularly at the sectoral level.

One important matter is to remember that increasing transparency can help companies **to better manage the non-financial risks and opportunities and to improve their own corporate results**. In the literature, theories have been consolidated for some time now, identifying the economic advantages of responsible corporate management, with reference also to supply chain management. In the course of its work, the NCP has noted the advantages that arise from this, even though they are often intangible benefits that are hard to measure and quantify in economic terms.

These may be summarised as: enhancing the corporate image; reducing the costs arising from adverse impacts – including both direct ones due to remediating the damage caused and indirect costs in terms of reputational damage and the payment of compensation; long-term corporate continuity; improving production processes and products; responding better to social needs; business opportunities for consumer targets more sensitive to the issue, and differentiation from competitors.

Measuring these advantages is not a widespread practice among leading companies and naturally virtually no supplier does so, particularly with regard to their relations with customers.

- **Recommendation 22: Adopt transparent, trustworthy and adequate forms of communication regarding the way the supply chain due diligence is performed**
- **Recommendation 23: Adopt traceability systems from the raw materials to the end product, including indication of origin of products, to supply accurate information to consumers and to all the stakeholders, also using ICT**
- **Recommendation 24: Base reporting on effective monitoring and measurement systems, recurring to internationally agreed standards, to be able to account for the results of the activities performed, and in doing so also appraise the “business case” for the sustainability of the supply chain**

⁷² http://ec.europa.eu/italia/attualita/primo_piano/ambiente/aiutare_impresa_ambiente_it.htm

11. Summary of the NCP operational recommendations

<ul style="list-style-type: none"> • Recommendation 1: Adhere to the Accord On Fire and Building Safety in Bangladesh and consider it as a model for the future
<ul style="list-style-type: none"> • Recommendation 2: Assist and provide compensation to victims through legitimate, reliable, and effective initiatives, such as the Arrangement's Trust Fund, and collaborate with structured organisations operating in Bangladesh and with its government
<ul style="list-style-type: none"> • Recommendation 3: Switch from a reactive approach to a preventive approach, including through the adoption of collective action to tackle systemic problems to be dealt with in the framework of institutional contexts ensuring the impartiality and legitimacy (such as ILO, OECD, UN) and in cooperation with governments, workers and other stakeholders
<ul style="list-style-type: none"> • Recommendation 4: Commit to a “responsible supply chain management policy” at the most senior levels of the enterprise, through a statement of policy to be made public that explicitly references the Guidelines and, at the very least, internationally recognized human rights, including the eight ILO core Conventions
<ul style="list-style-type: none"> • Recommendation 5: Incorporate the responsible supply chain management policy in the enterprise's business strategy and management system, with a particular focus on the purchasing and quality control divisions, identifying responsibilities and dedicating trained human resources and adequate financial resources
<ul style="list-style-type: none"> • Recommendation 6: Adopt an evolutive and flexible approach, adapting company policy to the risks identified as they arise; map relevant stakeholders and collaborate with them
<ul style="list-style-type: none"> • Recommendation 7: Map the supply chain with regards to the procurement, production, and distribution phases
<ul style="list-style-type: none"> • Recommendation 8: Map the “structure of the supply chain” with regards to the geographic areas where it takes place, the product's transit modalities, and the various stakeholders (brokers, suppliers, subcontractors), and identify the various upstream and downstream relationships along the supply chain
<ul style="list-style-type: none"> • Recommendation 9: Put in place an effective and flexible system to identify the risks referred to the country in which the enterprise operates, the characteristics of the sector and of the products, the structure of the supply chain and the business relations, in order to identify specific risks for each phase of the product life-cycle

<ul style="list-style-type: none"> • Recommendation 10: Consult all available sources of information and cooperate with institutions and relevant stakeholders to identify the risks and put in place a mechanism of risk assessment based on qualitative and quantitative indicators
<ul style="list-style-type: none"> • Recommendation 11: Join and/or develop multi-stakeholder collective actions, setting common sectoral standards - consistent with the OECD Guidelines, the ILO Conventions and United Nations Guiding principles - covering different aspects of sustainability in the supply chain and adhere to International Framework Agreements to reinforce the due diligence process
<ul style="list-style-type: none"> • Recommendation 12: Select suppliers through prior activities (including preventive checks in the case of potential risks) and ask suppliers to commit to respect the rules and principles of its statement of policy (as defined in par.5)
<ul style="list-style-type: none"> • Recommendation 13: Move away from a “prescriptive” to a “partnership” approach to managing relations with suppliers, helping and encouraging them to cooperate also using specific contractual conditions (guarantees regarding the duration of the business relationship, preferential treatment of virtuous suppliers)
<ul style="list-style-type: none"> • Recommendation 14: Govern relations with suppliers/traders through contractual arrangements making it possible to implement the due diligence even beyond tier 1 of the supply chain (sustainability clause) through obligations towards subcontractors (“cascade obligations”)
<ul style="list-style-type: none"> • Recommendation 15: Establish contractual terms and conditions (e.g. commercial terms, delivery timing) that are compatible with the risk prevention and mitigation obligations requested to the supplier/trader
<ul style="list-style-type: none"> • Recommendation 16: Improve the quality and independence of audits, guarantee adequate frequency, encourage the standardisation of activities by avoiding overlapping audits by sharing information/experiences with other companies
<ul style="list-style-type: none"> • Recommendation 17: Arrange, where appropriate, oversight of workplace by technical teams made up of business representatives, local and international unions, trusted NGO representatives named by workers and cooperate with institutions
<ul style="list-style-type: none"> • Recommendation 18: Take remedial action (eg. RAP) based on audit findings and other verification procedures, and assure the follow-up
<ul style="list-style-type: none"> • Recommendation 19: Resort to legitimate State-based mechanisms for providing remediation if an enterprise cannot or should not do so itself (eg. either judicial mechanisms when legally required, or non judicial like complaints offices, NCPs in States that have signed the guidelines)
<ul style="list-style-type: none"> • Recommendation 20: Resort to legitimate, reliable and effective remedial

<p>processes to address issues related to remedies (including resort to operational level grievance mechanisms) which are agreed at institutional level, ensure the right level of effectiveness and are compatible with the Guidelines and the UNPGs</p>
<ul style="list-style-type: none"> • Recommendation 21: Without prejudice of the State responsibility, remedy the adverse impact in the supply chain – including, when appropriate, financial compensation of the victims – when the enterprise causes or contributes to that impact
<ul style="list-style-type: none"> • Recommendation 22: Adopt transparent, trustworthy and adequate forms of communication regarding the way the supply chain due diligence is performed
<ul style="list-style-type: none"> • Recommendation 23: Adopt traceability systems from the raw materials to the end product, including indication of origin of products, to supply accurate information to consumers and to all the stakeholders, also using ICT
<ul style="list-style-type: none"> • Recommendation 24: Base reporting on effective monitoring and measurement systems, recurring to internationally agreed standards, to be able to account for the results of the activities performed, and in doing so appraise also the “business case” for the sustainability of the supply chain

ANNEXES

- **Accord on Fire and Building Safety in Bangladesh**
- **Statement by the National Contact Points for the OECD Guidelines on Multinational Enterprises**
- **List of the organisations involved in NCP's consultations**
- **List of documents**

Accord on Fire and Building Safety in Bangladesh

The undersigned parties are committed to the goal of a safe and sustainable Bangladeshi Ready-Made Garment ("RMG") industry in which no worker needs to fear fires, building collapses, or other accidents that could be prevented with reasonable health and safety measures.

The signatories to this Agreement agree to establish a fire and building safety program in Bangladesh for a period of five years.

The programme will build on the National Action Plan on Fire Safety (NAP), which expressly welcomes the development and implementation by any stakeholder of any other activities that would constitute a meaningful contribution to improving fire safety in Bangladesh. The signatories commit to align this programme and its activities with the NAP and to ensure a close collaboration, including for example by establishing common programme, liaison and advisory structures.

The signatories also welcome a strong role for the International Labour Organization (ILO), through the Bangladesh office as well as through international programmes, to ensure that both the National Action Plan, and the programme foreseen by the signatories of this Agreement, get implemented.

The signatories shall develop and agree an Implementation Plan within 45 days of signing this Agreement. The nongovernmental organisations which are signatories to the Joint Memorandum of Understanding on Fire and Building Safety (dated March 15, 2012), having stated their intention to support the implementation of this programme, shall, at their own election, be signed witnesses to this Agreement.

This Agreement commits the signatories to finance and implement a programme that will take cognizance of the Practical Activities described in the NAP involving, at minimum, the following elements:

SCOPE: The agreement covers all suppliers producing products for the signatory companies. The signatories shall designate these suppliers as falling into the following categories, according to which they shall require these supplier to accept inspections and implement remediation measures in their factories according to the following breakdown:

1. Safety inspections, remediation and fire safety training at facilities representing, in the aggregate, not less than 30%, approximately, of each signatory company's annual production in Bangladesh by volume ("Tier 1 factories").
2. Inspection and remediation at any remaining major or long-term suppliers to each company ("Tier 2 factories"). Together, Tier 1 and Tier 2 factories shall represent not less than 65%, approximately, of each signatory company's production in Bangladesh by volume.

MAY 13, 2013

3. Limited initial inspections to identify high risks at facilities with occasional orders, one-time orders or those for which a company's orders represent less than 10% of the factory's production in Bangladesh by volume ("Tier 3 factories"). Nothing in this paragraph shall be deemed to alleviate the obligation of each signatory company to ensure that those factories it designates as Tier 3 represent, in the aggregate, no more than 35%, approximately, of its production in Bangladesh by volume. Facilities determined, as a result of initial inspection, to be high risk shall be subject to the same treatment as if they were Tier 2 factories.

GOVERNANCE:

4. The signatories shall appoint a Steering Committee (SC) with equal representation chosen by the trade union signatories and company signatories (maximum 3 seats each) and a representative from and chosen by the International Labour Organization (ILO) as a neutral chair. The SC shall have responsibility for the selection, contracting, compensation and review of the performance of a Safety Inspector and a Training Coordinator; oversight and approval of the programme budget; oversight of financial reporting and hiring of auditors; and such other management duties as may be required. The SC will strive to reach decision by consensus, but, in the absence of consensus, decisions will be made by majority vote. In order to develop the activity of the SC, a Governance regulation will be developed.
5. Dispute resolution. Any dispute between the parties to, and arising under, the terms of this Agreement shall first be presented to and decided by the SC, which shall decide the dispute by majority vote of the SC within a maximum of 21 days of a petition being filed by one of the parties. Upon request of either party, the decision of the SC may be appealed to a final and binding arbitration process. Any arbitration award shall be enforceable in a court of law of the domicile of the signatory against whom enforcement is sought and shall be subject to The Convention on the Recognition and Enforcement of Foreign Arbitral Awards (The New York Convention), where applicable. The process for binding arbitration, including, but not limited to, the allocation of costs relating to any arbitration and the process for selection of the Arbitrator, shall be governed by the UNCITRAL Model Law on International Commercial Arbitration 1985 (with amendments as adopted in 2006).
6. The signatories shall appoint an Advisory Board involving brands and retailers, suppliers, government institutions, trade unions, and NGOs. . The advisory board will ensure all stakeholders, local and international, can engage in constructive dialogue with each other and provide feedback and input to the SC, thereby enhancing quality, efficiency, credibility and synergy. The SC will consult the parties to the NAP to determine the feasibility of a shared advisory structure.
7. Administration and management of the programme will be developed by the SC in consultation with the 'High-Level Tripartite Committee' established to implement and oversee the National Action Plan on Fire Safety, as well as with the Ministry of Labour

and Employment of Bangladesh (MoLE), the ILO and the Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GIZ), to maximize synergy at operational level; and the SC may make use of the offices of GIZ for administrative coordination and support.

CREDIBLE INSPECTIONS:

8. A qualified Safety Inspector, with fire and building safety expertise and impeccable credentials, and who is independent of and not concurrently employed by companies, trade unions or factories, shall be appointed by the SC. Providing the Chief Inspector acts in a manner consistent with his or her mandate under the provisions of this Agreement, and unless there is clear evidence of malfeasance or incompetence on his or her part, the SC shall not restrict or otherwise interfere with the Chief Inspector's performance of the duties set forth in the Agreement as he or she sees fit, including the scheduling of inspections and the publishing of reports.
9. Thorough and credible safety inspections of Tier 1, 2 and 3 factories shall be carried out by skilled personnel selected by and acting under the direction of the Safety Inspector, based on internationally recognized workplace safety standards and/or national standards (once the review foreseen under the NAP is completed in June 2013). The Safety Inspector shall make all reasonable efforts to ensure that an initial inspection of each factory covered by this Agreement shall be carried out within the first two years of the term of this Agreement. The Safety Inspector will be available to provide input into the NAP legislative review and to support capacity building work regarding inspections by the MoLE foreseen under the NAP.
10. Where a signatory company's inspection programme, in the opinion of the Safety Inspector, meets or exceeds the standards of thorough and credible inspections, as defined by the Safety Inspector, it will be considered an integral part of the programme activities set forth in this Agreement. Signatory companies wishing to have their inspection programme so considered shall provide the Safety Inspector full access to the findings of their inspections and he or she will integrate these into reporting and remediation activities. Notwithstanding this provision, all factories within the scope of this Agreement shall still be subject to all the provisions of this Agreement, including but not limited to a least one safety inspection carried out by personnel acting under the direction of the Safety Inspector.
11. Written Inspection Reports of all factories inspected under the programme shall be prepared by the Safety Inspector within two (2) weeks of the date of inspection and shared upon completion with factory management, the factory's health and safety committee, worker representatives (where one or more unions are present), signatory companies and the SC. Where, in the opinion of the Safety Inspector, there is not a functioning health and safety committee at the factory, the report will be shared with the unions which are the signatories to this Agreement. Within a timeline agreed by the SC, but no greater than six weeks, the Safety Inspector shall disclose the Inspection Report to

the public, accompanied by the factory's remediation plan, if any. In the event that, in the opinion of the Safety Inspector, the inspection identifies a severe and imminent danger to worker safety, he or she shall immediately inform factory management, the factory's health and safety committee, worker representatives (where one or more unions are present), the Steering Committee and unions which are signatories to this Agreement, and direct a remediation plan.

REMEDIATION:

12. Where corrective actions are identified by the Safety Inspector as necessary to bring a factory into compliance with building, fire and electrical safety standards, the signatory company or companies that have designated that factory as a Tier 1, 2, or 3 supplier, shall require that factory to implement these corrective actions, according to a schedule that is mandatory and time-bound, with sufficient time allotted for all major renovations.
13. Signatory companies shall require their supplier factories that are inspected under the Program to maintain workers' employment relationship and regular income during any period that a factory (or portion of a factory) is closed for renovations necessary to complete such Corrective Actions for a period of no longer than six months. . Failure to do so may trigger a notice, warning and ultimately termination of the business relationship as described in paragraph 21.
14. Signatory companies shall make reasonable efforts to ensure that any workers whose employment is terminated as a result of any loss of orders at a factory are offered employment with safe suppliers, if necessary by actively working with other suppliers to provide hiring preferences to these workers.
15. Signatory companies shall require their supplier factories to respect the right of a worker to refuse work that he or she has reasonable justification to believe is unsafe, without suffering discrimination or loss of pay, including the right to refuse to enter or to remain inside a building that he or she has reasonable justification to believe is unsafe for occupation.

TRAINING:

16. The Training Coordinator appointed by the SC shall establish an extensive fire and building safety training program. The training program shall be delivered by a selected skilled personnel by the Training Coordinator at Tier 1 facilities for workers, managers and security staff to be delivered with involvement of trade unions and specialized local experts. These training programmes shall cover basic safety procedures and precautions, as well as enable workers to voice concerns and actively participate in activities to ensure their own safety. Signatory companies shall require their suppliers to provide access to their factories to training teams designated by the Training Coordinator that include

MAY 13, 2013

safety training experts as well as qualified union representatives to provide safety training to workers and management on a regular basis.

17. Health and Safety Committees shall be required by the signatory companies in all Bangladesh factories that supply them, which shall function in accordance with Bangladeshi law, and be comprised of workers and managers from the applicable factory. Worker members shall comprise no less than 50% of the committee and shall be chosen by the factory's trade union, if present, and by democratic election among the workers where there is no trade union present.

COMPLAINTS PROCESS:

18. 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.

TRANSPARENCY AND REPORTING:

19. The SC shall make publicly available and regularly update information on key aspects of the programme, including:
 - a. a single aggregated list of all suppliers in Bangladesh (including sub-contractors) used by the signatory companies, based on data which shall be provided to the SC and regularly updated by each of the signatory companies, and which shall indicate which factories on this list have been designated by that company as Tier 1 factories and which have been designated by that company as Tier 2 factories, however volume data and information linking specific companies to specific factories will be kept confidential,
 - b. Written Inspection Reports, which shall be developed by the Safety Inspector for all factories inspected under this programme, shall be disclosed to interested parties and the public as set forth in paragraph 11 of this Agreement.

Public statements by the Safety Inspector identifying any factory that is not acting expeditiously to implement remedial recommendations.
 - c. Quarterly Aggregate Reports that summarize both aggregated industry compliance data as well as a detailed review of findings, remedial recommendations, and progress on remediation to date for all factories at which inspections have been completed.
20. The signatories to this Agreement shall work together with other organizations such as ILO and the High-Level Tripartite Committee and the Bangladeshi Government to encourage the establishment of a protocol seeking to ensure that suppliers which participate fully in

MAY 13, 2013

the inspection and remediation activities of this Agreement shall not be penalised as a result of the transparency provisions of this Agreement. The objectives of the protocol are to (i) support and motivate the employer to take remediation efforts in the interest of the workforce and the sector and (ii) expedite prompt legal action where the supplier refuses to undertake the remedial action required to become compliant with national law.

SUPPLIER INCENTIVES:

21. Each signatory company shall require that its suppliers in Bangladesh participate fully in the inspection, remediation, health and safety and, where applicable, training activities, as described in the Agreement. If a supplier fails to do so, the signatory will promptly implement a notice and warning process leading to termination of the business relationship if these efforts do not succeed.
22. In order to induce Tier 1 and Tier 2 factories to comply with upgrade and remediation requirements of the program, participating brands and retailers will negotiate commercial terms with their suppliers which 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. Each signatory company may, at its option, use alternative means to ensure factories have the financial capacity to comply with remediation requirements, including but not limited to joint investments, providing loans, accessing donor or government support, through offering business incentives or through paying for renovations directly.
23. Signatory companies to this agreement are committed to maintaining long-term sourcing relationships with Bangladesh, as is demonstrated by their commitment to this five-year programme. Signatory companies shall continue business at order volumes comparable to or greater than those that existed in the year preceding the inception of this Agreement with Tier 1 and Tier 2 factories at least through the first two years of the term of this Agreement, provided that (a) such business is commercially viable for each company and (b) the factory continues to substantially meet the company's terms and comply with the company's requirements of its supplier factories under this agreement.

FINANCIAL SUPPORT:

24. In addition to their obligations pursuant to this Agreement, signatory companies shall also assume responsibility for funding the activities of the SC, Safety Inspector and Training Coordinator as set forth in this Agreement, with each company contributing its equitable share of the funding in accordance with a formula to be established in the Implementation Plan. The SC shall be empowered to seek contributions from governmental and other donors to contribute to costs. Each signatory company shall contribute funding for these activities in proportion to the annual volume of each company's garment production in Bangladesh relative to the respective annual volumes of garment production of the other signatory companies, subject to a maximum contribution of \$500,000 per year for each year of the term of this Agreement. A sliding


MAY 13, 2013

scale of minimum contributions based on factors such as revenues and annual volume in Bangladesh will be defined in the Implementation Plan with annual revisions, while ensuring sufficient funding for the adequate implementation of the Accord and the Plan.

25. The SC shall ensure that there are credible, robust, and transparent procedures for the accounting and oversight of all contributed funds.

Trade Union Signatories

Company Signatory



Jyrki Raina
General Secretary
IndustriAll Global Union

Philip Jennings
General Secretary
UNI Global Union

15.5.2013
Geneva, Switzerland

15.5.2013
Geneva, Switzerland

Statement by the National Contact Points for the OECD Guidelines on Multinational Enterprises

Paris, 25 June 2013

The National Contact Points are deeply saddened by the tragedy at Rana Plaza in Bangladesh. Our hearts go out to all of those affected. Like Secretary General of the OECD Gurría has expressed: “This event is a dramatic wakeup call for the international textile industry, governments, and other stakeholders to address the risks before they result in tragedies such as this.”

The National Contact Points welcome robust and credible initiatives, such as the Accord on Fire and Building Safety in Bangladesh, which try to improve the situation on the ground¹. Abandoning production in Bangladesh could make the situation of the workers worse. The OECD Guidelines for Multinational Enterprises point out that in these circumstances, the responsible course is to work with stakeholders to guarantee the safety of workers, improve their working conditions and ensure respect for human rights.

The OECD Guidelines for Multinational Enterprises are a comprehensive set of recommendations on responsible business conduct that 45 OECD and non-OECD adhering governments expect enterprises to observe in their global operations. The OECD Guidelines for Multinational Enterprises ask enterprises to respect human and labor rights and be responsible for identifying and addressing risks of adverse impacts associated with their own activities or in their supply chains and other business relationships. The OECD Guidelines for Multinational Enterprises are supported by National Contact Points in each adhering country. Most of the enterprises sourcing textiles and garments from Bangladesh originate from adhering countries to the OECD Guidelines for Multinational Enterprises.

National Contact Points welcome that responsible business conduct in the textiles and garments supply chains will be addressed, as a matter of priority, in the high level discussions at the Global Forum on Responsible Business Conduct on 26-27 June 2013 and at the meeting of Working Party on Responsible Business Conduct on 28 June 2013.

The National Contact Points welcome the call to collective action by several Ministers and Secretary General Gurría.

The National Contact Points will meet their responsibilities under the OECD Guidelines for Multinational Enterprises with respect to enterprises in the textiles and garments sector. Where appropriate, they will undertake stakeholder consultations at the national level and support and participate in work undertaken in the context of the multi-stakeholder Proactive Agenda by OECD. In coordination with other government agencies, they will, where appropriate, support implementation of robust and credible initiatives agreed to by stakeholders and enterprises, that are consistent with the OECD Guidelines for Multinationals and the relevant ILO standards, such as the Accord on Fire and Building Safety.

¹ Robust initiatives should at least be aligned with the OECD Guidelines for Multinational Enterprises and the ILO Tripartite Declaration concerning Multinational Enterprises.

The National Contact Points strongly encourage the Investment Committee and the Working Party on Responsible Business Conduct to work urgently with companies, trade unions and other relevant civil society groups to develop a collective response within the framework of its Pro Active Agenda². Particular attention should be given to the principles of adding value and avoiding duplication with other initiatives. NCP's encourage enterprises, trade unions, and other civil society groups to cooperate with the Working Party in this field.

A collective response could take the form of a joint effort by the OECD, that could include the ILO and the UN Working Group on Human Rights and Business/ UN OHCHR, to host a Forum for all interested stakeholders to inform one another of the specific initiatives in which they are involved regarding due diligence in the textile and garments sector in Bangladesh with the objective of fostering coordination and collaboration among all stakeholders in meeting their respective responsibilities. It could include sharing views on the relevance of their experiences in relation to Bangladesh to the textiles sector more broadly. It could also include consideration of strategies and practices for application of risk based due diligence in supply chains in the sector. The NCP's also note the importance of donor community involvement and the contribution it can make in assisting Bangladesh and other textile and garments producing countries in meeting their responsibilities with respect to these sectors.

As noted in the statement of the Secretary General of OECD, the OECD Guidelines for Multinational Enterprises, using risk-based due diligence, multi-stakeholder engagement and targeted development assistance, have been instrumental in meeting challenges in other sectors such as trade in minerals and may be able to make an important contribution alongside initiatives already underway in the textiles industry.

² The response should be consistent with the Principles for the Proactive Agenda.

List of the organisations involved in NCPs consultations

Enterprises

ARTSANA GROUP

BENETTON GROUP

EOS TEXTILE

ESSENZA s.p.a.

GRUPPO COIN s.p.a

INTERNATIONAL TEXTIL DIFFUSION
s.r.l.

MANIFATTURA CORONA

TEDDY s.p.a. TERRANOVA

TESSIVAL s.r.l.

On other company denied the consensus to
publish its name

Business Associations

CONFINDUSTRIA

ASSOCIAZIONE TESSILE E SALUTE

SISTEMA MODA ITALIA

CENTROMARCA

CNA (Confederazione Nazionale
dell'Artigianato e della Piccola e Media
Impresa)

CONFAPI (Confederazione Italiana della
Piccola e Media Industria Privata)

CONFCOMMERCIO

CONFARTIGIANATO

CAMERA NAZIONALE DELLA MODA

Consultancy/Auditing Firms

BilanciaRSI

BUREAU VERITAS

DELOITTE

DNV GL Business Assurance

ERNST & YOUNG

KPMG Advisory

PARRY & ASSOCIATI

RINA Group

TUV ITALIA

SGS

International Organisations

ILO

UNICEF

Trade Unions

CGIL (Confederazione Generale Italiana del
Lavoro)

CISL (Confederazione Italiana Sindacati dei
Lavoratori)

FILCTEM-CGIL (Federazione Italiana
Lavoratori Chimica Tessile Energia
Manifatture)

FEMCA-CISL (Federazione energia, moda,
chimica ed affini)

UIL (Unione Italiana del Lavoro)

UILTEC (Unione Italiana Lavoratori Tessile,
Energia, Chimico)

NGOs

AOI -Associazione delle organizzazioni
italiane di cooperazione e solidarietà

internazionale) (FOCSIV - Federazioni Organismi Cristiani di Servizio Internazionale di Volontariato, CPS - Comunità Promozione e Sviluppo, COE - Centro Orientamento Educativo)

LINK 2007 Cooperazione in Rete

CINI (Coordinamento Italiano Network Internazionali)

FORUM DEL TERZO SETTORE

CAMPAGNA ABITI PULITI

TRANSPARENCY INTERNATIONAL
ITALIA

Consumer's Associations

ADICONSUM (representing the National Consumers' and Users' Council)

NCP Committee

Ministries

- Ministry of Economic Development
- Ministry of Environment, Land and Sea
- Ministry of Foreign Affairs
- Ministry Economy and Finance
- Ministry of Justice
- Ministry of Labour and Social Policies
- Ministry of Agriculture, Food and Forestry
- Ministry of Health

Other institutions

- State-Regions Conference
- Unioncamere

Business Associations

- Confindustria
- ABI – Associazione Bancaria Italiana
- CNA
- Confartigianato

- CNCU (Consiglio Nazionale Utenti e Consumatori)

Trade union confederations

- CGIL
- CISL
- UIL

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