OUTCOMES OF THE 2ND BSCI BANGLADESH MISSION

GENERAL INFORMATION:

In a June 23rd statement on the first BSCI mission to Bangladesh to follow-up on this case, the BSCI confirmed that they had learned of various rights violations at Spectrum in discussions with workers some two months after the factory collapse. They further confirmed that neither they nor any of their members, had ever conducted a social audit at this factory. Given the claims made by the BSCI regarding the value and reliability of their system ("More efficient implementation procedures than other monitoring systems," "saves cost and time through prevention of multiple auditing," "optimizes working conditions") this is disturbing. What is even more disturbing is that the BSCI seems to think that their failure to audit this facility in the past exonerates their members from any responsibility regarding the many labour rights

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OUTSTANDING ISSUES REMAIN

Dear Friends,

Thank-you to everyone who has taken action in relation to the Spectrum-Shahriyar case. This pressure on brands has had an impact, particularly on the demands relating to emergency medical relief and compensation. However, your efforts are still needed to make sure that brands sourcing at Spectrum-Shahriyar follow through on all the demands.

A second mission to Bangladesh was organized by the Business Social Compliance Initiative (BSCI) to follow-up on the Spectrum-Shahriyar case and took place June 24th – 29th, 2005. Participants included representatives of BSCI member companies: Maren Boehm of KarstadtQuelle, Javier Chercoles of Inditex, and the local Bangladesh representative of Cotton Group. No representative of the BSCI itself was present during the second mission. Also present was Neil Kearney of the ITGLWF, and a representative of Gap. The delegations met with government officials of the Bangladesh Ministry of Textiles and Jute and the Ministry of Commerce as well as with representatives of the BGMEA and BKMEA, local unions and NGOs. Two meetings were also held with one of the factory owners.

Below is a summary of what we know to date of the results of this mission.

While you will see that some progress has been made in relation to some of the demands the CCC has been putting forward on this case (particularly regarding emergency relief measures) there is still much to be done to ensure that all the Spectrum-Shahriyar workers and the families of those who died in the collapse receive just compensation, as well as to ensure that concrete steps are taken to reduce the chance of such a terrible tragedy occurring again. Therefore, the CCC will be circulating an action request in relation to this case shortly. In the meantime we encourage people to help us to identify some of the as yet unknown buyers that were sourcing at this facility. Please take a look at the summary of company and brand information gathered thus far (http://www.cleanclothes.org/news/05-07-13.htm) and contact the CCC (info@cleanclothes.org) with any additional relevant information you might have.
Regarding the cause of the factory collapse: In an article published on July 2nd in the newspaper The Daily Star, the paper quotes Shafi Uddin Sarkar of the Institution of Diploma Engineers Bangladesh who stated that the Spectrum Sweater factory collapsed because “reinforced cement used to construct the building was not given sufficient time to bond with the metal rods embedded in the cement. This was because the factory began operations too soon and the vibrations caused by the heavy machinery prevented the cement from properly solidifying. The factory was in full operation when the five upper floors of the nine-story garment factory were constructed.” Other factors contributing to the collapse were the use of sand in the construction instead of stone and the placement of heavy machinery on the illegally built upper floors.

Regarding census of workers: There are still unclarities about the total number of workers who were employed at the factory. Latest reports are that so far 916 workers have come forward who were employed at Spectrum and this number is expected to rise. A significant number of workers were informally employed contract workers which initially made it difficult to estimate total employment figures. The factory owner reports that the full list of employees was lost in the factory collapse. On the night of the collapse, factory officials have stated that approximately 184 workers were at the factory. However, workers who were present that night maintain that there were at least 400 employees on the night shift. This would indicate that the other workers were able to escape from the building. Unions report that though the census office from the BGMEA is operating, it should do more to publicize its existence through media and other measures to make sure that more workers come forward (see also CCC update number 5 on this case, http://www.cleanclothes.org/news/05-06-16.html).

The number of dead has been placed at 64 by the NGWF and the BGMEA, and both are in agreement that this is the definitive death toll. All fatalities have been accounted for and identified. The NGWF reports the number of wounded is at least 79. Both the NGWF and the BGMEA agree that this number may be higher as some of the wounded may have returned to their villages when they could no longer work, making it difficult to trace them.

Status of factory owners: Factory owner Shahriyar Sayeed and Spectrum director Abul Hashem Fakir are free on bail after spending nearly a month in prison. Both are periodically required to appear in court in what is expected to be a long and drawn-out court case. Although both factories are now closed (with the exception of two lines that have been running temporarily at Shahriyar to complete Cotton Group orders) it is not yet clear if both men possess any other assets. This is an area that will require further investigation.

Status of the facilities: One factory owner confirmed that the Spectrum-Shahriyar operations were interlinked, that the facilities were literally connected on some floors, and most importantly that Spectrum employees often worked on orders that had been placed with Shahriyar. This makes clear that companies sourcing at Shahriyar have a responsibility to follow-up on the workers’ needs following the Spectrum collapse.

IN RELATION TO DEMANDS:

1. Concerning compensation and relief measures:
   - Relief fund

   At the time of the first BSCI mission, Inditex (Spain) made the first contribution of €35,000 for relief efforts. These funds - administered by the Bangladesh National Council (BNC), NGWF, the NGO Incidin and Oxfam Bangladesh - have been used to pay for medical treatment for the injured and for the emergency support of workers and their families. In total, 500 workers received 2000 taka each in emergency support. Prior to the second BSCI mission the Dutch company Scapino, under pressure from the Dutch CCC, committed to making a €5000 contribution to the emergency fund as well. The BGMEA distributed a small amount of money among some of the workers, but this remains unclear as...
it was not carried out in consultation with the unions. Finally, the government has so far not contributed to the relief fund.

The previous demand for a medical board to be established to facilitate that the injured receive proper treatment has been deemed to be no longer necessary as all the injured are now receiving appropriate treatment for their injuries. This is an important step forward. It is appreciated that Inditex and KarstadtQuelle (Germany) and Cotton Group (Belgium) agreed to contribute to a compensation trust fund. As yet, it has not been determined how this money will be administered though there is agreement that there will be no lumpsum payments to workers or families of the deceased. Parties are exploring the best way to calculate the amounts due, and to this regard the mission has asked insurance companies for advice, using as a base future expected lifetime earnings and the number of dependents in the family. This is a useful step since it is in accordance with the Fatal Accidents Act (revised 1965), which some lawyers believe is applicable in this situation. The Fatal Accidents Act also uses expected loss of income as its base. It will in any case be essential to start gathering extensive data on each of the victims, including their dependents. The CCC believes that it is important to make resources available to document the necessary information from the families of the dead and injured workers in order to ensure that the final amount reflects what these families are entitled to.

It is also important to note that under Islamic law in Bangladesh, part of the compensation for male workers will be given to the parents of the dead workers and a portion will be given to the worker’s wife (we are seeking clarification on the rights of spouses and parents of female workers under Islamic law). Because this could be a potential source of conflict in families receiving compensation, the NGWF and the BNC have agreed to mediate in these situations.

The unions reported that to date, about half of the families of the dead workers received 21,000 taka compensation from the labor court, and 54 of the 64 families have also received 79,000 taka from the BGMEA. A remaining 10 families have not received compensation yet. Information made available by Cotton Group after the end of the mission suggests that the BGMEA has agreed to pay the outstanding compensation to ensure all families receive 100,000 taka.

The CCC encourages all companies sourcing at Spectrum/Shahriyar who have not already made a contribution to immediately pledge contributions to the compensation trust fund, to work with the (local) organizations who are assessing the level of funding needed to cover compensation, and to ensure credible oversight.

**- Compensation trust fund**

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**- Back wages and severance pay**

It was agreed that all outstanding wages up to April 11 would be paid, and to have a representative of the owner at the factory daily to calculate wages due. However, workers reportedly still have not received all back wages that are owed, primarily because overtime payment for the months February, March and April, due to those workers not on piece rate (but on a monthly salary), have not been paid. Instead of reconstructing the wages for each worker, as agreed with the ITGLWF during the mission, blanket payments of 2000 taka were offered, and workers were asked to sign a statement saying they were paid all that was due to them. After consulting with union representatives on the site workers refused to sign such a statement (but they did take the money). This issue has not yet been resolved.

In addition to back wages, workers are legally entitled to severance pay, either according to the law covering termination, which would entitle them to four months salary and one month for each year worked, or according to the retrenchment law. So far, no workers have received the severance pay due to them because of losing their jobs. To further complicate matters, none of the workers have been issued a letter of termination. Legally this means they are presently due full wages, and their severance pay will be calculated from the date of dismissal and not from April 11th, when they factory collapsed.

The CCC continues to urge all companies that did business with Spectrum-Shahriyar to follow-up on the issue of back wages and severance pay. If payment is not forthcoming from the factory owner, the companies that produced their goods at the factory must take responsibility for seeing that workers are paid what is due to them.

2. **Concerning an independent and transparent investigation:**
The BGMEA has established an office at the Spectrum site in Savar, as promised during the first mission. BGMEA has compiled a list of unemployed workers from Spectrum-Shahriyar and together with the BKMEA is currently making arrangements with other factories to give these unemployed workers new jobs. It remains unclear how many have found new jobs and how many are still unemployed. While the BGMEA has sent letters to other factories requesting that they hire workers from Spectrum-Shahriyar, it is expected that most workers will find new employment through their own efforts. It is important to note that even if they find new jobs, they are still entitled to severance pay from Spectrum.

3. With respect to the issue of sustainable prevention measures:

As in the first mission, during their meetings the BSCI mission participants pushed for a sector-wide structural review of multi-story buildings, layout of machinery, enforcement of labor law and penalties for violations, and a country-wide plan to implement and improve social standards. The group put forth the idea of a tri-partite national agency being set up to follow up on these issues.

The government and BGMEA met and announced the formation of a “national agency on social compliance in the textile and garment industry” to be chaired by the Ministry of Commerce and to include specific task forces, for example fire safety and social standards; these task forces will report back to the national agency. The participants of the second mission joined the so-called MFA forum meeting, that was held on June 27 and 28 in Dhaka, to discuss consequences of the Multi-Fiber Arrangement quota phase-out for the garment industry and the workers, and measures needed for a sustainable garment sector in Bangladesh, including respect for workers rights. The meeting brought together local and international NGOs and trade unions, government, the UNDP, employers and buyers representing orders that account for 90% of production taking place in Bangladesh. During the forum it was reportedly agreed to revisit the terms of reference of both task forces to be set up under the national agency, as well as the issue of representation of unions in the agency and its task forces. The CCC is awaiting more detailed information on these plans and is committed to following up on this point since the development of credible and sustainable measures to prevent such tragedies in the future and ensure better working conditions for Bangladeshi garment workers still remains an important outstanding demand.

Additional:

The BSCI will send a third mission to Bangladesh in September to follow up on the Spectrum-Shahriyar case.