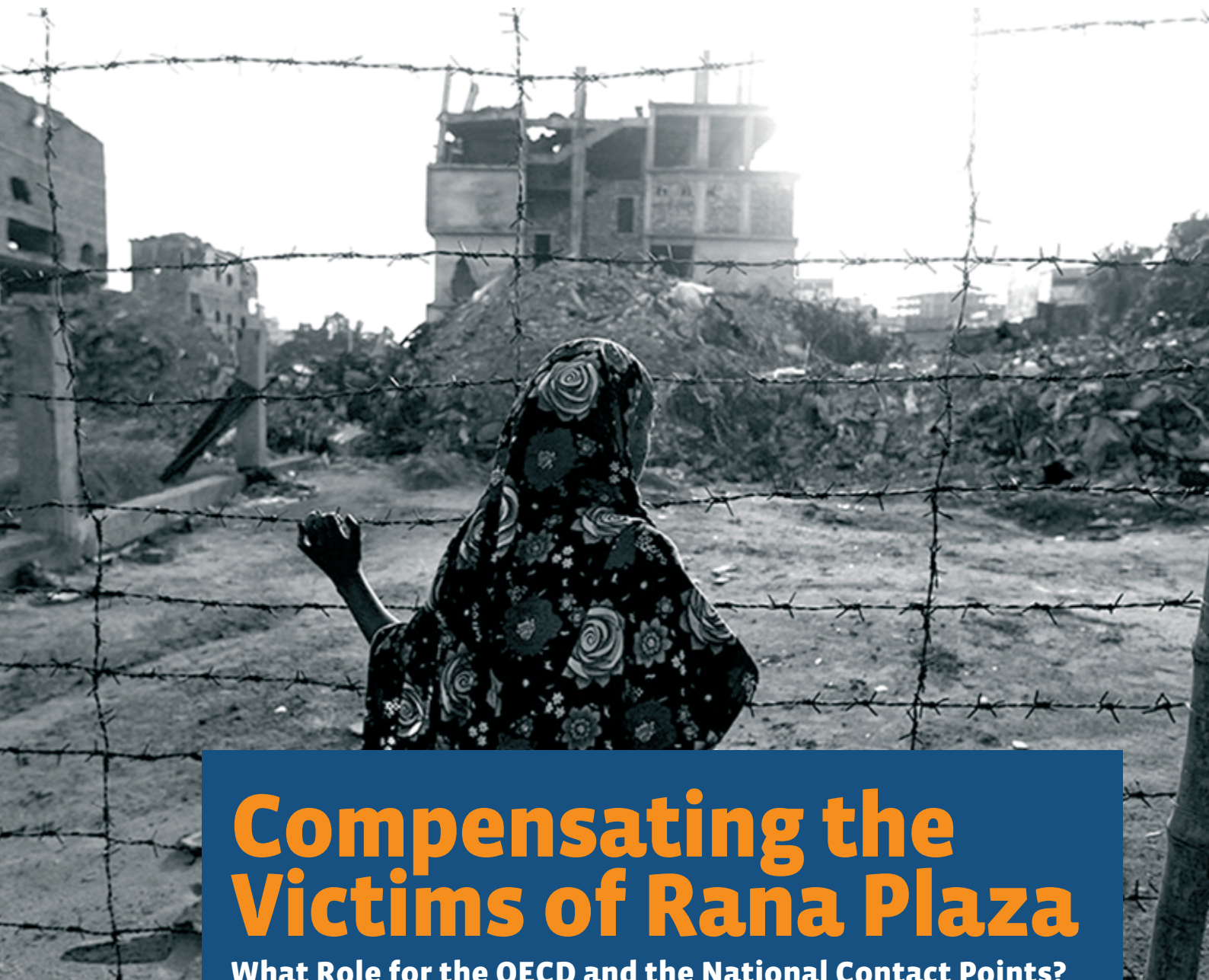




Compensating the Victims of Rana Plaza

What Role for the OECD and the National Contact Points?

Trade Union Advisory Committee to the OECD and OECD Watch
Joint Submission to the 15th Meeting of National Contact Points for the OECD Guidelines for Multinational Enterprises (25 June 2014) and the Informal Ministerial Meeting on Responsible Business Conduct (26 June 2014)



“It will be unacceptable if all legitimate claims were not fully honoured. I am calling on all stakeholders to step up to the plate and ensure the Trust Fund target is reached.”

GILBERT HOUNGBO, ILO DEPUTY DIRECTOR-GENERAL

“And when, as in the case of Rana Plaza, there is failure to protect and respect human rights in the workplace then governments and companies must ensure effective remedies, including adequate compensatory payments.”

PROFESSOR JOHN RUGGIE

Trade unions and NGOs from around the world call on governments gathered at the OECD meetings on Responsible Business Conduct this week to support the victims of the Rana Plaza disaster and make the following statement:

“Particular attention is needed to meet commitments made to ensure that the families of those killed and injured workers are fully compensated for their losses. We welcome the establishment of the “Rana Plaza Arrangement” as a mechanism for delivering full and fair compensation to those with legitimate claims to such payments. We call on all companies in our countries that had a relationship with factories located in the Rana Plaza building, and all those with significant ties to Bangladesh, to immediately pay a contribution, proportionate to their ability to pay, into the Rana Plaza Trust Fund. Payments must be collectively sufficient to meet the \$40 million needed to pay in full claims confirmed through the Rana Plaza Arrangement process.”



1. What's the background?

Over one year ago the Rana Plaza building in Savar collapsed killing and injuring thousands of garment workers. The tragedy placed the garment industry under the spotlight as never before. For the 1,138 families who lost loved ones and the more than 2,000 workers who suffered injuries, it was clear that compensation would be needed to help injured workers and families start the process of rebuilding their lives.

2. Has compensation been agreed for the victims of Rana Plaza?

Yes. In late 2013, the Rana Plaza Coordination Committee (RPCC)¹ set up a comprehensive and independent

process for delivering compensation– the “Rana Plaza Arrangement”. The aim was to establish a process that would serve as a model for other compensation cases, as well as for a national compensation system in Bangladesh. The Rana Plaza Arrangement is unprecedented in having the support of all major stakeholders. It has been signed by government, representatives of the local and international garment industry, and by local and international trade unions and NGOs.

3. What claims can be made and how?

Under the Rana Plaza Arrangement any worker who suffered injury or any family member who was dependent on the income of a killed worker is entitled to make a claim for the loss of income and medical costs, in line with ILO Convention No 121 on employment injury benefits².

Since March 24th 2014, injured workers and family members of the deceased have been able to file claims at an

1. The Coordination Committee is comprised of the government -The Bangladesh Ministry of Labour and Employment; the employers - the Bangladesh Garment Manufacturers' Association (BGMEA), the Bangladesh Employers Federation (BEF); global and local trade unions - IndustriALL Bangladesh Council (IBC), National Coordination Committee for Workers' Education (NCCWE), IndustriALL Global Union; non-governmental organisations Bangladesh Institute of Labour Studies (BILS), Clean Clothes Campaign (CCC); and the global brands that source from Bangladesh – represented by El Corte Ingles, Loblaw and Primark.

2. C121 – Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980] (No. 121).

office in Savar, established with the support of the German development agency GIZ and the ILO, and, where necessary, to undergo medical assessments. Three independent claims commissioners have been engaged to oversee this, and report back to the RPCC. The aim is that all claims should be processed within six months – by the end of September 2014.

4. How much is needed and how is it being collected?

The estimated amount required to cover the costs of all claims is \$40 million (29.4 million Euro). In January 2014, the Rana Plaza Coordination Committee established the Rana Plaza Donors Trust Fund to collect voluntary donations from companies and others. The ILO is the Trustee for the Fund, the sole purpose of which is to finance the compensation claims filed.

5. How much should individual brands pay?

The Coordination Committee did not set any minimum amount for individual brands to pay, or develop a formula for calculating payments. Instead the system relies on voluntary contributions. It was expected that the credibility of the Rana Plaza Arrangement, the magnitude of the disaster, the moral obligations arising from it, and the ability of the brands to pay would all combine to ensure that the funding target would be met. But this has proved not to be the case. Companies have either made donations smaller than the amount required, or have failed to make any contribution at all.



As of June 2014, the total amount raised by voluntary company donations is just \$17 million, leaving \$23 million (67.5%) outstanding.

6. What's at stake?



Unless the funding gap is filled in the coming weeks it will not be possible to compensate in full workers and their families whose lives have been devastated by this disaster.

Half of the compensation claims are due to be paid in June 2014 and the remainder by the end of September 2014, when the office in Savar for processing the compensation claims will be wound down.

Furthermore, failure to implement the Rana Plaza Arrangement will undermine the long-term goal of providing a permanent and sustainable system for compensating victims of workplace injuries in Bangladesh.

7. Do governments have a mandate to help?

Yes. Governments have a clear mandate to help ensure that the victims of the Rana Plaza disaster are compensated in full and on time. Under the State duty to protect against business-related human rights abuse,³

3. United Nations Guiding Principles on Business and Human Rights, 2011.

States should have in place non-judicial grievance mechanisms that are capable of providing remedy as part of a wider system of ensuring access to effective remedy. Remedy includes financial compensation.

BOX 1: MEETING THE STATE DUTY TO PROTECT – THE NETHERLANDS

The Government of The Netherlands has already made a public commitment to take steps to increase the financial contributions made by brands for the compensation of the victims of Rana Plaza, working with other governments.

8. What should Ministers do?

Ministers gathered at the *Informal Ministerial Meeting on Responsible Business Conduct*, in line with the State duty to protect against business-related human rights abuses, which includes providing access to effective remedy, should:

- i) Make a statement setting out their collective commitment to work with brands linked to Rana Plaza, as well as brands with significant ties to Bangladesh, to resolve the funding crisis and meet the Trust Fund target.
- ii) Call on those brands that have already made a donation to increase their financial contribution to the Trust Fund and to publicly disclose this contribution on the Rana Plaza Arrangement web site;
- iii) Call on those brands that have not yet made a donation to make an adequate contribution to the Trust Fund and to publicly disclose this contribution on the Rana Plaza Arrangement web site;
- iv) Set out guidance for brands on the amounts to pay based on the principle of proportionality, which takes account of the ability to pay. This is necessary given the failure of the voluntary approach;
- v) In view of the urgency, use the opportunity of the Second OECD Global Forum on Responsible Business Conduct and the Session on the “*Rana Plaza Aftermath: Responsible Supply Chains in the Textiles and Garment Sector*” to announce these commitments publicly together with any progress made in working with brands to resolve the funding crisis;
- vi) Call on brands to sign the Bangladesh Accord on Fire and Building Safety.

9. What should the European Commission and the United States do?

The European Commission and the United States should use the upcoming one year anniversary (8 July 2014) of the *EU-Bangladesh-United States “Sustainability Compact for continuous improvements in labour rights and factory safety in the Ready Made Garment and Knitwear Industry in Bangladesh”* and the review of its accompanying ‘roadmap’ to:

- i) Agree to a financing agreement and make compensation an integral part of the EU-Bangladesh-US Sustainability Compact;

- ii) Ensure that the Bangladesh Labour Act complies with international labour standards, as the 2013 amendments failed to do so - as confirmed by the ILO;
- iii) Ensure that workers in the Export Processing Zones are able to exercise their right to freedom of association and to collective bargaining (unions are currently prohibited in the EPZs);
- iv) Ensure that Bangladesh fulfills its commitments on labour inspection, in light of the conclusions of the ILO Committee on Application of Standards in 2014.

10. What should NCPs do?

NCPs as State-based non-judicial grievance mechanisms should be capable of providing access to effective remedy. They are also responsible for furthering the effectiveness of the OECD Guidelines for Multinational Enterprises, both *reactively* – handling specific instances (cases)⁴ – and *proactively* – considering new developments and emerging practices, supporting MNEs to contribute to social progress, or collaborating to respond to human rights violations.⁵

BOX 2: NCPs TAKING A PROACTIVE APPROACH: RANA PLAZA

NCPs (Belgium, Canada, France, Italy) have already taken proactive action in the aftermath of Rana Plaza: calling on their brands to sign the Bangladesh Accord on Fire and Building Safety; convening national meetings (all), developing human rights due diligence guidance (France) and a report on Responsible Business Conduct and implementing the OECD Guidelines (France, Italy).

TUAC and OECD Watch are calling on NCPs to:

- i) Make a collective commitment in their Statement ‘One Year After Rana Plaza’, in line with their responsibilities under the proactive agenda, to work with brands linked to Rana Plaza, as well as brands with significant ties to Bangladesh, to resolve the funding crisis.
- ii) Call on those brands that have already made a donation to increase their financial contribution to the Trust Fund and to publicly disclose this contribution on the Rana Plaza Arrangement web site;
- iii) Call on those brands that have not yet made a donation to make a proportionate contribution to the Trust Fund and to publicly disclose this contribution on the Rana Plaza Arrangement web site;
- iv) Call on brands to sign the Bangladesh Accord on Fire and Building Safety;
- v) Work with brands at national level to address human rights violations in the Textile and Garment Sector supply chain focusing in particular on the high risk issues of *poverty wages* and *freedom of association*. This work should build on the work already carried out by the French and Italian NCPs.

4. Paragraph C. Implementation in Specific Instance, Procedural Guidance, Implementation Procedures of the OECD Guidelines for Multinational Enterprises.

5. Paragraph 18, Commentary on the Implementation Procedures of the OECD Guidelines for Multinational Enterprises.

11. What should the OECD do?

The Working Party on Responsible Business Conduct should:

- Ensure that the planned proactive agenda project on *Human Rights Due Diligence in the Textile and Garment Sector* avoids replicating the failed corporate auditing of the past. The project should examine the issue of access to remedy including financial compensation. Additionally it should focus on the most severe risks of human rights violations:
 - Fire and building safety;
 - Wages;
 - Trade union rights (freedom of association and collective bargaining).

Donor governments of the OECD Development Assistance Committee should:

- Cover the operational costs of the Rana Plaza Arrangement, which are estimated to be \$715,000;
- Support the creation of a Compensation Fund for the survivors and families of injured workers of Tazreen and Aswad, two other major industrial disasters in Bangladesh, the victims of which are still awaiting compensation.



TABLE 1: THE RANA PLAZA TRUST FUND: DONATIONS OF BRANDS

COMPANY	COUNTRY	DONATION TO TRUST FUND	AMOUNT DONATED/COMMENT
C&A	Belgium	✓	\$690,000
BSCI	Belgium	✗	Urged members to make donations, but not paid directly itself.
Loblaws	Canada	✓	\$3,370,620
PWT	Denmark	✗	Claims to have made a donation <i>via</i> the Bangladesh Garment Manufacturers and Employers Organisation 31 July 2013.
Mascot	Denmark	✓	Initial, undisclosed donation to the Trust Fund.
Camaieu	France	✓	Undisclosed contribution to the Trust Fund – estimated to be very small.
Auchan	France	✗	
Carrefour	France	✗	Carrefour is one of the biggest buyers in Bangladesh.
Adler Modemärkte	Germany	✗	Made a 20,000 donation to an undisclosed charity in Bangladesh.
KANZ/ Kids Fashion Group	Germany	✗	
Kik	Germany	✓	\$500,000
NKD	Germany	✗	
Gueldenpfennig	Germany	✓	\$500,000
Benetton	Italy	✗	Undisclosed donation to a charity scheme run by BRAC.
Manifattura Corona	Italy	✗	
YesZee	Italy	✗	
Robe di Kappa	Italy	?	
LPP	Poland	✓	Undisclosed contribution to the Trust Fund – estimated to be very small.
El Corte Ingles	Spain	✓	Undisclosed contribution to the Trust Fund – estimated to be very small.
Mango	Spain	✓	Undisclosed contribution to the Trust Fund – estimated to be very small.
Inditex	Spain	✓	Undisclosed contribution to the Trust Fund – estimated at less than \$1 million. Claims to have contributed to the fund of the Bangladesh Garment Manufacturers and Employers Organisation.
LC Waikiki	Turkey	?	Unknown
Bon Marche	UK	✓	Undisclosed contribution to the Trust Fund – estimated to be very small. Contributed to the third round of short term relief payments made through Primark.
Matalan	UK	✗	Undisclosed donation to a charity scheme run by BRAC.
Premier Clothing	UK	✓	Undisclosed contribution to the Trust Fund – estimated to be very small.
Grabalok	UK	✗	
Primark	UK / Ireland	✓	Contributed \$1million directly to the Trust Fund. In addition Primark paid an estimated \$7,000,000 directly to around 600 beneficiaries of the New Wave Bottoms Factory, which should be offset against its total contribution.
Cato Fashions	USA	✗	
The Children's Place	USA	✓	\$450,000 (estimate) <i>via</i> BRAC USA
Walmart	USA	✓	\$1million (estimate) <i>via</i> BRAC USA
Ascena Retail	USA	✗	
Iconix (lee Cooper)	USA	✗	
J C Penney	USA	✗	

This table lists those brands that have been linked with factories in the Rana Plaza building. Other brands that have not been linked to Rana Plaza, including H&M, Gap and N Brown, have also made donations to the Trust Fund.



TUAC is the official voice of labour at the OECD. TUAC's members consist of 59 national trade union centres, which together represent 60 million workers in OECD member countries. TUAC leads the trade union movement's work on the OECD Guidelines. TUAC provides support to trade unions by providing advice on filing complaints and running training events. TUAC maintains a dedicated website on the *Guidelines*, where it publishes trade union cases and profiles and contact details for the government-backed complaints mechanism, the National Contact Points (NCPs).

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OECD Watch is an umbrella organisation comprising more than 80 non-governmental organisations (NGOs) from around the world, which is dedicated to undertaking campaigns and policy advocacy on the OECD Guidelines. OECD Watch's secretariat provides advice and support to NGOs on filing complaints under the OECD Guidelines. OECD Watch maintains an online database of all NGO cases submitted under the *Guidelines*, produces *Quarterly Case Updates* and has published a *Civil Society Guide* to the *Guidelines*.

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