
Report of the High–Level Tripartite Mission to Bangladesh

(Dhaka, 17–20 April 2016)

I. Background, purpose and terms of reference

1. At the 104th International Labour Conference (June 2015), the Committee on the Application of Standards (CAS) adopted the following decision:

Taking into consideration the discussion, the Committee urged the Government to:

- undertake amendments to the 2013 Labour Act to address the issues relating to freedom of association and collective bargaining identified by the ILO Committee of Experts, paying particular attention to the priorities identified by the social partners;
- ensure that the law governing the EPZs allows for full freedom of association, including to form trade unions and to associate with trade unions outside of the EPZs;
- investigate as a matter of urgency all acts of anti–union discrimination, ensure the reinstatement of those illegally dismissed, and impose fines or criminal sanctions (particularly in cases of violence against trade unionists) according to the law; and finally
- ensure that applications for union registration are acted upon expeditiously and are not denied unless they fail to meet clear and objective criteria set forth in the law.

The Committee urges the Government to accept a high–level tripartite mission this year to ensure compliance with the recommendations.

2. As the Government of Bangladesh was receiving the ILO direct contacts mission on Convention No. 81 requested by the CAS in September 2015, it requested postponement of the High–Level Tripartite Mission until 2016 in order to ensure effective coordination. The High–Level Tripartite Mission thus took place from 17 to 20 April 2016 in Dhaka, Bangladesh. It was led by Elizabeth Onuko (Minister Counsellor for Labour at the Permanent Mission of the Republic of Kenya to the United Nations Office in Geneva), accompanied by Sonia Regenbogen (Spokesperson for the Employers’ Group in the Committee on the Application of Standards) and Marc Leemans (Spokesperson for the Workers’ Group in the Committee on the Application of Standards). The mission was assisted by Karen Curtis (Chief of the Freedom of Association Branch of the International Labour Standards Department) and Veronika Vajdova (Legal Officer of the same Branch).

II. Meetings

A. Government

Meeting with the Minister of Labour and Employment
(MOLE)

3. The Minister of Labour and Employment asserted that the Government supported trade union formation among genuine workers but suggested that trade union leaders were often outsiders affiliated to political parties and were pursuing their own interests. According to the Minister, trade union registration had been facilitated with the adoption and amendment of the Bangladesh Labour Act (BLA) and the mind–set of employers was becoming more favourable to trade unions but the prevailing illiteracy among large numbers of workers continued to constitute an obstacle to registration. In this regard, the Minister indicated that the Government had provided numerous trainings to workers with a view to assisting trade union formation, including a training on the responsibilities and liabilities of workers, employers and

the Government. Some of the activities had been organized with the assistance of the ILO, especially the International Training Centre in Turin (ITC), others had taken place in Industrial Welfare Institutes. The Minister added that the Government was working on implementing a cooperation agreement with Sweden aimed at promoting social dialogue and harmonious industrial relations in the Ready-Made Garment (RMG) sector.

4. It was also indicated that collective bargaining generally took place at the factory level although in the leather and tea sectors, there were strong trade unions some of which had negotiated branch-level Collective Bargaining Agreements (CBAs). It was further explained that once a CBA was concluded a copy of it should be provided to the MOLE but that employers did not do so systematically which made obtaining statistics difficult. Finally, the Minister concluded by stating that in making any recommendations, the socio-economic conditions of Bangladesh had to be taken into account.

Meeting with the Secretary, Ministry of Labour and Employment, the Inspector General (Additional Secretary) and the Director of Labour (Joint Secretary)

5. The Secretary, Ministry of Labour and Employment (MOLE) expressed his gratitude to the mission for visiting Bangladesh with a view to ensuring the Government's compliance with the CEACR and CAS recommendations concerning Convention No. 87. He recalled the specific legislative and policy initiatives that had been taken following the Rana Plaza incident in April 2013 and the adoption of the Tripartite National Action Plan, including the 2013 amendment of the Bangladesh Labour Act 2006 (BLA), the adoption of the Bangladesh Labour Rules 2015 (BLR), awareness-raising and training of workers on labour relations, as well as the signing of a cooperation agreement with Sweden and the ILO in September 2015 on 'Promoting Social Dialogue and Harmonious Industrial Relations in the Bangladesh Ready-Made Garment Industry'. The Secretary also emphasized the need to develop Standard Operating Procedures (SOPs) for registration, which had already been piloted, and the need to formalize the informal economy. He expressed strong commitment to ensuring the realization of labour rights and social dialogue and called upon the mission to come up with recommendations in line with Bangladesh's economic, political and social conditions.
6. The Director of Labour provided the mission with statistical information on the number of received and processed applications for trade union registration. For instance, from 2013 to March 2016, the Ministry had received 742 applications in the ready-made garment (RMG) sector, out of which 351 had been registered and 391 had been rejected (180 for not satisfying the 30 per cent minimum membership requirement, 100 for not replying to queries from the MOLE seeking clarification and 111 for other reasons). The Director of Labour indicated that when processing applications for registration, one of the steps was to compare the signatures of workers on the application and on the employer's list, even though this was acknowledged to be extremely time-consuming. He stated that applications for registration were processed within 15 days and a reply was provided to trade unions within 60 days of receipt. Regarding trade unions in the agricultural sector, it was explained that this was the first time small farm workers could come together and form a union with at least 400 workers. The Director of Labour further specified that

numerous training activities had been organized for workers on the registration process through the Industrial Relations Institutes and Labour Welfare Centres. The Ministry had also created an online system for trade union registration in March 2015 which could facilitate and speed up the process. It was further stated that complaints about anti-union discrimination could be submitted to the MOLE which verified the complaint, forwarded it to the employer requesting a written response and conducted an inquiry. If there was a consensus among the two parties a concluding resolution would be prepared to that effect, otherwise the case would be filed with the labour court. It was indicated that in the recent past, 32 allegations were found to relate to anti-union discrimination among which 20 allegations were resolved and 12 were referred to labour courts. In 2015, the MOLE also created a helpline for submission of labour-related complaints, which were investigated through factory inspections and generally settled amicably. The helpline had received 999 complaints, out of which 147 had been solved and 361 were pending. Although the helpline was open to all workers, the MOLE did not have authority to initiate inspections in the Export Processing Zones (EPZs), which were under the authority of the Prime Minister, and could thus not ensure follow-up to the complaints. The Director of Labour added that the Draft Act amending the Export Processing Zones Workers' Welfare Associations and Industrial Relations Act 2010 (EWWAIRA) which was pending before the Parliament was also under the Prime Minister's authority.

7. MOLE staff emphasized that in line with the Government's previous commitments a number of labour inspectors had been recruited and offered comprehensive training and that the Government had increased the budget of the MOLE. Despite these improvements, it was asserted that there was a continuing need to strengthen the institutional capacity of the MOLE and to provide training to the labour officers.

Meeting with the Minister of Commerce

8. The Minister of Commerce explained that the concept of EPZs dated back to 1985 when it had been agreed between the Government and the investors that there would be no trade unions in these zones in order to protect the investments. He stated that the working conditions in the EPZs were well-developed (modern infrastructure, health care, day care, etc.) and the Ministry had not received any complaints from workers in these zones. Although the Minister emphasized that the Government had to ensure that foreign investors remained in Bangladesh, he stated that there was a gradual movement towards trade unionization in EPZs through the development of Workers' Welfare Associations (WWAs), which possessed collective bargaining capacities and were similar to trade unions. The Minister also highlighted that workers wanted to have their own trade union leaders whereas many of those wanting to establish trade unions came from the outside, were not from the relevant industry or were foreigners. Concerning the Draft EPZ Labour Act amending the EWWAIRA, the Minister specified that consultations had been held with the relevant stakeholders.

Meeting with the Parliamentary Standing Committee on Labour and Employment

9. Members of the Parliamentary Standing Committee stated that the Constitution provided the basis for workers' rights in both formal and informal sectors and that the review of the BLA was a continuing process. They indicated that there had been a lot of focus on the RMG sector and although it was essential to the economy, other

industries were also important and should not be overlooked. The members of the Committee also highlighted the cooperation agreement with Sweden aimed at promoting social dialogue and harmonious industrial relations in the RMG sector, as well as the need for and the importance of capacity–building of labour officials.

10. Turning to legislative issues, the Chairperson of the Committee emphasized that each piece of legislation regarding labour was consulted with the employers and workers as well as other stakeholders, including the ILO. The mission was informed that this would also be the case of the Draft EPZ Labour Act amending the EWWAIRA which was to be discussed at the Parliament. Although the members of the Committee acknowledged that there could be one legislation for all workers whether they worked in EPZs or not, they also emphasized that in the current state of affairs, the EPZs provided better working conditions and more benefits to workers. It was also highlighted that foreign investors were crucial to the economy and were reluctant to allow trade unions in the EPZs but that other organizations active in these zones, such as community leaders and WWAs, were similar to trade unions.
11. Concerning the Special Economic Zones (SEZs), the Chairperson of the Committee stated that they had not yet been created and the legal framework had not yet been determined but they would have to comply either with the BLA or the EPZ Labour Act. She suggested that since the SEZs were not enclaves like the EPZs, the BLA was more likely to apply to these zones.

Meeting with the International Affairs Adviser to the Prime Minister

12. The Adviser to the Prime Minister (PM) recognized that there was some excessively discretionary authority with regard to the registration of trade unions and in their internal affairs and that a helpful way of combating this would be through simplification and standard operating procedures. On the other hand, he considered that individual interviews with workers to verify their signatures constituted harassment and expressed concern about the delays in judicial procedures. He informed that the 30 per cent minimum membership requirement for registration of trade unions was a helpful element to avoid multiplicity of trade unions which would only complicate collective bargaining. At the same time, he acknowledged that the registration procedure was complex and needed simplification. He noted that employers did often impede trade union creation and thought that it would be useful to provide training and information to change the mind-set and help employers understand the benefits that trade unions can bring for their productivity. He acknowledged that the employers' organizations in the garment-sector were the strong pressure groups given also their importance in the parliament. He also raised however the issue of outside influence and political affiliation of some trade union leaders and the use of workers for political purposes.
13. Concerning labour legislation, the Adviser to the PM explained that the creation of the dual legal framework had originated in the historical conditions under which the Government had wanted to attract foreign investors by promoting trade union–free zones. Although he considered that foreign investors brought better wages, facilities and other practices to workers in the EPZs thus improving their working conditions, he acknowledged the need to unify the legal framework for all workers and considered that there was movement in the right direction. Bringing all workers

under the same legislation would need a transition period to be managed given the currently better conditions and higher wages paid in the Zones.

14. Concerning the SEZs, the Advisor to the PM was not aware of which law would be applicable but stated that some country-specific areas had already been established in which the Government was providing infrastructure, gas, water, sanitation, transport and other facilities. These areas were not, however, cordoned off zones in the way that EPZs are.

Meeting with the Bangladesh Export Processing Zones Authority (BEPZA)

15. The Executive Chairperson of BEPZA explained that the Government had created EPZs so it could guarantee the provision of certain facilities, such as uninterrupted quality power, to foreign investors, and thus encourage them to invest in Bangladesh. He emphasized that the EWWAIRA was similar to the BLA but provided workers with better working conditions, including higher salaries and other facilities, such as training, group insurance, promotion, medical services, security and other benefits. In addition, investors could not dismiss workers without the Government approval. The Executive Chairperson considered that freedom of association and collective bargaining existed in EPZs since workers could associate in full freedom and form WWAs. According to him, WWAs guaranteed workers the same rights as regular trade unions and only differed from trade unions in their name while admitting that they also could not affiliate with outside organizations and could thus only form federations within the EPZs. He indicated that the election process for WWAs was transparent with a number of observers attending and that there had been no complaint about the functioning of WWAs. The Executive Chairperson stated that referenda had been held in 304 out of 409 industries, with workers from 229 enterprises voting in favour of forming WWAs. Once formed, a WWA became a bargaining unit and, according to the Executive Chairperson, CBAs had been established in 225 enterprises for which BEPZA had issued registration and relevant certificates.
16. The Executive Chairperson further informed the mission that in each EPZ there was an industrial relations department which dealt with social complaints, established a grievance handling procedure and provided training on emergency response as well as awareness-raising training to employers and workers on their responsibilities. It was stated that BEPZA had conducted around 700 various training programs for workers from January 2014 to December 2015. The Executive Chairperson added that there were 60 independent social counsellors *cum inspectors* who independently inspected labour rights and compliance issues and 45 industrial relations officers who monitored and solved labour issues, including social dialogue and employment relations. Although the counsellors and industrial relations officers were not BEPZA employees, they submitted weekly and monthly reports to the Executive Chairperson and could take instant action to correct irregularities. He pointed out that conciliators and arbitrators had also been appointed to negotiate and settle industrial relations disputes and that there were 8 EPZ labour tribunals and one appellate tribunal in which the applicable law was the EWWAIRA. The Executive Chairperson specified that there had been 161 cases before these tribunals, out of which 86 had been settled.
17. Concerning the Draft EPZ Labour Act to amend the EWWAIRA, the Executive Chairperson stated that the investors, employers, workers, the Prime Minister's

Office and BEPZA were the main stakeholders. According to him, investors had been consulted and provided with the Draft Act and the presidents and secretaries of WWAs, the Secretary, Ministry of Labour and Employment, the Foreign Secretary and the Executive Chairperson had also been part of the drafting process.

B. Trade unions

Meetings with trade unions and Trade Union International Solidarity Support Organizations (TUSSO)

18. The mission met with representatives from the following trade unions: Bangladesh Jatiya Sramik Federation (BJSF), Bangladesh Trade Union Shangha (BTUS), Bangladesh Trade Union Kendra (BTUK), Jatiya Sramik League (JSL), Bangladesh Jatiyotabadi Sramik Dal (BJSJ), Bangladesh Labour Federation (BLF), Shomajtantrik Sramik Front (SSF), Jatiya Sramik Federation (JSF), Bangladesh Garment Workers Employees Federation (BGWEF), Jatiya Sramik Jote (JSJ), Jatiya Sramik Jote Bangladesh (JSJB), National Garments Workers Federations (NGWF), Bangladesh Independent Garment Workers Union Federation (BIGUF), Bangladesh Revolutionary Garments Workers Federations (BRGWF), Sammilito Garment Sramik Federation (SGSF), Shadin Bangla Garments Sramik Karmachari Federation (SBGSKF), Bangladesh Apparels Workers Federation (BAWF), Bangladesh Textile & Garments Workers League (BTGWL), Akota Garment Worker Federation (AGWF), United Federation of Garment Workers (UFGW), Federation of Garment Workers (FGW), Bangladesh Federation of Workers Solidarity (BFWS), Bangladesh Jatiyo Sramik Karmachari Parishad (BJSKP), Bangladesh National Garment Workers Employees League (BNGWEL) and Grameenphone Employee's Union (GPEU). Representatives from Bangladesh Centre for Workers Solidarity (BCWS), Worker Rights Consortium (WRC), the Solidarity Centre, United Federation of Danish Workers (3F), Friedrich Ebert Stiftung (FES), IndustriALL, Global Union (UNI) Bangladesh, UNI Information and Communication Technology Services Bangladesh (UNI ICTS), UNI Bangladesh Liaison Council (UNIBLC), IndustriALL Global Union and World Solidarity (WSM) were also present at the meetings.
19. While some trade union representatives directly questioned the quality of the BLA and claimed that many laws were not in line with Conventions Nos 87 and 98, others considered that the main concern was the lack of proper implementation and practical application. One of the major issues raised by several trade union representatives were challenges in relation to formation and registration of trade unions, including the 30 per cent minimum membership requirement especially in large companies, administrative burdens challenging for workers to comply with, new requirements for trade union registration prescribed by the BLR, such as the need to provide factory identification number or the name of a worker's parents, the discretionary power of the Director of Labour to refuse an application for registration, an increased number of application rejections for minor issues and the non-communication of reasons for refusal. In particular, it was stated that even though trade union registration had exploded after the Rana Plaza incident, many trade unions were fake, paper-based, organized without workers' support, initiated by employers or dissolved since then resulting in only 4–7 per cent of workers being unionized. It was also emphasized that although there was an online registration process, not all

workers had the necessary facilities to submit online applications and some documents had to also be submitted in hard copy, which complicated the process.

20. Other points raised by several trade unions concerned anti-union discrimination and harassment of workers, including dismissals, blacklisting, harassment by the industrial police and local musclemen, threats, arrest, detention, false criminal charges and delays in judicial proceedings. Several trade union leaders considered that the mind-set of the employers was an obstacle to forming trade unions and claimed that participation committees were not an alternative to trade unions. Others stated that the main barrier to trade union registration was that many factories were owned by or linked to political leaders who did not favour formation of trade unions in their companies (10 per cent of parliamentarians and local politicians were suggested to be factory owners), that the Government clearly acted in favour of the employers and that the employers and the Government sometimes interfered in the registration process. It was also emphasized that only 35 CBAs were signed in the RMG industry, some of which were only signed on paper but not applied in practice. Additional challenges mentioned were the lack of freedom of association in EPZs and no trade union participation in the elaboration of the Draft Act amending the EWWAIRA, weak labour inspection, limited capacity of the DOLE, restrictive definition of workers in the BLR which did not cover workers hired through contracting agencies and multiplicity of trade unions dividing the workers.
21. It was also stated that the number of trade union applications rejected has dramatically increased - in 2016, 50 per cent of applications had been rejected in Dhaka and 90 per cent in Chittagong - and that workers' complaints about anti-union discrimination and harassment, such as dismissals, forced resignations and false criminal charges, were not investigated by the police. Furthermore, the BLR and its accompanying forms had increased the level of bureaucracy in the registration procedure and made it more difficult (the need for national identity cards, comparison of workers' signatures, the requirement of a police report to prove a meeting was held before creating a trade union, etc.) and it was considered that the process should be simpler and more transparent. The issue of freedom of association for white collar employees was also mentioned. It was also indicated that it was not feasible to obtain registration through labour courts as there were considerable delays in court proceedings, which could take up to 15 to 20 years. The application forms for registration submitted before the entry into force of the BLR were cancelled rather than opting for a transition period thus meaning that all organizing that was underway prior had to begin anew with the new forms. It was considered that tripartite structures could be of assistance in overseeing the registration procedure while stressing that the capacity for reporting violations of freedom of association to the ILO and other entities was quite weak thus limiting a full picture of the challenges involved.
22. Concerns were raised about collusion between the management on the one hand and local politicians and Government members on the other hand, complicating formation of trade unions and resulting in pressure on workers to leave their community if they sign a registration application. Intimidation and Government interference in trade unions in the RMG industry was observed to be one of the biggest problems, including through interference in the election of federation leaders. CBAs were difficult to negotiate and branch-level collective bargaining was not supported by the law. Moreover, the union movement was not dense enough to be able to bargain at branch level. It was indicated that there were around 72 federations

in the garment industry but only 15 were actively organising. Although it was acknowledged that in some sectors, such as in the export oriented garment industry, there was some form of social dialogue and initiatives to promote labour rights as a result of changing business interests and the requirements of brands to have sustainable factories, it was explained that such initiatives were insufficient as they only concerned a limited number of industries and workers and a national solution for the issue was required. There were also a lot of limitations on the right to strike, with only the powerful trade unions benefitting from this right.

23. The issue of freedom of association in the EPZs was also raised. It was stated that if workers obtained 30 per cent membership, an election was held and if 50+1 per cent were obtained, they could create a WWA and an election of the executive committee could take place. It was further mentioned that WWAs could not interact with trade unions or NGOs outside their specific zone and could thus only join federations within the EPZs. Concerning CBAs, they had to be approved by BEPZA, which retained a lot of control in terms of administration, sometimes amounting to interference.

C. Employers' organizations

Meeting with the Bangladesh Employers' Federation (BEF), Bangladesh Garment Manufacturers and Exporters Association (BGMEA) and Bangladesh Knitwear Manufacturers and Exporters Association (BKMEA)

24. The president of BEF highlighted the significant improvements that had been made over recent years in the Bangladesh workplaces. He expressed his appreciation for the outstanding cooperation provided by the ILO. The President of the BGMEA stated that the RMG industry hugely contributed to the country's economic development and provided employment opportunities to women. He said that since the Rana Plaza incident, 355 trade unions had been registered and important steps had been taken to improve workplace safety, such as election of participation and safety committees. A representative of the BEF explained that the 30 per cent minimum membership requirement for organizing trade unions functioned well and prevented trade union proliferation which could weaken trade unions and disturb the functioning of the industries. According to him, the requirement could even be increased to 51 per cent like in some other countries. He further stated that the requirement of a minimum of five trade unions to create a federation was appropriate and complied with the spirit of Convention No. 87, although he considered that the minimum number could also be increased. As for registration delays, he considered that this might be due to workers' incapacity but assured that this was not due to employer interference. In relation to the agricultural sector, employers' representatives claimed that agriculture in Bangladesh often consisted of family business which hired temporary workers only during seeding and harvest and, therefore, it was not realistic to form trade unions in small family lands or, according to the representative of BEF, to allow temporary workers to form trade unions as it would create havoc for any company. Since the Draft Act to amend the EWWAIRA was considered as a separate issue outside their mandate, the employers' representatives did not elaborate on it.

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25. A Director from BGMEA stated that since the Government lacked manpower to deal with labour disputes, in 1998 the employers had created a conciliation–arbitration committee – a voluntary complaint resolution mechanism composed of 12 trade union federations and employers and headed by a retired judge. He explained that any individual employee or employees collectively could file a complaint to the committee. There had been 10’076 complaints brought before the mechanism out of which 9’250 had been solved leading to a 92 per cent performance rate. BGMEA further indicated that 85 per cent of the complaints were related to payment of wages and others related to reinstatement, dismissals and transfers of workers. Those not satisfied with the outcome could take their case to the Labour Court, which generally took into account verdicts made by the committee. BGMEA further indicated that the committee could also assist in amicably resolving disputes of other federations than those that formed part of it. It was also mentioned that the Government took a leading role in resolving labour complaints, including discussing them with employers and union leaders.
26. According to employers’ representatives, direct communication and social dialogue between workers and employers were essential and took place either in participation committees, which could be further improved, or, in EPZs, in the WWAs formed through an electoral process. They highlighted the important change in mind-set of the employers over the years giving rise to safer factories and more enlightened management. Employers’ representatives also indicated that in the tea sector there were two unions which could be considered as federations and that it could be interesting to develop social dialogue for other sectors. It was also emphasized that the ILO should adopt a holistic approach and should look at other competing countries as well as the historical aspect of Bangladeshi economy.

Meeting with the Bangladesh Export Processing Zones Investors’ Association (BEPZIA)

27. The Chairperson stated that BEPZIA had been the first foreign investor in the RMG sector in 1979, was registered with the Ministry of Commerce and represented over 70 per cent of all RMG workers, all of whom were in EPZs. He explained that BEPZA had legal and discretionary power over EPZs (it could legislate on long settled issues, increase costs, approve factory acquisition, etc.) and was gradually reducing EPZs benefits to the investor. He stated that there was no constructive dialogue between BEPZA and BEPZIA and that BEPZIA had received several letters admonishing them for not creating WWAs, although they did not consider this to be their responsibility. The Chairperson considered that training on labour rights for workers would be an important tool for improving labour relations and suggested that an independent supervisory mechanism could be created to monitor labour rights and trade union activities in EPZs. He stated that many disputes in EPZs were handled by traditional labour courts (which took years) instead of special EPZs courts which were supposed to have been created.
28. The Chairperson indicated that BEPZIA was officially opposed to the new Draft EPZ Labour Act amending the EWWAIRA which created serious concern among investors and would neither benefit the workers nor the investors. The Draft Labour Act curbed the freedom of the investors by restricting them to form Central Investors’ Associations. The Chairperson considered that it would be beneficial to have the BLA applicable to EPZs with certain protections as the existing dual legal framework created much confusion and destabilization in EPZs. A plan could be formulated to

bring EPZ enterprises at par with outside factories providing for a transitional period, which would ensure a level playing field for all. The Chairperson also indicated that the Government was creating SEZs without specifying what law would apply and was providing large benefits to these zones. Finally, the Chairperson expressed strong commitment to work with the ILO.

D. Other stakeholders

Meeting with ACCORD on Fire and Building Safety in Bangladesh (ACCORD) and Alliance for Bangladesh Worker Safety (Alliance)

29. The Executive Director for Bangladesh Operations explained that the mandate of ACCORD related to the health and safety of workers. Since December 2013, inspection had been carried out in 1'650 factories with 75–100 hazards to be corrected in each factory. Around 60 per cent of the remediation of the two first batches had been completed but very little remediation was done in the last batch and one of the rights to be further promoted was access to information on building safety. There was a compliance mechanism where any person working in any factory producing for ACCORD could submit a complaint resulting in arbitral procedures with ACCORD being the arbitrator. Trade unions had been created in 80 out of 1'700 ACCORD factories and were active in around 65–70 factories. He mentioned that in some factories where there was a trade union, the management also appointed workers' participation committees that they were not aware of. Where there is no union, there are queries about the legitimacy of their representation of workers. Many of the unions that had registered post-Rana Plaza no longer exist. The Executive Director also considered that the BLR were not facilitating organizing, workers were afraid to create trade unions and there was no collective bargaining in the RMG sector. He did mention that there were some good case scenarios and referred to factories that had allowed union representation and understood their value and mentioned that 5 collective bargaining agreements had been concluded.
30. The Managing Director of Alliance stated that inspection had been done in 878 factories, of which 36 were shut down due to unsound structure and 6'600 workers received compensation for closure of factories. There were 24 substantially remediated factories, while 76 factories were taken out of the project and were under the National Action Plan. He indicated that there was low fire safety awareness but that 1.1 million workers had been trained. Since 2014–2015, fire incidents decreased and there were no persons killed in fire. A hotline had been created with around 1'000 calls per month mainly on safety issues. He indicated that in around 10–20 factories the management and trade unions worked together through a constructive dialogue, even in the absence of a CBA. Although the project was supposed to terminate in 2018, around 50 per cent of remediation would likely not be completed by then and there were several options on its follow-up: either hand over the competencies to the Government, although it raised capacity problems, continue the process with some factories, request third party assistance such as market support or support from local companies or request assistance from the brands.

E. Factory visit

31. The mission visited a factory in the Gazipur District of Dhaka to better understand the challenges faced by workers and employers in relation to freedom of association

and collective bargaining. The mission had received information from the Solidarity Centre about alleged anti-union discrimination in the factory, where five workers who were attempting to create a trade union were forced to resign while the application for registration was pending. The mission met with the management of the factory and was given a guided tour of the premises. An urgent meeting was also arranged with the Joint Director of Labour (JDL) who covered the factory in order to receive more information on the issue.

Workers' perspective

32. The Secretary-General of the Akota Garment Workers' Federation (AGWF), representing the trade union in the factory, provided details about the registration application and the complaint for unfair labour practice submitted to the JDL. Both the Secretary-General and the Solidarity Centre alleged that the JDL had discretionary power in the investigation, had not interviewed the concerned workers and had only relied on material provided to it by the management. It was also stated that resignation letters were often accompanied by a threat of violence and that it was common practice for workers to sign a blank paper upon starting employment, which the management could then misuse. On the same day, the JDL rejected the trade union registration for five reasons, one of which was that not all 551 workers from the application form were working at the factory, which was contested by the Secretary-General. He also suggested that some workers had been bribed by a local community member and local musclemen who worked for the employer, to incite them not to go back to the factory.

Employers' perspective

33. The employer stated that the factory consisted of around 2'000 workers, out of which 60–70 per cent were women and 30–40 per cent men, with the average age of 22–23 years old. According to the employer, there was a 5–10 per cent turnover of workers every month mostly for personal reasons. The employer indicated that there was a Safety Committee in the factory composed of five workers and five persons from the management who were selected by the participation committee. The Participation Committee was composed of 12 workers elected in a vote available to all workers and 6 appointed members of the management. The first election had a 92 per cent participation rate and out of 12 elected workers, 9 were women and 3 men. The employer further indicated that the Government as well as the buyers were present at the announcement of the election results. He indicated that although there was no trade union in the factory, one union was pending registration. According to the employer, the Participation Committee could discuss any issues and every month a specific topic was selected for the debate. Concerning the five workers who claimed to have been forced to resign, the employer said that it was the first complaint of forced resignation at the factory and that to his knowledge the workers had resigned voluntarily. He indicated that the workers recently confirmed that they had resigned voluntarily and stated that the concerned workers could come back to work in the factory if they wished to do so. He further indicated that the company had joined the brand's training on social dialogue and the management was also open to receiving further training from the ILO. The employer stated that representatives from the ACCORD visited the factory every two months to assess progress made concerning fire and building safety and that brand representatives made surprise visits, checking salary sheets, interviewing workers and monitoring improvements in working conditions.

Meeting with the Joint Director of Labour (JDL) and the Assistant Director of Labour

34. The JDL explained that workers could freely organize themselves and that trade unions existed even before registration although he admitted that they could not function before obtaining registration. He indicated that while workers could choose between an online and a paper application, they often submitted both online and paper applications even though it was not mandatory. He added that even when using the online application, some of the necessary documents had to be sent in paper due to their size. Upon receipt, the Ministry verified if the application and the documents were in line with the BLA and the BLR and issued registration or, in case of inconsistencies, within 15 days requested the trade union to clarify or provide the remaining necessary documents. He clarified that when processing an application for registration, the JDL verified whether the same worker appeared more than once on the application, whether all workers were workers of the factory and whether the signatures between the application form and the list of workers provided by the employer were the same. The JDL also stated that if a registration was refused the reasons for it were provided to the workers, who could resubmit the application if the conditions for registration were satisfied. In particular, the JDL indicated that in 2013 in the RMG sector, there were 84 approvals and 34 rejections, in 2014, there were 182 approvals and 155 rejections, while in 2015, there were 61 approvals and 148 rejections, most of which were rejected because trade unions did not fulfil the 30 per cent minimum membership requirement or did not reply to a JDL request for clarification.
35. Concerning the factory visited, the JDL explained that the application for registration had been refused for five reasons including that many workers were not factory workers and five workers had resigned. When the Government enquired about these five workers, the management said the workers had resigned voluntarily, and the JDL said that the workers confirmed this. As a result of the verification, the 30 per cent minimum membership requirement was not fulfilled. From the list containing 674 names, only 123 names were accepted, 5 names resigned and 546 names were rejected because of no match with the salary list of the factory. Other reasons for rejection were the lack of president and secretary-general, discrepancies in signatures of workers between the application form and the employer's list of workers, excessive number of executive members (20 instead of 11, later reduced to 13) and lack of proof that two trade union meetings had been held in January 2016 because discrepancies in signatures also occurred on the list of attendees. When asked whether it was not a coincidence that five workers who were trying to form a trade union resigned while the registration was pending, the JDL stated that it was clear they had resigned voluntarily because they had found better job opportunities elsewhere.

F. Meeting with the Development Partners

36. The mission members met with Ambassadors from Canada, Denmark, Sweden, EU, Netherlands and Norway, as well as with additional representatives from Germany, Canada, Denmark, Switzerland, Japan, France and USA. The mission members gave an overview of the meetings that had been held and the topics discussed, including challenges to trade union formation and registration, discretionary power of the Joint Director of Labour (JDL), allegations of anti-union discrimination and harassment, lack of trade union interaction, lack of social dialogue, freedom of association and

collective bargaining in the EPZs and the SEZs, occupational safety and health issues, capacity-building of the MOLE officers and harmonization of labour legislation.

G. ILO Country Office

37. The mission met several times with the ILO Country Office in Dhaka in order to obtain an overview of the activities and technical cooperation projects carried out by the ILO in Bangladesh. It was informed that the ILO Country Office had 102 staff members and a budget of \$60 million. The Director of the Country Office explained that there were four main priorities: to promote and realize standards, fundamental principles and rights at work as well as social dialogue, to improve working conditions (labour inspection, occupational safety and health), develop skills of workers and young people to create greater employment opportunities and to enhance coverage and effectiveness of social protection (migrant workers, child labour). He further stated that there had been a significant progress in labour inspection and awareness-raising although more was to be done in both areas. The Director explained that there was a need to evolve from crisis dialogue to social dialogue. He indicated that although there was a Tripartite Consultation Committee (TCC), it did not meet regularly to discuss labour policy matters. He further stated that there was need to institutionalize an employment injury compensation mechanism and that the Government, Germany and the ILO had signed a letter of intent to set up such an institution.

38. The mission was briefed about some of the specific projects of the Country Office:

Promoting Social Dialogue and Harmonious Industrial Relations in Bangladesh Ready-Made Garment Industry and Promoting Workplace Cooperation in the Ready-Made Garment Industry, which had three main intervention areas: workers' cooperation aimed at building trust between workers and employers; support of the Department of Labour with focus on trade union registration and anti-union discrimination, in particular the creation of a guideline or standard operating procedures on how to address anti-union discrimination and improve conciliation in case of labour disputes; and support of workers' and employers' capacities with numerous specific activities, for example the establishment of a resource centre, a radio program on freedom of association and collective bargaining, a hotline where workers could ask labour related questions, training of potential organizers as well as employers, promoting social dialogue at the workplace, capacity-building and creation of a database about the workers who received training. The mission also heard about the following projects: Bangladesh Skills for Employment and Productivity Project; Improving Working Conditions in the Ready-Made Garment Sector in Bangladesh; Improving Fire and General Building Safety in Bangladesh; Better Work Bangladesh Project; Country Level Engagement and Assistance to Reduce Child Labour; Application of Migration Policy for Decent Work for Migrant Workers; ILO-DFID Partnership Programme on Fair Recruitment and Decent Work for Women Migrant Workers in South Asia and the Middle East; and Way out of Informality: Facilitating Formalization of the Informal Economy in South Asia.

III. Conclusions

39. The mission thanks the Government of Bangladesh for the assistance provided to it during its stay in the city of Dhaka, as well as the extraordinary hospitality and efforts

to ensure that the mission was able to meet freely with all relevant actors and to carry out its work without obstacle. The mission welcomes the information provided to it by the representatives of state institutions, trade unions, employers' and investors' organizations, development partners, non-governmental organizations, and other stakeholders, and thanks them for their valuable collaboration which enabled the mission to understand more fully many of the challenges the Government and the social partners face in relation to freedom of association and collective bargaining.

40. The mission welcomed the progress made by the Government in establishing an online system for trade union registration, the creation of a helpline for submission of labour related complaints, training programmes for workers through industrial relations institutes and labour welfare centres, recruitment and training of labour inspectors, the increase of the MOLE budget, training and capacity-building of labour officers and strengthening the institutional capacity of the MOLE. The mission also noted the Government's continuing commitment to further improve the realization of freedom of association and social dialogue in Bangladesh, demonstrated by various initiatives such as the signing of a cooperation agreement with Sweden on 'Promoting Social Dialogue and Harmonious Industrial Relations in the Bangladesh Ready-Made Garment Industry'. The mission expects that the MOLE will ensure that the project becomes fully operational in the very near future.
41. The mission noted with interest the indications by the employers' organizations in relation to voluntary conciliation-arbitration committees which had been established to settle labour related disputes outside court proceedings.
42. While noting the crucial role of the garment sector for Bangladeshi economy and the spotlight on this industry over the past few years, the mission also observed that there were other important industries, such as the shrimp, tea, leather and shoe, ship-breaking, banking and telecommunication sectors.

Formation and registration of trade unions

43. The mission however observed that the procedure for registration of trade unions and its practical application were heavily bureaucratic and had the likelihood of discouraging trade union registration. The mission noted in particular that when processing applications for registration, the extensive steps taken by the MOLE with respect to name verification (comparison of signatures on the application and the employer's list of workers, individual interviews with workers to verify authenticity of their signatures, etc.) could be considered to be discouraging and intimidating for the workers and had already appeared to have the effect of severely limiting the possibilities for trade union registration. Such an approach only highlights the obstacle that can be created by the 30 per cent minimum membership requirement. The mission was also told that the BLR created additional administrative burdens for registration (obligation to provide parent's name, national identity card number, etc.) and received information alleging broad discretionary powers of the Joint Director of Labour when processing applications for registration, the lack of transparency concerning the reasons for rejection of applications as well as delays in judicial proceedings. The mission noted that these factors combined have led to an increased rejection of registration requests and a decreasing registration of trade unions over the past few years. Information was also received on the lack of social dialogue and the limited number of functioning CBAs.

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44. The mission considered that standard operating procedures could be devised to render the registration process a simple formal requirement, not subjected to discretionary authority. In order to improve transparency in handling registration applications, the mission encouraged the establishment of a public database which would include all relevant information on the submission and resolution of registration requests, including the reasons for rejection of applications. The mission reminds the Government that it can avail itself of the technical assistance of the ILO in this regard.
 45. Noting with interest the initiatives undertaken by the Government to provide various trainings to workers and employers, the mission considers that awareness-raising and capacity building continue to be key in promoting labour relations and social dialogue in the country and encourages the Government to pursue its efforts in this regard.

Anti-union discrimination

46. The mission noted with concern the numerous allegations of anti-union discrimination and harassment of workers, including harassment by the industrial police and local musclemen, dismissals, blacklisting, transfers, arrests, detention, threats and false criminal charges combined with insufficient labour inspection, lack of remedy and redress and delays in judicial proceedings. The mission was also alerted to alleged close links between factory owners on the one hand and Government members, Parliamentary members and local political figures on the other hand, often resulting in further intimidation and harassment of workers, as well as interference in trade union affairs.
47. The mission considers that to address these issues it is essential to continue providing training and capacity-building to labour officers in order to bolster their capacity to inquire into allegations of anti-union discrimination and take appropriate action. The mission recalls that the ILO is already working on setting up training and operating procedures in this regard and suggests that the Government set up a publicly accessible database to track unfair labour practice complaints, the steps taken to inquire and address them, as well as remedies and sanctions imposed, which would assist in rendering the MOLE more efficient and transparent in combating such acts.

EPZs and SEZs

48. The mission continued to observe with concern the separate legislation for factories in the EPZs and the limitations on freedom of association and collective bargaining in these zones. The mission communicated these concerns to the Parliamentary Standing Committee on Labour and Employment, the BEPZA and the Prime Ministers' Office and was informed that the dual legal framework originated in the historical conditions under which the Government had wanted to ensure the attractiveness of EPZs for foreign investors and that the EPZs provided workers with better working conditions than in other areas.
49. The mission invites the Government to ensure that any new legislation for the EPZs allows for full freedom of association, including the right to form free and independent trade unions and to associate with the organizations of their own choosing. It hopes the Draft EPZ Labour Act amending EWWAIRA will be fully consulted with the social partners and other relevant stakeholders. The mission

encourages harmonization of the labour law throughout the country so that the rights, inspection, judicial review and enforcement are equal for all workers and employers.

50. The mission further observed that SEZs had already been established in the country and was concerned by the vagueness of information provided to it concerning the applicable legislation, which was sometimes even contradictory. Considering the issues raised with regard to the EWWAIRA, the mission can only recommend that the BLA fully applies to these zones.
51. On its last day in Bangladesh, the mission met with the Secretary, Ministry of Labour and Employment and other members of the MOLE and provided a debriefing on its general findings. In reply, the Secretary acknowledged the difficulties in registration and considered that it could be simplified, for example by creating standard operating procedures. He stated that he would inform the authorities about the recommendation to harmonize the BLA and the EWWAIRA. The Secretary also assured that a database for registration of trade unions would be created which would, among other information, clearly state the reasons for rejection of an application. Finally, he considered that the Government continued to need extensive ILO support for training officials and that the ILO was an important partner of the Government.

IV. Recommendations

52. Based on the conclusions exposed above, the mission invites the Government to:
- a) devise standard operating procedures to render the registration process a simple formal requirement, not subjected to discretionary authority and that does not set out to become an obstacle to registration;
 - b) set up a public database which would include all relevant information on the submission and resolution of registration requests, including the reasons for rejections of applications;
 - c) continue pursuing its efforts in awareness-raising and capacity building of workers and employers in relation to constructive social dialogue related to labour relations issues;
 - d) continue providing training and capacity-building to labour officers specifically as regards complaints of anti-union discrimination and relevant action to be taken;
 - e) establish a public database to track unfair labour practice complaints, the steps taken to inquire and address them as well as remedies and sanctions imposed;
 - f) ensure that the legislation in EPZs allows for full freedom of association, including the right to form free and independent trade unions and to associate with organizations of their own choosing and that the Draft Act amending the EWWAIRA is fully consulted with the social partners and other relevant stakeholders;
 - g) promote harmonization of the labour law throughout the country so that the rights, inspection, judicial review and enforcement are equal for all workers and employers, including with respect to the SEZs.

Signed

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Sonia Regenbogen

Marc Leemans