New Conversations Project: Conference Report

Cornell University’s New Conversations Project on Sustainable Labor Practices in Global Supply Chains organized its first public conference in New York City on May 3, 2017. The conference, titled “The Frontier of Sustainable Labor Standards in Global Supply Chains”, was attended by over 125 representatives from a variety of global brands and multi-stakeholder groups, as well as academics and authors. A complete list of attendees can be found here (https://www.ilr.cornell.edu/sites/ilr.cornell.edu/files/New%20Conversations%20Project%20Conference%202017%20Attendees.pdf). The conference was designed to provide a safe space for multi-stakeholder representatives and brands to engage in freewheeling conversation following Chatham House rules.

The conference, organized as a series of panels with space for public comments and engagement, focused on the following four issues:

1. Lessons from the Accord, Alliance and Better Work in Bangladesh for future multi stakeholder initiatives.
2. How to increase worker voice in union-hostile environments: What works and what does not work?
3. The role that brands and other stakeholders can play in improving labor conditions.
4. The future of trade and labor in a Trump Administration.

What follows is a summary of the conference. It is impossible in a written report to capture the vibrant discussion, the lively exchanges between panel members, and the variety of questions from audience members that sparked additional interesting conversations. Nevertheless, some of that rich discussion amongst multi-stakeholders clearly resonated with the audience, as evidenced by the following feedback from conference participants:

“*What is important about the New Conversations Project at Cornell is that our conversations are going to be grounded in data, and also because it provides a space for the multi-stakeholders to have this conversation...because I think for too long we haven’t spoken either privately or publicly. This event is long overdue.*”

“When I look at the program philosophy of this New Conversation Project, I think it has everything in it that is necessary, starting with buyer supplier relationships, purchasing practices, the need for public disclosure, auditing combined with trustful relationships and capacity building. And most importantly, collaboration amongst brands. Therefore I really applaud this program.”

“I’m really pleased to be part of this gathering, but also, the Cornell Conversations Project itself. The pride there was seeing a new conversation emerge and taking a leap with colleagues around the table, not knowing if we would indeed have a new conversation because I’ve been at so many ‘familiar conversations’”.

Although the conference was organized in terms of different panels, the discussion moved
across and between them. Accordingly, the report below integrates themes and ideas that were discussed on multiple panels.

**THEME 1: LESSONS FROM BANGLADESH: THE ACCORD, ALLIANCE AND BETTER WORK**

The conference opened with a discussion of developments in Bangladesh, including the status of the factory safety initiatives, the Accord and the Alliance, as well as the ILO/IFC Better Work program in Bangladesh. Reflections on Bangladesh were not confined to the panelists, however; audience members contributed their insights from the floor, as did panelists participating in subsequent sessions. The Panelists included:

a. Jennifer Bair, Professor, University of Virginia
b. Professor Drusilla, Professor, Tufts University
c. Raymond Robertson, Professor, Texas A&M University
d. Chaumtoli Huq, Professor, Brooklyn Law School, Founder, Law at the Margins
e. Jill Tucker, Head of Supply Chain Innovation & Transformation, C&A Foundation
f. Edgar Romney, SEIU and Representative of the Cornell NCP Bangladesh Task Force
g. Rob Wayss, Executive Director, Bangladesh Accord on Fire and Building Safety

**A. Key Lessons and Points of View: The Accord and Alliance**

1. The Accord and Alliance, on the one hand, and Better Work on the other are two very important multi-stakeholder initiatives that are worth studying as models for the industry, since they incorporate many features that hold great promise for the future of working conditions in global supply chains. These features include, to varying degrees, multi-brand collaboration, buy-in from relevant stakeholders including international and national unions, and government involvement.

2. There was mixed reaction regarding the progress of the Accord. While there was strident critique from some quarters that only 4% or 79 factories had been completely remediated under the Accord, the more nuanced picture that emerged from the discussions is that progress on factory remediation under the Accord has picked up considerably. It is important, participants felt, to judge progress by the number of remediations that are ongoing, while recognizing that there are several reasons for the slow progress to date. Whether all of them will be completed by the time the Accord’s initial term is over remains an open question. The NCP Bangladesh Task Force that visited Dhaka in April 2017 were told by several of the informants they interviewed that remediation of all factories will not be completed by the expiration of the Accord’s initial five year mandate and that safety takes ongoing work.

3. The Alliance, which has a smaller number of active factories, is somewhat ahead of the Accord in terms of the number of factories remediated. However, the Alliance has also terminated more factories for failure to demonstrate progress towards remediation. Once terminated, factories become the responsibility of the government inspection program (see below).

4. The “remediation coordination cell” being formed in June 2017 is a positive development
and a necessary pre-requisite for the eventual “hand-off” of the private sector safety initiatives to the Bangladesh government.

5. The government-run factory inspection program, the National Initiative, is substantially behind schedule despite receiving significant support from the ILO. The National Initiative has completed inspections of 1,549 factories but remediation is very much in the initial stages.

6. Many participants felt that transparency was key to the success of the Accord.

7. The NCP Bangladesh Task Force notes that to consolidate the progress that has been made, empowering workers is critical. Task Force members expressed serious concerns about whether enough is being done to protect workers’ rights. FOA remains weak and there is virtually no collective bargaining.

8. The Task Force’s report noted that the imminent expiration of the Accord and Alliance generated pressing questions about the future of post-Rana Plaza reform and remediation efforts. Task Force members suggested that industry stakeholders might explore the possibility of a merger or some other kind of amalgamation of the existing initiatives to secure the progress that has already been made. While the general consensus is that the industry in Bangladesh is safer than it was prior to the creation of the Accord and Alliance, the NCP Task Force concluded that independent oversight will be needed after 2018.” As Jenn Bair noted in her panel presentation, “ultimately the government needs to take this over, but they are in no way ready yet to do so. There is going to be a need for oversight in Bangladesh for a long time…decades most likely.”

9. It is important to acknowledge that neither the government of Bangladesh nor the industry association, the BGMEA, are enthusiastic about the prospect of extending international oversight. The BGMEA is not a party to the Accord or the Alliance, and it asserts that owners’ interests are not represented. Some factory owners believe Bangladesh is unfairly being held to a different standard than other countries. At the same time, the BGMEA is a large organization and there is a variety of opinions among factory owners. Many recognize that, from a long-term perspective, safety is critical and the brands need to be assured that there is a structure in place to ensure worker health and safety in order for the industry to grow.

B. Key Lessons and Point of View: Better Work

1. Better Work is crucially important as a model for the future, as it offers an integrated approach involving annual labor audits, enterprise advising, training of enterprise management, policy engagement at the national level, public disclosure of results (in some cases) a trade labor linkage (in some cases) and joint IFC/ILO administration.

2. Drusilla Brown, who has analyzed longitudinal data from several different Better Work programs in a number of different countries, is broadly enthusiastic and positive about its effects on worker’s well-being. Her analysis shows positive results in terms of, for example, declining rates of sexual harassment, fatigue, hunger, poor mental health.
outcomes, and indebtedness. With some variation, there has been a clear improvement in core labor standards compliance in Better Work countries. There is a clear reduction in the gender pay gap, improved compliance on age verification in respect to child labor, a reduction in human trafficking and improvements in voluntary overtime (as compared with forced labor). She also reports that workers enjoy, in general, in some countries, greater access to unions in the workplace and reduced fear of joining a union. There is, in some countries, a reduction in working hours and a rise in weekly pay.

3. Better Work is more effective when the country program includes greater transparency (public disclosure of results) and significant policy engagement by brands.

4. It is important to note that, in countries where participation is voluntary, factories participating in Better Work typically account for a rather small number of total establishments. Accordingly, its effect on the “population” of factories is still relatively small. For example in Bangladesh, only 130 factories are currently enrolled in Better Work, and those factories have more U.S. than European brands as clients.

5. The most important issues regarding Better Work concern financial sustainability and scalability.

6. There was a clear sense that the BW program is not yet financially sustainable. It is “kept alive” or “heavily subsidized” through funding from the IFC and some country governments. As a UN agency, the cost structure of Better Work is quite different from that of the Accord and the Alliance. To compare, the Accord has 230 staff, and their total staff spend is much lower than the equivalent would be for a UN agency. In order for Better Work to have the same reach as the Accord and Alliance, Better Work’s budget would have to be tripled (a back of the envelope calculation), which appears unlikely.

7. Financial sustainability impacts scalability. To become self-sustaining, Better Work is currently working on a business model that would allow it to generate about 80% of the necessary funds from brands and factories through factory audits and training services, but this requires a larger scale, i.e. at least 300-400 factories in each country. While the program is expanding aggressively, there still remains the issue of funding Better Work Global Staff at ILO and IFC headquarters. Moreover, if 300-400 factories are required to make a country program self-sustaining, there remains a larger question of where Better Work can operate in the future, as some countries may not have a large enough industry base to make the program viable.

8. There was a sense that it is important for all stakeholders to get under a broad tent, perhaps a Better Work type of tent or an Accord/Alliance type of tent. For instance, if all brands were willing to support Better Work, that would be useful, and that would also help the program increase its negotiation power with the government (for example, as it seeks to negotiate with the BGMEA and the government in Bangladesh).

**THEME 2: WORKER VOICE**

This theme generated considerable audience participation, facilitated by a panel moderated by Bruce Raynor, (Chair of NCP’s Advisory Board) and including presentations from:
a. Daniel Fibiger, Director, Global Sustainability, GAP Inc.
b. Judy Gearhart, Executive Director, International Labor Rights Forum
c. Sonia Mistry, Senior Program Officer, Asia, Solidarity Center
d. Sharon Waxman, President, CEO, Fair Labor Association

A. General Comments

1. There was a clear consensus that efforts to improve worker voice in global supply chains had plateaued and in the words of one panelist “needs a reset.” There was much debate regarding the reasons for this lack of progress, however.

2. There was a clear consensus that the multi-stakeholder community needs to pressure governments to enforce labor laws, and it is a key disappointment that after 15-20 years, enormous challenges remain on this front.

3. There are some structural flaws in private governance that inhibit worker voice. These include the fact that private governance is “confidential” (owned by the brands with results not shared), “voluntary” (many brands do not actively support the idea), and “top down” (workers do not have a meaningful role in private governance). An important example concerns the issue of living wages, which are espoused by the multi-stakeholder community. If you listen to workers, they say “that when wages go up, rents go up too, and there is no rent stabilization.” Women workers care about safety and have specific concerns that may not be reflected in most supply chain sustainability initiatives.

4. Progress on worker voice could be enhanced if consumers were to push brands as much as labor rights activists push them. How we get consumers to do this remain an open question.

5. A repeated theme in this conference was that auditing is insufficient, but there is a need for the stakeholder community to focus on what issues auditing works well versus those for which it does not. Worker voice is an area where auditing does not work.

6. The focus on environment health and safety, while good, might deflect attention from worker voice, although new legislation (e.g. California Supply Chain Act) might renew the focus on workers.

B. Lessons on Worker Voice from Accord and Alliance

1. There has been an increase in worker participation as a result of the Accord and unions have been involved in both audits and in training. However, there needs to be more people from worker ranks in the training team.

2. Potentially at least, trade benefits – specifically, GSP market access – provide U.S. and Europe with some leverage over the Bangladesh government and industry, but it isn’t clear this tool is being used as effectively as it might.
3. One strength of the Accord/Alliance is its focus on safety, but arguably the narrow definition of this mission has stymied the ability to look at core labor rights. There is need for more multi-stakeholder focus on social dialogue. As one brand representative indicated, “At the same time, we must realize that the appetite of different players for a focus on social dialogue may be different.” Consequently, there is need for disaggregation. This statement spawned some disagreement as others felt that social dialogue had to be a key part of the Accord and Alliance.

4. Workers will not speak up if they believe that the brand will “cut and run.” Hence, Brands need to commit to spending enough time in each country.

5. There were positive reports about the usage of the Alliance Hotline. At the same time, there was more consensus that Hotlines are NOT a substitute for worker voice. They may be a complement. One limited analysis of the hotline revealed that two thirds of the calls were coming from men, even though the workforce was primarily women. In addition, hotlines have to be linked to worker communities to be effective.

6. Progress on voice in Bangladesh is limited. Out of nearly 900 unions that applied for registration in Bangladesh, only 50 percent have been registered to date. Only 37 collective bargaining agreements exist in the entire sector.

7. The content of the few collective bargaining agreements that exist are “defensive”—they basically restate minimum standard and wages as prescribed by law.

8. There is significant concern following the events that occurred in the Ashulia area of Dhaka in late 2016-early 2017. The arrest of a number of garment worker activists and organizers precipitated a labor rights crisis that involved extensive international mobilization. Under pressure from multi-stakeholders, an agreement was reached between the BGMEA and workers’ representatives. The agreement created a new Tripartite Consultative Commission for the garment sector. Although the Commission held an inaugural meeting, the NCP Bangladesh Task Force expressed concern that the Commission did not have a clear aim or future agenda.

9. The Better Work Program, which is currently in 130 factories, is overseeing the election of representatives to labor-management committees, called Worker Participation Committees (WPCs). These elected committees play an important role in worker voice. Importantly, they also appoint members to the safety and health committee, which are required by law in factories with over 50 employees. The NCP Bangladesh Task Force interviewed representatives of one WPC. The committee included a mix of male and female workers and appeared to be functioning well, though it is important to note that the meeting was held on site (though not in the presence of management). Moreover, the Task Force members acknowledged that this factory has a very low turnover rate, and thus may not be representative of the industry at large.

10. There is some question regarding how WPCs relate to unions. Are they a complement, substitute or a first step to unionization? The NCP Task Force noted that, in the five unionized factories participating in Better Work, the union plays a role appointing the workers’ reps to the WPC; the union is separate from the WPC, which is, unlike the union,
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a labor-management body. However, in the vast majority of factories there is no union, and there is some concern that WPCs will be a replacement for unions, or will even be used to suppress worker organizing. Also, WPCs, unlike unions, cannot bargain collectively (though, to be clear, there is virtually no real collective bargaining in the industry anyway).

11. The NCP delegation also reported that a meeting with the heads of several union federations revealed that they continue to experience real obstacles to organizing, ranging from difficulties with union registration to competition from company unions.

12. A key observation by the Task Force was that that the unions that are active in Accord factories—mostly IndustriALL affiliates—seem to have very little interaction with those unions that sit on the Alliance’s labor advisory board. The labor movement in Bangladesh is not only small; it is also very fragmented and competitive, which has contributed to its weakness.

13. The most difficult question that we need to answer going forward is, how do you build a structure that strengthens capacity on the ground? There are a lot of resources coming into Bangladesh, but what percentage of that money and effort is strengthening local actors and reinforcing their ability to act independently, without needing to rely on the intervention of external actors, be they brands or global unions?

C. On the Future of Worker Voice generally: Where do we go from here?

1. More transparency by the brands in publishing their list of suppliers is crucial to the enhancement of worker voice.

2. There is a need for more balance—beyond safety and health, more emphasis needs to be placed on freedom of association.

3. There are models out there, like the ACT model, the Fruit of the Loom-CGT agreement, which has a steering committee comprised of unions and industry representatives with academics guiding it. (However, the Fruit of the Loom model is not entirely generalizable, as the company owns most of its factories).

4. One way is to look at rights more broadly. In the U.S. for example, before there were unions, there were associations and other groups focusing on women’s rights, immigrant workers’ rights etc. There is a need to look at similar organizations in today’s apparel-exporting countries, as they may later coalesce into unions. Worker welfare associations in export processing zones may be an example of these, though under current law there are very clear limitations on what these bodies can negotiate over. One participant felt that we should look at other forms of organization than simply collective bargaining organizations. Examples abound in the U.S. Worker Centers, domestic workers alliances, the Coalition of Immokalee Workers as alternate ways of improving rights of workers. However, others felt that to push those types of organizations is to set out on a “slippery slope” as they may not be able to protect workers’ rights the way effective unions can.

5. It is necessary to understand why factory managers are reluctant to embrace the goal of
enhancing worker voice. One theory is that factory managers are living in the dark ages, and are not aware that bringing worker voices to bear might have positive effects—for example, using worker input to improve health and safety might unleash productivity gains that could offset the cost of improvements, or paying better wages might secure higher productivity, lower turnover, etc. Another theory is that factory managers are being overly risk averse; they’re worried that empowering workers might lead to higher wage bills than their productivity could support; thus not only will their factory lose business, but brands might shift orders from, say, Bangladesh to Africa. This observation generated many responses and diverse viewpoints.

6. Many participants called for a favorable regulatory system in the different countries.

7. A key point for the group was the need to differentiate between brands, i.e. to work with the more progressive companies and not be dragged down by the ones that don’t want to do anything.

THEME 3: WHAT CAN BRANDS DO?

This discussion was facilitated by a panel moderated by Rick Darling, Executive Director, Government and Public Affairs, Li & Fung Trading. The Panelists included:

a. Jane Hwang, President, CEO, Social Accountability International
b. Shawn Islam, CEO, Managing Director of Ambattur-Sparrow Group of Industries, Bangladesh
c. Tammy Rodriguez, Director, Corporate Responsibility, Esquel Group
d. Ian Spaulding, CEO, ELEVATE

A. Collaboration between Brands and Retailers

In general, there was unanimity that there needs to be more inter-brand collaboration in the apparel industry, but there were diverse explanations given for why collaboration has not occurred more regularly, and varying assessments of the probability it can be achieved.

1. The Accord and Alliance have made progress, but it is important for the industry to converge on one initiative. There is a lack of collaboration in the industry, an absence of agreement regarding one best approach. Perhaps this is partially due to the history of campaign groups pressuring different brands on different issues, and brands just have to react to those. The lack of agreement amongst brands pulls supplier factories in many different directions, as they have to deal with so many different audits and standards. So from a supplier point of view, the audits are brushed aside “Ah…just another brand audit.”

2. The toy and electronics industries have coalesced around a set of standards. The financial industry also has a set of common standards, but it is not clear that these guarantee the health of the financial community.

3. Even if there is no convergence around standards, a close look at the different initiatives reveals that the standards are largely similar. What is needed is convergence around the
underlying processes, such as management systems, worker empowerment, and other things that have proven to deliver not just effective standards but business benefits. So this requires convergence at the implementation level all along the supply chain. An example of increasing acceptance of convergence in standards is what Walmart has done. The company has stopped its internal auditing program and is now accepting six or eight different schemes such as SA8000, ICTI-Care, EICC, WRAP, etc. from suppliers. The same with Li and Fung; 70% of the factories they source from had one scheme or another, so there really is no need to do audits in 70% of the factories as long as the company accepts the “functional equivalence” of different standards. Hence, functional equivalence will lead to fewer audits. However, some disputed that all standards are functionally equivalent. Clearly some are not.

4. Bangladesh is the only current model where multiple retailers and brands converged on one set of fire, electrical and structural safety standards. Despite differences between the Accord and Alliance on important procedural and governance grounds, there is no example of this kind of convergence and cooperation around standards anywhere else in the industry, so we need to continue to focus on and learn from the Bangladesh case.

5. An opinion was expressed that Better Work may well be the one initiative that people could coalesce around, given that it has a much broader focus than either the Accord or the Alliance. Therefore, more brands should support it. (Note earlier comments about sustainability and scalability of Better Work, however). Perhaps all factories and brands could pay higher fees to Better Work? Brands should collaborate to resource this project.

6. Consolidation is a different form of collaboration. We have over 2,085 standards across the world and while we may not agree on one standard, we have to identify which areas we can really agree on in order to minimize the spend, and then invest in the capacity building that accounts for Better Work’s success.

7. It is not just brand to brand collaboration; it is also brand to supplier collaboration. There is a need for brands to shift from the top down model to a more partnership-oriented model. Brands should not be focused on auditing to minimize their own risk, but should be telling the supplier, “You’re a partner with me on this, and let’s work together to identify where in the chain we need to focus our efforts.”

8. The Sustainable Apparel Coalition’s Social and Labor Convergence Project represents a first step with regard to collaboration. The SAC, realizing that they could not address the issue of sustainability by focusing solely on environmental issues, attempted to create a similar tool with regard to labor issues. That effort did not bear fruit, given the plethora of different tools and standards in the labor sphere. Hence, the SAC facilitated the creation of a new effort called the Social and Labor Convergence Project that is now close to launching. It is an online tool, very similar to SAC’s Higg index, a self-assessment, that can be independently verified and could lead to less audits for those who participate and understand what the strengths and weakness of the approach are. The program tries to build trust along with a standard audit protocol. A number of participants expressed support for the vision but have questions about where the Project will go.
9. It is important to understand that converging on one audit tool may not be easy. There are a number of different kinds of audits, and a technical audit on fire safety is very different from an audit on labor conditions. This is another reason that there is audit fatigue.

B. New Developments

1. A number of front runner companies (Adidas, Nike) have begun to look at the overall metrics of their programs, moving the focus from number of audit findings and severity of audit findings to a range of new metrics such as worker well-being metrics. They are asking questions such as, how are workers answering perception surveys? Are we seeing satisfaction rates improve? Is there a correlation between satisfaction rates and worker turnover, and do these questions drive interventions that are different from those you get when adopting a compliance orientation?

2. Interesting new tools are being deployed to enable worker voice with technology. WeChat as a massive platform in China gives workers an opportunity to bypass management when management is ineffective, and go directly to brands. Labor Link and Labor Voices have done worker surveys, which could lead to new ways of collecting data that auditing alone cannot provide. As noted earlier, the Alliance’s hotline is being widely used as a mechanism for individual worker voice.

3. There is increasing research to suggest that frequently the root cause of problems are client purchasing practices.

4. It was felt that the group needed to take into account the shift from historical purchasing practices to the current scenario where the market demands changes in orders at the last minute. The market is increasingly being driven by the consumer, which can be seen through the rise of e-commerce and the decline of bricks and mortar stores. This puts greater pressure on the supply chain, because it skews purchasing towards smaller and smaller quantities. As one participant noted “Amazon’s private label business operates on about 250 pieces per style exclusively produced in their own private brands. There’s not a supply chain in the world that I’m aware of that is geared to make 250 pieces of 120 styles in a 30 day period of time.” There is a need to understand how purchasing might evolve in the next 10 years.

5. There needs to be more supply chain consolidation where companies buy more from fewer factories. This is one of the legacies of the Accord in Bangladesh. Many buyers have consolidated their supply chains. Conversely, however, some brands may have to increase the number of suppliers they source from if their businesses are at risk and they have to chase pricing even more than they did before.

6. There was much agreement with the point of view that we must look to the future in terms of technological developments. As one participant noted “Amazon has a new patent on 3-D printing and if we are not careful, they will be beating our manufacturers in 10 years. It is possible that some of their factories will be completely different with sensors and technology. We should be thinking of what we should be doing five years from today, not just six months from today…We need Amazon in this room.”
7. There was also agreement that we need to focus on some of the basic things we already know: a) stable-buyer supplier relationships are decisive; b) purchasing practices are decisive; c) disclosure of information in the relationship between buyer and supplier is important; d) while auditing is still necessary, there needs to be a bigger focus on capacity building. Finally and most importantly, as one brand representative noted, “it is clear that we cannot do it on our own. We must collaborate. That is why I applaud the New Conversations Project…it highlights these issues.”

THEME 4: TRADE AND LABOR STANDARDS IN A TRUMP ADMINISTRATION

The lively discussion evoked during this session reflected excellent contributions from the panel, chaired by Will Millberg, Dean of the New School of Social Research with the following panelists:

a. Eric Biel, Formerly with the U.S. Department of Labor, now at Georgetown University
b. Katrin Kuhlmann, President, New Markets Lab, Lecturer, Harvard University, Trade Negotiator
c. Molly McCoy, Policy Director, Solidarity Center
d. Jon Jacoby, Program Officer, Open Society Foundation

A. Ways to focus a new agenda

1. There was a strongly expressed need for understanding how trade policy is being carried out, as it is generally been made in vacuum by the USTR and the 240 people in that office. There is very little interaction between the trade negotiators and others concerned with broader domestic policy. The issue of what trade policy means for workers back home is only addressed at the final agreement stage.

2. Most governments generally do not have sufficient capacity when it comes to trade policy. Therefore, if one needs trade policy to be considered from the perspective of all stakeholders, there is need for external and bottom-up pressure.

3. In order to make trade policy work for workers, it is necessary to think about capacity building in those countries, and therefore, increased budgets for USAID. There is need to look at this systemically. At the same time, tying different systemic parts together like capacity building and increased funding for USAID are not talking points that resonate with the public.

4. It is not clear that the Trump administration is ushering in an era of the end of trade agreements. It is not easy to dismantle a whole system of trade, and if anything, it looks as if the focus is to improve NAFTA, not get rid of it. The key question is how “we can use these agreements and trade preference programs differently.”

5. There is also a need, from the domestic side, to take trade adjustment assistance more seriously. Trade negotiations happen in a legal context and are incredibly complex. The key is to make the apparatus more democratic so that it is possible, to avoid some groups (certain subsets of business) having disproportionate influence on how trade policy is written.
6. We must also recognize that the language of worker rights has increased in strength when you look at the arc from NAFTA to TPP.

B. **What has worked in the past and what has not worked**

1. Although there are workers’ rights provisions under different trade agreements, there has been benign neglect of some of the worker rights provisions (e.g. Bangladesh and African Growth and Opportunity Act with Swaziland). But language matters, if it can be used effectively. One of the prouder moments at the ILAB was figuring out a way to use the African Growth and Opportunity Act not just as a stick, but as a carrot, to begin to bring trade and labor ministers together for a serious dialogue across Africa in ways that would enhance worker rights there, and it’s still a work in progress.

2. Trade Preference programs (as opposed to trade agreements) are unilateral programs that are done through the US congress and they open the U.S. market to other countries based on a set of eligibility criteria. There is no reciprocity. Because they are unilateral, it is possible for us to put labor conditions in them as eligibility criteria, which has been done in the past. We can continue to do so in trade preference programs, but it is not as easy in trade agreements.

3. There is a process for raising complaints under trade programs, which has been used in the area of labor as well as intellectual property. Petitions need to be filed, and there is a process for hearing the petitions. These have worked to some extent, but could be improved. The Cambodia model (under the U.S.-Cambodia Bilateral Textile and Apparel Agreement) worked well because Cambodia needed to get the quota that was available in exchange for positive labor performance. If one looks forward, there is now a Better Factories Program in Cambodia and major brands stayed on in Cambodia even after the expiration of the MFA. There has been an increase in unionization, and many of them have been women-led.

4. Given that GSP is expiring shortly, we have an opportunity to think in a fresh way how we can use these trade preference programs.

5. With changing politics, we need to find new ways to talk trade. We need to specifically address questions such as “How these programs matter to the United States? What are the benefits to U.S. jobs, large companies and smaller companies?”

6. There is a need to build institutions in some countries to strengthen worker protection and in many cases that is what Better Work is about. But corporate social responsibility should do more, in terms of co-governance, where workers are actually at the center. Examples of this exist: the Accord, ACT in Cambodia, the Indonesia FOA protocol, and in some other industries (e.g., Fair Food, Immokalee workers).

7. It is important to think about trade preference programs inside trade agreements for the question of labor standards. The side agreement with Nicaragua under CAFTA gave Nicaragua some trade preferences, such as TPLs, which provided a “carve-out” to the...
rules of origin in the trade agreement. The other example is a similar mechanism in the U.S.-Bahrain free trade agreement. These are important because brands could build supply chains around those preferences, and so became very invested in their extension. However, when it was necessary to discuss a possible extension of those preferences, it didn’t seem like everyone was involved in the conversation, despite the fact that Better Work was getting underway in Nicaragua. The key question is what would have made such a conversation possible? Why didn’t it happen, and what kind of barriers might explain that apparent lack of communication between the stakeholders?

8. From a European perspective, the carrot approach has worked well in Sri Lanka. There is a need to look at what can be learnt from this: “Sri Lanka knows that if they screw up with the Europeans and do not stick to the human rights deliverables they clearly committed to, it will be quicker gone than they ever got it.” So why are garments and textiles excluded from the U.S. GSP? They should not be.

9. Regarding the question as to whether Mr. Trump’s decision to pull out of the TPP is good or bad for American workers, it is important to acknowledge that a lot of the workers in the U.S. were very pleased when he withdrew the U.S. from the agreement.

10. Regarding ISDS (investor/state dispute settlement) the view was expressed that it is a tremendous privileging of investor rights over not only workers’ rights but the rights of communities that are affected by foreign direct investments (such as indigenous communities where dams are built). These are all hotly contested zones on trade policy throughout the developing world wherever this mechanism is present.

11. It is possible that some of the provisions of the TPP will be part of the trade-labor linkage in the future despite the U.S. withdrawal from the agreement.