

Regulating factory safety in the Bangladeshi garment industry

Philip James , Lilian Miles, Richard Croucher and Mark Houssart

Business School, Middlesex University, London, UK

Abstract

This paper examines how far the workplace inspection program established under the 2013 Accord on Fire and Building Safety has served to improve safety in Bangladesh garment factories, and the extent to which its operation has been influenced by factors that the literature suggests are important in shaping the outcomes of private regulatory initiatives. The findings suggest that such regulation can generate positive outcomes, even in the absence of strong public regulatory support. They also caution against discounting the role of compliance-based enforcement strategies, while highlighting the importance of their adequate resourcing and transparency. Some support is also offered for the argument that such regulatory initiatives could directly influence the market dynamics that shape supplier working conditions.

Keywords: Bangladesh, garment industry, private regulation, safety, supply chain.

1. Introduction

The offshoring of production to developing countries by multinational companies as part of the wider trend toward the establishment of globalized systems of supply has spawned an extensive literature on the labor conditions of those working in developing countries at the end of such supply chains. An important strand of this literature centers on the role of international labor standards for protecting and improving such conditions, and more specifically, the role that can be played by systems of private regulation operated by the multinationals themselves (Braithwaite & Drahos 2000; O'Rourke 2003; Vogel 2008).

Existing evidence paints a mixed picture concerning how far such private systems of regulation have proved effective (Anner 2012; Locke 2013). It also suggests that this picture reflects the varying influence of contextual and structural factors (Trubek & Trubek 2007; Bartley 2011). For example, some analysts argue that their effectiveness is intimately connected to, and dependent on, their relationships with public, state-based regulation, and hence to the legal regulatory regime within which they are embedded (Locke 2013; Locke *et al.* 2013; Toffel *et al.* 2015). Others draw attention, more widely, to the role of a range of non-legal and essentially voluntaristic factors that serve to generate compliance, such as the extent of pressures emanating from consumer and other social bodies, and the mechanisms in place to monitor and enforce laid down standards, including the style of regulation adopted by non-state inspectors/auditors (see e.g. O'Rourke 2003; Piore & Shrank 2008; Robinson *et al.* 2013). Meanwhile, a third line of analysis suggests that the effectiveness of private initiatives is shaped by the extent to which they act upon the procurement practices of buyers that act to undermine decent working conditions through the institutional refiguring of their surrounding market contexts (Anner *et al.* 2013).

The present paper sheds new light on the validity of these varying explanations of private regulatory effectiveness by examining the operation of the safety inspection regime introduced under the Accord on Fire and Building Safety (http://bangladeshaccord.org/wp-content/uploads/2013/10/the_accord.pdf). The Accord was established by global unions and brands following the Rana Plaza factory collapse in April 2013, which left 1,129 Bangladeshi workers dead and 2,515 injured. Importantly, it is an initiative that is seen to provide a rare example of one that incorporates a focus on influencing the wider market behavior of buyers (Anner *et al.* 2013). To this end, the paper addresses two related questions:

- 1 To what extent there are grounds to believe that the Accord's inspection program, as a private regulatory measure, is serving as a force for safety improvement;

Correspondence: Philip James, Business School, Middlesex University, the Burroughs, London NW4 4BT, UK.

Email: p.w.james@mdx.ac.uk

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- 2 To what degree its operation in this respect has been positively or negatively impacted by the various contextual and structural factors referred to above.

The paper commences with a review of the literature on the effectiveness of private global supply labor regulation and the factors that influence it. It then moves on to outline the backcloth to, and the nature of, the Accord initiative. Following this, both qualitative and quantitative data are used to address the above questions. The article explores the implications these data have for current debates about how the effectiveness of systems of private regulation aimed at enhancing the working conditions of those laboring within globalized supply relationships can be improved.

2. The private regulation of labor standards

The view that (international) labor standards were needed to combat the risk of competitive pressures driving down employment conditions has been expressed by a range of social thinkers from as early as the 19th century (see Heintz 2002, p. 13). Commencing in 1919 with the adoption of the first six International Labour Organisation (ILO) Conventions, a complex body of such standards has subsequently evolved. The standards so promulgated vary enormously in terms of subject matter, with a useful distinction here being between “process standards/rights” concerning such matters as freedom of association and the right to collective bargaining, and “substantive or outcome” ones relating to matters like paid holidays, maternity leave, and minimum or living wages (Alston 2004, p. 487; Luce 2005, p. 3). The target of the standards developed also varies between a focus, notably with those developed by the ILO to influence the domestic laws and practices of nation states, and attempts, as with the Organisation for Economic Co-operation and Development (OECD) guidelines on multinational enterprises, to shape the international business activities (and therefore the supply chain practices) of multinational/global trading corporations.

The focus on the regulatory role of multinationals reflects three interconnected but not necessarily mutually consistent considerations. The first is a recognition that powerful supply chain buyers can directly and indirectly act to drive down employment standards in supplier organizations (James *et al.* 2015). The second is an acknowledgement that developing countries frequently do not possess the regulatory capacity and/or willingness to counter such adverse effects (Graham & Woods 2006). The third is the belief that it is possible to use the supply chain power of multinationals to improve rather than harm labor standards in supplier organizations (James *et al.* 2007).

This last argument exists, however, alongside very mixed evidence concerning the *actual* effectiveness of private multinational initiatives. Indeed, with reference to the apparel sector, it has been observed that despite concerted efforts “private compliance programs appear largely unable to deliver on their promise of sustained improvements in labour standards in the new centers of global production” (Locke 2013, p. 20). A variety of explanations have been put forward to explain these disappointing outcomes and the outcomes of such initiatives more generally. As indicated in the introductory discussion, these can be viewed as falling into three broad categories that respectively emphasize the nature and extent of *voluntaristic sources of compliance*, the degree of supporting state-based *legal regulation*, and how far *markets are institutionally configured* to support the adoption of established labor standards.

In relation to the first of these categories, it has been argued that the outcomes of private regulatory initiatives are crucially influenced by the degree of pressure on multinationals flowing from consumers and other sources of pressure to improve labor conditions at their suppliers, as well the adequacy of the arrangements put in place to monitor and enforce any codes of conduct they have developed (O’Rourke 2003; Gereffi *et al.* 2005; Vogel 2008; Riisgaard & Hammer 2011; Toffel *et al.* 2015). In addition, attention has been focused on how compliance is potentially influenced by the style of regulation adopted by inspectors/auditors. Most notably, Locke and colleagues have argued that the adoption by inspectors/auditors of a “compliance” orientated approach is problematically based on three faulty assumptions, namely a belief that asymmetrical power relationships invariably exist between buyers and suppliers; an assumption that audits can generate reliable information about labor conditions within factories; and a view that deterrence forms an effective motivation toward compliance (see e.g. Locke *et al.* 2009). They have subsequently argued that an alternative, commitment-based approach might offer a potentially

more productive means of securing improved working conditions (Locke *et al.* 2009; Locke 2013). That is, one in which the causes of labor standard non-compliance are addressed through buyers and suppliers working to improve work processes and associated labor practices, via joint, mutuality-based, problem solving processes.

With regard to the second of the above categories of explanation, attention has been focused on the way in which the private regulatory initiatives of multinationals may be influenced by local, state-based regulatory arrangements. It has been argued that private regulatory systems are not transcendent, rather they are intertwined thickly with domestic laws, codes, and practices (Trubek & Trubek 2007; Bartley 2011; Berliner & Prakash 2014). Eberlein *et al.* (2014) consequently contended that it is important to understand how interactions between private and public forms of regulation impact on regulatory capacity and performance. In this regard, three rather different perspectives have been articulated on how private and public regulatory systems can productively combine together. One of these emphasizes the general virtues of some form of mutually supportive complementarity between them (Locke *et al.* 2007, 2013; Locke & Romis 2010). A second embodies the view that the state must remain a key actor in labor regulation because there is no substitute for the effective exercise of government authority. To be effective, private regulation must, from this perspective, therefore operate within an environment in which regulation is effectively enforced (see e.g. Esbenschade 2004; Vogel 2010). Finally, a third argues that, instead of displacing the state as regulator, private regulatory regimes play an important role in developing and strengthening the capacity of the state (Kolben 2007, 2011).

Anner *et al.* (2013) have meanwhile advanced a third rather different line of explanatory analysis. While accepting that existing approaches have failed to eliminate or even substantially reduce labor violations in global supply chains, they question whether this failure can be meaningfully addressed through a better mix of private and public regulation, such as the commitment-based approach advocated by Locke and colleagues, enhanced systems of audit/inspection, or increased ethical consumer pressures; although they do not discount that each might yield some beneficial outcomes. In their view, this is because while current initiatives are informed by an acknowledgement of the central role of buyers in creating conditions that encourage labor violations, they are seen, echoing the arguments of Bartley and Kincaid (2016), to “leave this root cause unaddressed” (Anner *et al.* 2013, pp. 6–7). Drawing on a historical analysis of how collectively bargained contracts in the United States (US) apparel industry prompted a dramatic decline in sweatshop conditions during the middle part of the 20th century, Anner *et al.* argue that a more effective way forward would be to directly regulate the market behaviors of buyers that drive labor conditions in supplier factories, including via the creation of legal liabilities where there is a failure to comply with established standards (2013, p.14).

Anner *et al.* recognize the enormous challenges involved in creating such regulatory frameworks. However, they argue that the global labor movement “appears to be coalescing around” the type of approach they advocate (Anner *et al.* 2013, p. 42). In fact, they argue that key features of the Accord lend weight to this view. In particular, they highlight at least four key ways in which the agreement reflects core principles of the collective contracts that previously applied in the US apparel industry. These are:

- The way in which it regulates the buying practices of buyers by imposing requirements on them to fund safety improvements, to terminate business with non-cooperative factories, and to provide multi-year commitments to suppliers, thereby potentially providing greater contract stability;
- The role unions are accorded in its governance, as well as the provision made for safety committees, union inputs into training, and the sharing of inspection reports with workers’ representatives;
- The contractually binding nature of the Accord’s provisions; and
- The fact that, through its signatory companies, the agreement covers a broad portion of the industry, thereby reducing the extent to which its operational costs put individual buyers at a competitive disadvantage (Anner *et al.* 2013, p. 28–29).

Their arguments concerning the distinctive nature of the Accord in turn suggest that an investigation of its operation provides a unique opportunity to evaluate a private regulatory initiative to improve labor condition in global supply chain operation that potentially enables all the above sources of influence to be taken into account. Consequently, in what follows, such an analysis is attempted in relation to the way in which the Accord’s inspection program has operated.

3. The origins and nature of the Accord

The Bangladeshi garment industry has long been notorious for its unsafe working conditions (Chartier 2008; Labowitz & Baumann-Pauly 2014). Accidents have claimed the lives of 2,000 workers since 2005. There has also been a litany of factory fires and building collapses that have killed and maimed many workers, for example, at Spectrum, Phoenix, Gharib, Tasreen and, of course, Rana Plaza (Ahmed *et al.* 2013; Islam & Ahmed 2014; Kurpad 2014).

Global brands in their capacity as purchasers have traditionally incorporated the issue of health and safety into their promulgated labor standards and associated monitoring and enforcement processes (Abernathy *et al.* 1999; Anner *et al.* 2013). The collapse of the Rana Plaza factory, however, prompted unprecedented international efforts to improve health and safety in the Bangladeshi garment industry. One of the most significant developments was the signing of the Accord on Fire and Building Safety in 2013.

Concluded against the backdrop of concerted pressure from both global union federations (GUFs) and non-governmental organizations (NGOs), the Accord is a five-year legally binding and enforceable agreement between global brands and global trade union federations to build a safe garment industry (Reinecke & Donaghey 2015). Disputes concerning its implementation are, in the first instance, submitted to the initiative's steering committee for initial adjudication. Its decision may then subsequently be appealed to a process of binding arbitration.¹ The resulting award may be enforced in the home country of the signatory party that is the subject of a complaint, in line with the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, a convention commonly referred to as the New York Convention.

Under the Accord, brands commit to a range of measures designed to improve working conditions in the factories that supply them. It covers approximately 1,800 factories and 2 million workers, half of the Bangladeshi garment workforce. Over 200 apparel brands, retailers, and importers from more than 20 countries in Asia, Australia, Europe and North America have signed the Accord (<http://bangladeshaccord.org/signatories/#witness-box>). Meanwhile, a number of other (predominantly North American) companies chose not to join and instead launched a parallel but less onerous safety initiative, called the Alliance (<http://www.bangladeshworkersafety.org/>).²

Governance of Accord affairs and its small implementation staff is conducted via a steering committee consisting of three trade union representatives, three company representatives, and an ILO chair. An advisory board includes Bangladeshi government representatives, and an executive director and safety inspector oversee safety improvement and worker participation programs. Central to the Accord is the establishment of a system of private workplace inspections. Global brands commit to: (i) require supplier factories to submit to rigorous safety inspections (Article 9); (ii) accept public disclosure of inspection reports (Article 11); (iii) require suppliers to implement repairs and renovations necessary to make their factories safe (Article 12); (iv) pay suppliers prices sufficient for them to afford necessary repairs and operate safely (Article 22); and (v) cease doing business with suppliers failing to comply with any of the above requirements (Article 21).³

The impact of the Accord on factory safety in garment factories in Bangladesh is therefore, in large part, related to how far its inspection system has generated positive outcomes. In the analysis in Section 4, we address our two central research questions through an evaluation of this system's operation.

4. The Accord's inspection program in action

In order to examine the operation of the Accord's program of factory inspections, we draw on both primary and secondary data. In the case of the latter, statistics published on the Accord's website that shed light on the scale and operation of its workplace inspection program are used. In particular, these statistics are utilized to: (i) detail the number of inspections undertaken; (ii) evaluate their outcomes (e.g. numbers of workplaces where improvements were recommended, or closures occurred on safety grounds or as a result of a failure to make improvements); (iii) the aggregate number of improvements required; and (iv) the progress made in making improvements.

Primary data is derived from 23 interviews (face-to-face, Skype, telephone) conducted with 18 stakeholders in the Bangladeshi garment industry. These respondents encompass representatives from the Accord (2), global

brands (3), NGOs (4) and global unions (3), a senior national trade union leader (1), health and safety professionals (2), an academic researcher (1), and officials from the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) (2). Some were interviewed more than once. Several global brands and officials from the BGMEA declined our invitation to participate. Interviews were conducted between October 2014 and February 2016. They were recorded, transcribed, and analyzed thematically and respondents were invited to clarify or supplement their responses.

In presenting our findings, we first detail the statistical data compiled by the Accord in order to paint an essentially descriptive picture of the operation of its inspection program. We then draw upon the qualitative interview data collected to provide further insights into how the program has been operating and the factors that have been influencing it. It is acknowledged that this means that interview data precedes statistical data by some months; however, this is felt to be defensible on presentational and analytical grounds and also because a similar picture would have emerged if use was made of earlier sets of operational statistics.

4.1. The quantitative picture

Under the Accord's inspection program, each factory is the subject of independent inspections of their fire, electrical, and structural safety. International engineering firms contracted by the Accord conduct the initial inspections. After each inspection, a report is produced detailing the findings, including required remedial actions and timelines within which these should be carried out (so called Corrective Action Plans [CAPs]). A team of over 100 permanent Accord staff engineers then conduct up to 500 follow-up inspections each month, meaning that each Accord factory is currently inspected once every three to four months (Accord 2016, p. 4). When such inspections are undertaken, a detailed report is produced and the relevant CAP updated. This report not only sent to the factory concerned but also to the related brand and union signatories (Accord 2016, p. 6).

A deadline for remediation of each defect identified during inspection is given. These deadlines range from "immediate," for repairs and renovations that can be completed in a matter of hours or days, to up to one year for more complex improvements. When suppliers fail to adequately progress with improvements, under Article 21 of the Accord they potentially face a process of escalating warnings and notices that can ultimately lead to business with them being terminated (Accord 2016, p. 12).

For each factory inspected, the Accord website:

- 1 Identifies the (often very extensive) improvements needed;
- 2 Provides its CAP, which outlines not only the actions required but the timelines applied to undertake them, as well as a supporting financial plan signed off by the factory owner and purchasing brand;
- 3 Details progress on implementing this plan;
- 4 Indicates whether or not financial help is being provided to enable remediation to be carried out (<http://bangladeshaccord.org/factories/list-factories/>)

The Accord's website states that as of October 2016, initial inspections had been undertaken in 1,551 factories (Accord 2016, p. 5) and by the end of June 2016 there had been 4,098 follow-up inspections (Accord 2016, p. 12). It further reports that escalation measures had been applied to 472 suppliers and business had been terminated with suppliers in 41 cases (Accord 2016, p. 4).

It is nevertheless acknowledged that processes of remediation often run significantly behind proposed deadlines (Tables 1–2).

Tables 3 and 4 highlight that a substantial number of improvements have been identified and implemented through initial and subsequent follow-up. Indeed, in total, the figures provided show that nearly 120,000 safety defects have been identified through such inspections, and that over 60,000 of these have been verified as having been remedied. Moreover, as Table 2 highlights, in nearly 1,200 factories, between half and all of the required improvements have been implemented.

It is unfortunately less clear how far financial support has been provided under the terms of the Accord to help factories make required safety improvements. As part of every CAP, signatory companies and their suppliers are required to confirm that a remediation finance plan is in place. By the end of October 2016, 1,361 such plans had been reported. On the basis of these reports, it appears that brands are providing financial assistance in

Table 1 Rate of progress (as of October 2016)

Time since initial inspection	Number of factories behind schedule [†]
More than 1.5 years	1,268
Between 1.5 and 1 year	19
Between 1 year and 0.5 year	87
Less than 0.5 year	14
Total factories behind schedule	1,388

The phrase “behind schedule” means that Corrective Action Plans have been implemented but some timelines have not been met. Source: The Accord 2016, pp. 13–14. [†]The specified substitution needs to be made.

Table 2 Progress levels in factories behind schedule

% of issues fixed (reported and verified)	Above 75%	50–75%	25–50%	Less than 25%
Number of factories	563	620	161	44
% of factories	40	45	12	3

Source: Accord 2016, p. 14.

Table 3 Progress on improvements arising from initial inspections (information as of October 2016)

Issue	Corrected [†]	Pending Verifications [†]	In progress	Total
Electrical	25,074	4,055	4,986	34,115
Fire	16,856	4,800	11,674	33,330
Structural	4,860	4,249	1,081	19,950

The term “corrected” means that the finding has been verified as corrected by Accord engineers through follow-up verification visits. The phrase “pending verifications” means that the required improvements have been reported as completed but have not been verified by Accord engineers. Finally, the phrase “in progress” means that remediation of the inspection findings is underway. Source: Accord 2016, p. 10. [†]The specified substitution needs to be made.

Table 4 Progress on improvements arising from follow-up inspections (information as of October 2016)

Issue	Corrected	Pending verifications	In progress	Total
Electrical	13,013	3,095	6,772	22,880
Fire	2,944	1,096	3,412	7,452
Structural	168	198	401	767

Source: Accord 2016, p. 10.

55 cases. However, the Accord reports that both labor and company signatories agree that in reality, such support is more widely provided; although they disagree on the “question of whether and to what extent factories need financial assistance but are not receiving it, and whether that is a major cause for delays in remediation” (Accord 2016, p. 15).

4.2. Qualitative insights

On the basis of these statistics, there would seem little doubt that the Accord is having a widespread and significant impact on factory safety regarding fire, electrical, and structural matters. Those interviewed offered confirmation of this:

Technical improvements in factories, the correct standards for building safety, electrical safety, and fire safety are finally being rolled out in factories. That’s the change. And that has been done because brands have supported it... Rana has provided... that critical weight, to bring about those kinds of changes. And brands have

*really given attention to those kinds of issues. So you can say now that factories are safer... there is less likely to be fires, less likely to collapse [sic].*⁴

A respondent from Accord reported that factory owners had spent millions of dollars on fire safety, sprinkler systems, updating electrical connections, etc. He reported on the basis of verified evidence that “80% of factories are doing something, they are moving.”⁵ A western occupational health and safety professional working with Accord commended the progress made since the Accord came into effect:

*...first time in which many factories even got inspected... 500 corrective action plans which have been approved and so you have someone to pay for remediation and you have a plan... other corrective action plans under review... another 250 initial inspections in 2015. So these are tremendous advances.*⁶

A signatory brand representative suggested that the situation had significantly changed. In the past, “*electrical equipment... was not being taken care of... cables left hanging around... You go into a factory today and visually, you can see that it’s being taken care of*”⁷ She went on to further remark that, previously, factory owners did not think that safety was important, it was “*just how things were...*” but now they understood what caused fires and realized that such causes needed to be addressed.⁸

A number of respondents attributed these positive outcomes to the legally binding character of the Accord. One for example, explained that brands could now no longer justify their voluntary approach to helping supplier factories, based on corporate social responsibility (CSR) rhetoric. The only way to secure improvements in safety in factories is through brands observing legally binding commitments:

*The Accord is a departure from this [voluntary] culture, we are trying to drag brands and retailers into a different kind of thinking. It is going to take a great deal of time, which is why it is legally binding, because we understand that things will change only through constant pressure and over an extended length of time.*⁹

Global unions were also reported to have resorted to the Accord’s legal mechanisms to bring some brands back into line (Allchin & Kazmin 2015). An interviewee, G, confirmed that unions were preparing to file arbitration cases against several brands who were failing to comply with their obligations.¹⁰ At the time of writing, no public announcements had been made. G suggested that this should not be viewed negatively as unions were using the threat of legal proceedings to spur action on the part of brands.

These last observations were in turn advanced against the backcloth of criticisms of the brands’ reticence to fund safety improvements and their failure to change their approach toward the pricing of supply contracts, despite Article 22 of the Accord requiring them to ensure that it was financially feasible for factories to maintain safe workplaces and comply with safety upgrade requirements. For example, S, a GUF respondent, noted:

*The brands have failed to deliver their full financial contributions due under the terms of The Accord. [Even] a contribution of a fraction of 1% of the global brands’ annual turnover would comfortably secure all of the necessary funds.*¹¹

Meanwhile, F, a BGMEA respondent, observed:

*...so when the building collapsed everybody said “you’re at fault,” like to us, you’re at fault but hold on, if you felt so judgemental about the whole thing, then maybe you should pay us a little more! Instead, our buyers continue to threaten us, saying, if you don’t want to take our orders, we will go elsewhere cheaper. But factories cannot produce cheaper without cutting corners on workers’ rights.*¹²

Respondents also drew attention to how a “CSR-based” interpretation by brands of their responsibilities under the Accord had a negative impact in this regard. WW remarked:

*The fact that you have brands which have a legal obligation to help factory owners, still using rhetoric which derives from CSR culture of voluntarism, is not surprising. It is annoying, but it is predictable... What matters is that factories get fixed, which will not happen if brands do not provide some form of financial assistance.*¹³

It was further apparent that Bangladesh government support for the Accord was of a qualified nature, notwithstanding institutional appearances to the contrary.

Government departments and official bodies in Bangladesh initially supported the aims of the Accord in conjunction with increased government efforts to prevent accidents. It adopted a National Action Plan on Fire Safety and Structural Integrity, a National Occupational Safety and Health Policy, and a revised Labour Act (Rahman 2014). A task force on Building and Fire Safety for the garment sector, a hot line for reporting fire accidents and a publicly accessible database on safety issues in garment factories were also established. In addition, dozens of posts were created for fire inspectors to enforce safety standards in factories outside the Accord. In turn, the Accord has affirmed and supported state initiatives on fire and building safety. The fire, electrical, and building inspection standards utilized for the inspections of Accord factories are largely based on the Bangladesh National Building Code and are the product of discussions between the Accord, the National Tripartite Plan of Action, and the Alliance for Bangladesh Worker Safety (Alliance), initiated and facilitated by the ILO. Furthermore, the Accord engages with the government through its Advisory Board, as noted earlier, through direct contact with officials and through its relations with the Bangladesh University of Engineering and Technology, which supports the government in its factory inspections (Articles 6, 7).

Notwithstanding these various forms of apparently mutually supportive collaboration, a common theme raised by respondents was how factory owners' hostility toward the Accord privately received support from the government, as 50 percent of politicians are associated with the garment industry, primarily via ownership. Additionally, the government is heavily dependent on funding from business.¹⁴ One respondent from The Accord, for example, reported that Accord personnel were viewed by government officials and factory owners as "a bunch of cowboys."¹⁵ He further referred to a recent well-publicized "expo" on health and safety in Bangladesh. Immediately before the expo, the Prime Minister declared in a cabinet meeting "We have our own programme, so... you do not need to prioritise... the Accord." In a similar vein, representatives of global brands argued that the government lacked the political will to improve safety.¹⁶ They criticized state policy in practice, arguing that in reality domestic regulations on safety governance were never enforced. More generally, according to SBT, the government has made it clear that it does not want to prolong participation in the Accord after its five-year term comes to an end.¹⁷

Unions, as key pressure groups, continue to operate in a very hostile environment, despite reform of domestic labor laws to enable workers to form unions more freely (Rahman 2014). P cautioned that a "pathological hatred for unions" remained among employers, while WW argued that the government ignored employers' violent anti-union tactics.¹⁸ Such views have received external support. The International Labor Rights Forum (2014) has reported continuing anti-worker violence in the garment industry, noting government failure to address serious rights violations. It also claims that government ministers have personally intimidated labor activists, calling for action against those reporting violence on labor organizers and suggesting that they were acting against Bangladeshi interests. Such concerns have led the International Trade Union Confederation and European Trade Union Confederation, along with GUFs UNI and IndustriALL and their European regional bodies, to write to the European Commission (ITUC-CSI-IGB 2015) calling for action as anti-union repression in Bangladesh had increased.

5. Discussion

On the basis of the presented findings, it is clear that the achievements of the Accord cannot easily be dismissed. With the exception of a small number of new supplier factories, inspections have been undertaken in all relevant factories and an extensive program of follow-up is in place. It is further clear that these inspections have identified a vast number of electrical, fire, and structural safety defects and that many of these have been remedied.

At the same time, the operation of the Accord's inspection program can be seen to have embodied problematic features and, therefore, highlights the challenges that attempts to improve labor standards at the end of buyer-led supply chains face. In many cases, progress on remedying identified safety defects has been slow and certainly outside established deadlines, while almost 10 percent of covered factories have been subjected to the Accord's system of warnings and notices because of their lack of commitment to implementing the safety improvements deemed necessary as a result of inspections. In addition, business with some 40 factories has been terminated on the grounds of their lack of cooperation. Meanwhile, although it remains unclear how far buyers are providing financial support to help make required improvements, tensions between the improvement of safety

and the financial objectives of buyers seem to exist, both in relation to the continuation of existing pricing models and differing perceptions among union and company signatories regarding the provision of such support. Furthermore, against the backcloth of the political influence wielded by factory owners it is apparent that the support provided by the Bangladesh government to the Accord is very much of a qualified nature, notwithstanding that representatives of the government sit on the Accord's advisory board and hence form part of its governance arrangements.

It must be further admitted that the statistical data provided on the outcomes of the Accord's inspection program could not unquestionably be said to show that the safety of workers in the inspected factories has improved and hence the Accord has been effective. The only reliable test of this is whether it becomes apparent over time that fires and building collapses become significantly less common.¹⁹ That said, the standards against which these defects have been identified were agreed in ILO initiated and facilitated discussions between the Accord, the National Tripartite Plan of Action and the Alliance for Bangladesh Worker Safety. As a result, they were agreed by both local and global union representatives and thus, at a minimum, seem unlikely to fall significantly below internationally acceptable standards. This in turn logically suggests that Accord inspections are identifying many (although not necessarily all) of the main risks concerned.

This apparently positive picture of achievement clearly offers some confirmation of the view that private regulatory initiatives can serve to improve labor conditions in global supply chains. In doing so, it also brings us back to the question posed at the beginning of the paper as to how its operation has been impacted by the various factors that existing literature suggests are important in shaping the outcomes of private regulatory initiatives. On the basis of the collected data, it cannot be claimed that this question can be definitely answered. Nevertheless, they do enable a number of conclusions to be drawn with varying degrees of confidence regarding the respective roles of the three categories of explanatory factors identified earlier: the nature and extent of *voluntaristic sources of compliance*, the degree of supporting state-based *legal regulation*, and how far *markets are institutionally configured* to support the adoption of established labor standards through the procurement practices of buyers.

In the case of the first of these, it would seem unquestionable that the horrific nature of the Rana Plaza disaster and the public/consumer pressures it generated to do something about working conditions in Bangladesh garment factories played a crucial role in the establishment of the Accord and its unique form as a joint company-union collaboration involving a collectivity of brands (Reinecke & Donaghey 2015). Its creation therefore adds clear weight to the view that the development of such initiatives generally stem from wider social pressures that act to prompt a recognition among buyers of the need to be seen to be trying to counter some of the adverse labor effects flowing from their market-driven supply relationships.

Insofar as the Accord's compliance-orientated inspection program has been effective in reducing the risks of fires and building collapses, this impact cannot logically be divorced from the fact that its resourcing has been sufficient to support the appointment of an international consultancy to conduct initial inspections of all factories and to carry out regular follow-up inspections, with a current complement of over 100 engineering inspection staff. The program's operation therefore draws attention to the point that the impact of private regulatory initiatives is likely to be tied up with the issue of the resources devoted to their implementation. It further acts to raise an important qualification concerning Locke's critique of compliance-based regulation, namely that it largely sidesteps this issue of resources and, therefore, the possibility that part of its apparent problematic impact stems from the fact that it has frequently not been adequately resourced. In doing so, the program's operation arguably suggests that the scope for compliance-based, as opposed to commitment-based enforcement mechanisms to generate improvements in labor standards may be greater than Locke and his colleagues suggest.

With regard to the argument that the effectiveness of private regulatory initiatives is influenced by the degree to which they receive support from surrounding state-based legal regulation, the findings obtained do not rule out that such complementarity can be beneficial. They do, however, suggest that the presence of such support is not necessarily crucial. Thus, a striking feature of the outcomes of the Accord's inspection program is that they were achieved against the backcloth of a very mixed and qualified degree of support from the Bangladesh government and with no direct involvement of government inspectors.

Finally, as to the argument of Anner *et al.* (2013) relating to the need for global supply initiatives to address "the root cause" of problematic labor conditions, namely the buying practices of buyers, it is not possible to conclusively demonstrate on the basis of the collected data how far, and through what means, all of the

characteristics listed have contributed to the positive outcomes achieved by the Accord. However, and notwithstanding the reported problems and disagreements surrounding the provision of financial assistance by brands to support safety improvements, it is hard to believe that the joint nature of its founding agreement, and the transparency that has flowed from it, have not served to enhance the priority accorded to safety-related matters and associated expenditure – particularly when the role that reputational considerations played in the establishment of the Accord is borne in mind (Reinecke & Donaghey 2015). Thus, the commitment of the Accord to publish all inspection reports and to detail progress in implementing their recommendations on its website has served to provide much scope for unions and pressures groups to monitor whether safety improvements are carried out with sufficient urgency. Indeed, it was concerns over the slow progress being achieved that led the Accord to expand the number of inspection staff to its current level. In this regard, operation of the Accord can be contrasted with the difficulties that pressure groups have faced in assessing progress in making safety improvements in factories supplying companies forming part of the Alliance, where it has only been possible to gain insights into this by drawing on data from factories inspected under the Accord that are also used by signatory companies of the Alliance (International Labor Rights Forum *et al.* 2016).

It can consequently be argued that neither Locke, in his critique of compliance-based regulation, nor Anner *et al.*, in their advocacy for a contract-based approach to joint brand liability, have accorded sufficient weight to the role that transparency can play in supporting the implementation of private regulatory initiatives. This view is given added weight by studies concerning the role that transparency has played in supporting the operation of other private regulatory initiatives and the factors that influence the extent to which it has done so. For example, research by Auld and Gulbrandsen (2010, 2014) on the operations of the Forest Stewardship Council and the Marine Stewardship Council found that transparent processes (granting ultimate decisionmaking authority to members, open engagement with stakeholders, publishing assessment reports, and increasing the online disclosure of audit outcomes) improved both their legitimacy and accountability. Meanwhile, in an empirical analysis of levels of transparency in 143 regulatory standard-setting programs in the field of transnational sustainability, Schleifer *et al.* (2017) found transparency to be positively correlated with multi-stakeholder initiatives (with NGOs and public actors) and those in which meta-governance organizations promote an overarching normative framework for transnational rulemaking. Together, such findings suggest that future research on the Accord could usefully focus more detailed attention on how its operation has been influenced by its systems of internal governance and information disclosure, including the manner in which they mutually interact.

The differing perceptions of signatory unions and companies about how far brands are funding safety improvements also usefully illustrates the way in which the Accord, as Anner *et al.* have argued, departs from the unilateral nature of much multinational supply chain action. Furthermore, it should not be forgotten that another consequence of the Accord has been the establishment of a regime of safety inspection under which factories supplying over 200 brands are required to comply with a common set of requirements in the areas of electrical, fire, and structural safety and which therefore acts to limit their capacity to accommodate cost-cutting pressures by cutting corners on safety. Moreover, this feature is effectively reinforced by the fact that factories are often supplying a number of different Accord signatory companies and thus potentially similarly reduces the ability of brands to competitively drive down the prices they pay.

Given this analysis, it would seem reasonable to argue that, through a combination of the four features detailed in Section 2, the Accord to some extent provides a platform through which “root cause” market dynamics can be addressed. This view is further reinforced by the fact that although the legal enforcement mechanisms of the Accord have so far not been formally utilized, many of those interviewed did allude to the significance of its legally binding nature. It may, therefore, be that the lack of formal legal action conceals how it has been used as a threat to bring recalcitrant brands into line.

While it cannot be claimed that the study’s findings offer firm confirmatory support for the arguments advanced by Anner *et al.*, they do suggest that they cannot sensibly be disregarded. There would seem a consequent need for these findings to be subjected to more detailed evaluation via a more in-depth and broader evaluation of the Accord in which all its constituent elements, including its systems of governance and information disclosure, are examined to identify their individual and combined effects. This is particularly prudent given that at least some of those involved in the development and governance of the Accord believe it to have had a positive effect and to be financially viable in the longer term. Thus, while the BGMEA only favors an extension to its

tenure beyond May 2018 as a “monitoring team” (New Age 2017), more than 20 brands and the UNI and IndustriALL global unions have, subsequent to the research reported here, recently agreed to a follow-on Accord agreement (IndustriALL 2017a), which it is anticipated will eventually be signed by many more brands. Already, however, it is estimated that the new agreement will extend to cover over a thousand garment factories (Accord 2017; IndustriALL 2017b).²⁰ Furthermore, in the build up to the July 2017 G20 summit in Hamburg, a number of global unions called on participants to look to the Accord as a model for promoting sustainable business practices. The Deputy Secretary of UNI Global Union, for example, observed that its “model of accountability and transparency works” (<http://passport.uniglobalunion.org/news/global-unions-urge-world-leaders-elevate-example-bangladesh-accord>).

6. Conclusion

This paper has sought to cast further light on the role of the various factors that have been argued to affect the development and operation of private regulatory initiatives aimed at protecting and enhancing the working conditions of those laboring at the end of global supply chains. To this end, it has drawn on a combination of primary and secondary data on the operation of the 2013 Accord on Fire and Building Safety to address how far its program of workplace inspections has acted to achieve safety improvement and to what extent its operation, in this regard, has been influenced by factors the literature suggests are important in determining the outcomes of private regulatory initiatives.

The findings obtained lend weight to the view that such regulation can generate positive outcomes, even in the absence of strong public regulatory support. In doing so, they caution against discounting the role that compliance-orientated enforcement strategies can play in supporting the implementation of established labor standards, while also drawing attention to the importance of their adequate resourcing and, critically, the transparent nature of monitoring processes. The findings also lend more tentative weight to the argument that the effectiveness of such regulatory initiatives would be enhanced if they focused attention on mediating the market dynamics that act to undermine the provision of decent working conditions.

Notes

- 1 It is specified that the process for selecting the arbitrator will be governed by the UNCITRAL Model Law on International Commercial Arbitration 1985.
- 2 There are several differences between the Accord and the Alliance. The Accord is an agreement between global unions, on the one hand, and global brands and retailers, on the other. The Alliance is an agreement between global brands and retailers only; it is a corporate-led initiative. In addition, while it is a contractual requirement under the Accord, the Alliance does not require members to pay for remediation. Thirdly, under the Accord, worker representative organizations may take enforcement action. Under the Alliance, workers cannot enforce the agreement, although they can report any breach to the companies. Finally, the Accord requires a much higher level of transparency from global brands and retailers about the progress of repairs. See: <https://cleanclothes.org/news/2016/11/21/alliance-for-bangladesh-worker-safety-overstates-progress-while-workers-lives-remain-at-risk>
- 3 As noted earlier, these provisions existing alongside others which, among other things, impose an obligation on buyers to make an initial two-year commitment to purchase at current volumes from suppliers, and prescribes requirements for training (including input from union representatives) and the establishment of safety committees and worker representation more generally.
- 4 Interview with SBT, a trade union expert, 5 January 2016.
- 5 Interview with X, a respondent from Accord, 19 December 2014.
- 6 Interview with G, a western occupational health and safety professional working with Accord, 30 March 2015.
- 7 Interview with V, a global brand representative, 20 March 2015.
- 8 Interview with V, 20 March 2015.
- 9 Interview with WW, a respondent from a Labor Rights Organization, 6 March 2015.
- 10 Interview with G, 30 March 2015.
- 11 Interview with S, a GUF respondent, 10 November 2014.

- 12 Interview with F, a BGMEA respondent, 21 March 2015.
- 13 Interview with WW, 6 March 2015.
- 14 Interview with B, a GUF respondent, 23 October 2014; Interview with X, 19 December 2014.
- 15 Interview with X, 19 December 2014.
- 16 Interview with N, 24 February 2015; interview with P, 4 March 2015, both global brand representatives.
- 17 Interview with SBT, 5 January 2016.
- 18 Interview with P, 4 March 2014; interview with WW, 6 March 2015.
- 19 This point arguably takes on even greater significance in relation to the impact of other elements of the Accord, such as the requirements prescribed with regard to the provision of training and the establishment of safety committees. Thus, it cannot simply be assumed that action in these areas will lead to improved standards of safety protection. Evidence of the factors that influence the effectiveness of safety committees, for example, illustrate this point well (see, e.g. Walters *et al.* 2016).
- 20 The text of the new agreement can be obtained at: <http://bangladeshaccord.org/wp-content/uploads/2018-Accord-full-text.pdf>

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Appendix I: Interview respondents and dates

B, 23 October 2014	GUF respondent
S, 10 November 2014	GUF respondent
X, 19 December 2014	Respondent from Accord
N, 24 February 2015	Global Brand Representative
P, 4 March 2015	Global Brand Representative
WW, 6 March 2015	Respondent from a Labor Rights Organization
V, 20 March 2015	Global Brand Representative
F, 21 March 2015	BGMEA respondent
G, 30 March 2015	Western occupational health and safety professional working with Accord
SBT, 5 January 2016	Trade Union Expert
