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Brief: IFC Investment in Brandix Lanka LTD

This brief provides an overview of the labor issues that six Sri Lankan trade unions and workers' organizations along with Global Labor Justice- International Labor Rights Forum have raised with the International Finance Corporation (IFC) regarding the IFC's proposed \$50 million loan to Brandix Lanka, IFC Project 44341, scheduled for IFC Board consideration this month. As a sister organization of the World Bank and member of the World Bank Group, the IFC makes private sector investments and mobilizes additional third party investments towards private sector projects that create development outcomes. Its proposed grantee Brandix owns and operates a factory where a sweeping industrial COVID-19 outbreak occurred in October 2020.

The Brandix COVID-19 outbreak presented a serious threat to its workers' health and safety. Brandix detected a COVID-19 outbreak at its factory in Minuwangoda ["Brandix Minuwangoda"] on October 2, 2020. Within a week, 1,000 of 1,400 workers at Brandix Minuwangoda had tested positive for COVID-19. The Brandix COVID outbreak was a superspreader event that sparked the country's first major COVID wave since the initial onset of the pandemic in March 2020. From October 2020 to February 2021, daily COVID-19 case counts in Sri Lanka exploded from 6 to 806 people infected per day at their peak. Sri Lankan government authorities are continuing to investigate Brandix and its role in the outbreak but have provided no public updates about the status of such investigations.

As discussed in this brief, together with GLJ-ILRF, the six Sri Lankan trade unions and workers' organizations – three of whom directly represent Brandix workers – have filed a complaint with the IFC requesting that the IFC revise the Environmental & Social Action Plan for Project 44341 in light of the Brandix COVID-19 outbreak in order to ensure the possibility of compliance with IFC Performance Standard 2 - Labor and Working Conditions ["PS2"], which protects workers' rights both to safe and healthy workplaces and to freedom of association, two issues the Sri Lankan trade unions and workers' organizations have raised with the IFC.

The six Sri Lankan unions and workers' organizations that filed the complaint are Stand Up Workers' Union, Dabindu Collective, Revolutionary Existence for Human Development (RED), Ceylon Mercantile Industrial & General Workers Union (CMU), Commercial and Industrial Workers' Union (CIWU), and National Union of Seafarers - Sri Lanka (NUSS). Together, they represent over 26,000 workers in Sri Lanka's industrial sector including garment manufacturing.

Background on the Proposed investment in Brandix Lanka LTD

Project 44341

In Project 44341, the IFC proposes a USD \$50 million loan from IFC to Brandix Lanka LTD [“Brandix”] to fund Brandix’s medium and long-term working capital requirements and capital expenditure, including the employment of 33,260 non-executive staff or workers, 93% of whom are women. Brandix operates 21 manufacturing facilities in Sri Lanka, almost all of which are “cut and sew” facilities. 14 among them are concentrated near Colombo in one of several Free Trade Zones (FTZs) that the Board of Investment of Sri Lanka [“BoI”] operates. At Brandix facilities in FTZs, the BoI is the primary authority governing industrial relations and issues applicable to labor standards for the FTZs.

Sri Lanka Export-driven Textile and Garment Sector

Export-driven textile and garment manufacturing is a critical sector for Sri Lanka’s economy. In 2019, textile and garment manufacturing was responsible for over half of Sri Lanka’s total exports and 7% of GDP, having grown 5% year on year from 2018. The sector employs 15% of Sri Lanka’s total workforce, and most workers in the sector are women.

The industry has been hit hard by COVID-19. Sri Lanka’s FTZs where garment production is concentrated were closed from mid-March to mid-May. Upon opening, the sector as a whole experienced a significant drop in orders from international buyers; during the first half of 2020, textile and garment exports dropped 30%.¹ In April 2020, the industry projected layoffs of up to 30% of the sector’s workforce – 5% of the country’s workforce – due to COVID-19.² This was facilitated by a high level of informal employment in Sri Lanka, including in garment manufacturing, about which the World Bank expressed concern in December 2020.³ Unions and workers’ organizations throughout the sector have led the way in fighting for full pay during this period when wage theft and layoffs are widespread.

Despite COVID-19, as Sri Lanka’s leading garment manufacturer, Brandix appears on pace to a full recovery in 2021 consistent with recovery among its buyers in the global garment industry. Brandix shipments to the United States – the majority of its exports in 2019 – jumped 48.9% in the third quarter of 2020. This significantly outpaced overall growth in garment exports from Sri Lanka to the United States.

Additionally, in 2020 Brandix mitigated losses from COVID-19 by shifting its supply chain towards producing masks for the United States market. Brandix was the first Sri Lankan garment manufacturer to begin exports of PPE from Sri Lanka to the United States. In May 2020, Brandix CEO Ashroff Omar, United States Ambassador to Sri Lanka Alaina B. Teplitz, and Special Representative of the President and Head of the Presidential Task Force on Economic Revival

¹ [Sri Lanka's textile and garment exports drop 30% in H1](#), Just Style (Aug. 19, 2020).

² [Apparel industry to lay off 30% workforce](#), Sunday Times (Sri Lanka) (Apr. 5, 2020).

³ [SL's high-level of informal employment a concern, requires smart reforms: WB](#), Daily Mirror (Sri Lanka) (Dec. 7, 2020).

and Poverty Eradication, Basil Rajapaksa, all participated in a commemorative ceremony marking the first shipment of face masks from Sri Lanka to the United States, from Brandix. In July 2020, Brandix announced it was financing the PPE production with a USD \$12 million loan from Standard Chartered bank's COVID-19 financing commitment.² Brandix reported 9,000 of its roughly 30,000 workers produced PPE.³

Responsible Investment in Garment Manufacturing

The IFC has significant commitments in the garment industry worldwide, including through past funding for Brandix. The IFC has made approximately USD \$202 million in direct investments in garment manufacturing worldwide in the past 10 years. The IFC is simultaneously considering a USD \$50 million dollar loan to Brandix competitor MAS Holdings, bringing the total proposed loans to the sector in 2021 Q1 to USD \$100 million.

Brandix is involved in other forms of IFC support for the garment sector. Brandix is a participant in an IFC initiative called SheWorks that supports member companies to implement gender-equity policies.⁴

Concerns regarding IFC Project 44341

Brandix COVID-19 outbreak

Brandix Minuwangoda was the site of a sweeping industrial COVID-19 outbreak in October 2020. Among the 1,394 employees at Brandix Minuwangoda, 1,034 ultimately tested positive for COVID-19.⁵ The Brandix COVID-19 outbreak has become a superspreader event that has directly contributed to Sri Lanka's first COVID-19 wave after the initial onset of the pandemic in March 2020. Epidemiologists estimate that the Brandix outbreak is responsible for 10,000 COVID cases, half of Sri Lanka's total case count.

In particular, the Brandix outbreak had an especially severe impact on workers, workers' organizations and unions in Sri Lanka's garment manufacturing sector, especially those working in FTZs near Colombo where garment manufacturing is concentrated. After the outbreak, beginning October 5, Sri Lankan police put several FTZs nearby Brandix Minuwangoda under curfew until October 19, when the sector returned to full operation.⁶ Upon reopening, several industrial COVID-19 outbreaks occurred at other garment factories, prompting strikes and closures at several facilities.⁷ At least two additional Brandix facilities have had significant numbers of positive COVID-19 cases since the initial outbreak at Brandix Minuwangoda.⁸

⁴ IFC, [SheWorks Sri Lanka Partnership](#) (Nov. 15, 2020).

⁵ Examples of international media about the Brandix outbreak include: [Over 1,000 Get Coronavirus At Sri Lanka Factory That Made Masks For US](#), AFP (Oct. 7, 2020); [Brandix Factory linked to Sri Lanka's Biggest Coronavirus Outbreak](#), Sourcing Journal (Oct. 26, 2020); [Sri Lanka: vulnerable groups pay the price for militarization of COVID-19 response](#), International Commission of Jurists (ICJ) (October 27, 2020); [Garment workers on front line of Sri Lanka coronavirus outbreak](#), Reuters (Nov. 4, 2020); [A pillar of Sri Lanka's Economy, Garment Workers' Ostracized After Covid Outbreak](#), Huffington Post (Nov. 15 2020); Vice, [COVID is Exposing How the Global Fashion Industry Values Workers](#) (Nov. 19, 2020).

Concerns regarding adequacy of Environmental and Social Review Summary (ESRS)

Currently, the IFC's Environmental and Social Review Summary (ESRS) for Project 44341 does not address the Brandix COVID-19 outbreak. For example, in the Environmental and Social Mitigation Measures section of its ESRS for Project 44341, the IFC has stated that Brandix:

[H]ad adopted a planned and proactive approach to manage the COVID-19 pandemic. When the pandemic began to unfold, the company communicated with their employees regularly on its COVID-19 control policy and continue to do so throughout. Brandix clearly communicated its COVID-19 protocol proactively, well above the government requirements, including key areas of sanitizing, wearing a mask and social distancing, referred to as the Golden Rules, temperature checks, process for employees displaying temperature, etc. Additionally, paid leave is provided for employees unable to attend work because of illness, family illness or level of risk in their respective regions. The company has put in place detailed procedures pertaining to washing and sanitizing hands and surfaces, social distancing, temperature checks upon entry to the workplace, and procedures for those who indicate possible symptoms.

Furthermore, in the Environmental and Social Categorization and Rationale for the ESRS, the IFC acknowledges the risk areas for Project 44341 that it finds pertinent:

This is a Category B project as per IFC's Policy on Environmental and Social Sustainability. Key E&S risks and issues associated with this project include: company's capacity and systems to assess and manage E&S risks and impacts; assurance of fair, safe and healthy working conditions including systems to address gender based violence and harassment (GBVH) risks in compliance with local regulatory and PS2 requirements; potential for short term labor retrenchment due to COVID-19 crisis; occupational health and safety; resource efficiency; management of wastes and emissions, greenhouse gases (GHG) emissions, emergency preparedness and response, including life and fire safety management systems; and community health, safety and security issues.

As shown through these examples, IFC due diligence thus far for Project 44341 shows a major gap in risk assessment and Environmental and Social Action Plan measures in light of the industrial COVID-19 outbreak at Brandix Minuwangoda, which should be taken into account in advance of IFC Board approval.

Concerns regarding Brandix compliance with PS2

Ongoing investigation of health and safety violations

Brandix workers have reported to Sri Lankan unions and workers' organizations that Brandix violated COVID-19 protocols immediately preceding the outbreak, consistent with epidemiological data about the outbreak.

Several Brandix Minuwangoda workers informed Sri Lankan unions and workers' organizations as well as Sri Lankan and international media that they had reported COVID-19 symptoms to management, but instead of management isolating them or testing them for COVID-19, Brandix told them to continue to work.⁶ The 39-year old worker who first tested positive for COVID-19 stated publicly in October 2020 that despite reporting to work with a fever, management scolded and criticized her for complaining because there were shipments pending. She also reported that ten days prior to the outbreak, management sprinkled water on the faces of workers who fainted on the factory floor and told them to get back to work after a five minute break.⁷

Additionally, Brandix Minuwangoda workers have reported to Sri Lankan unions and workers' organizations that on September 26, five days before the first worker tested positive, management organized a party for apparel workers that was heavily attended without COVID-19 protocols in place. The 39-year old worker publicly reported this party in October, describing it as a function for apparel workers in which a band of musicians was brought into the company.⁸ Within the past month, Brandix Minuwangoda workers reported directly to Sri Lankan unions and workers' organizations that all the workers attended the party, which they state management had held for completing an important order.

Brandix Minuwangoda workers have reported to Sri Lankan unions and workers' organizations that by the time of the outbreak in October 2020, management had relaxed COVID-19 precautions that it had previously implemented. For example, by October 2020, Brandix management had removed physical dividers in the workers' cafeteria that were originally installed to prevent the spread of COVID-19 and was allowing non-socially distanced eating in the cafeteria.

Brandix Minuwangoda workers have also reported to these groups that management did not take steps to facilitate or promote social distancing at worker hostels, contributing to conditions in which COVID-19 could quickly spread.

Brandix management's actions as publicly reported clearly violate Sri Lanka Ministry of Health COVID-19 protocols for the garment manufacturing sector. On April 17, 2020, the Ministry of Health issued "Operational Guidelines on Preparedness and Response for Outbreak for Work Setting, Interim Guidance," which was the latest guidance regarding COVID-19 protocols as of the Brandix outbreak.⁹ The Guidance clearly stated that workers with a fever should not report for work, and that "the employer should ensure that if a sick person reports for work, he/she is

⁶ Reuters, *supra* note 5.

⁷ ["Workers who fainted had water sprinkled on their faces and had to work again."](#) Daily Mirror (Sri Lanka), (Oct. 14, 2020).

⁸ *Id.*

⁹ Sri Lanka Ministry of Health, [Operational Guidelines on Preparedness and Response for Outbreak for Work Setting, Interim Guidance](#) (Apr. 17, 2020).

sent back home immediately.”¹⁰ The Guidance describes management’s responsibility to provide PPE, restrict large gatherings,¹¹ and facilitate at least one meter of distance between workers.¹²

In analyzing the Brandix outbreak, Sri Lanka’s Chief Epidemiologist Dr. Sudath Samaraweera reported that Brandix Minuwangoda workers showed signs of respiratory diseases since September 20, 10 days before the first worker tested positive.¹³ Dr. Samaraweera confirmed that some workers were COVID symptomatic in the ten days prior to the outbreak.¹⁴

Brandix Minuwangoda workers have reported to Sri Lankan unions and workers’ organizations some shifts to COVID-19 compliance since reopening after the sweeping outbreak; however, a full investigation and analysis of management practices – including the lack of necessary freedom of association protocols in the EPZ such that workers could have raised concerns – is essential to ensuring safe and health workplaces going forward within Brandix.

Concerns regarding respect for freedom of association

In the Project 44341 ESRS Environmental and Social Mitigation Measures section, the IFC has stated that Brandix:

... has developed a formal three tier grievance handling policy and a detailed procedure to address and resolve grievances meeting PS2 requirements covering both permanent and contract workers and including the provisions on anonymously raising grievances. The grievance mechanism and policy are mature, well communicated and embedded at Brandix. Encompassed in the grievance mechanism is the escalation matrix, which details how employees may raise a grievance. However, employees are also able to raise a grievance through the company’s Employee Council. These council meetings are also attended and observed by the Group Senior General Manager overlooking employee engagement for the Group. A similar process is adopted for the Staff Councils where the supervisory cadre can raise their concerns. Further, grievances that pertain to matters of compliance and/or governance, may also be raised to the Brandix Ombudsman. Additionally, the mobile numbers of the Group CEO and Chief People Officer are displayed prominently across all facilities, enabling employees at any level to access and contact them directly.

Workers’ inability to escalate grievances regarding COVID-19 protocol violations, directly contributing to the Brandix COVID-19 outbreak, demonstrates a pressing need for the IFC to review whether Brandix is operating its grievance mechanisms in compliance with IFC PS2.

¹⁰ *Id.* at 7.

¹¹ *Id.* at 11.

¹² *Id.* at 12.

¹³ [Divulapitiya apparel worker NOT origin of Minuwangoda Brandix cluster](#), News First (Sri Lanka) (Oct. 7, 2020).

¹⁴ *Id.*

Additionally, in the ESRS relies on Brandix's Employee Council, a workplace structure that the Sri Lanka Board of Investment provides for through its Labor Standard and Employment Relation Manual and Employees' Council Guidelines:¹⁵

The company has an Employee Council (including 70% women representation) which is a legalized body fully endorsed and approved through the applicable government channels, and is responsible for promoting the rights of employees and involves the participation of employees in decision making on matters that impact them, including labor management. While there is no recognized external trade union in the company, the company's policies on freedom of association enables the employees to join an external union should they wish to.

As recently as 2020, the ILO Committee of Experts on the Application of Standards (CEACR) noted reports that Employee Councils have the effect of discouraging collective bargaining with unions in the sector, raising a potential violation of C98, and took note of the lack of data concerning the number of collective bargaining agreements compared to Employee Councils.¹⁶

Further due diligence and thorough ESAP items on PS2, in consultation with our organizations, is critical, both in light of the ITUC categorizing Sri Lanka as having systemic violations of worker rights²⁸ and in order to understand and prevent the failures that stopped Brandix workers from being able to effectively engage with management in raising grave health and safety concerns. The Brandix COVID-19 outbreak raises serious questions about Brandix management's interference with fundamental rights enshrined in ILO C87 and C98. International advocacy groups have elevated unions' concerns about the status of freedom of association throughout the sector during COVID-19 as well.¹⁷

Request for IFC action

The Sri Lankan unions and workers' organizations, together with GLJ-ILRF, write to urge the IFC and Brandix to consult with key stakeholders, including our organizations, and for the IFC to revise the Environmental & Social Action Plan for Project 44341 to ensure the possibility of compliance with IFC Performance Standard 2 - Labor and Working Conditions ["PS2"]. If Project 44341 moves forward with more expansive due diligence and an ESAP which will ensure compliance with International Labor Standards included in IFC PS2, the IFC will be more likely to contribute to creation of decent jobs in Sri Lanka's garment manufacturing sector.

Specifically, prior to sending to the Board, there should be:

1. Acknowledgment of the outbreak and its impacts in the Environmental and Social Categorization and Rationale and Environmental and Social Mitigation Measures for PS2;

¹⁵ Available at: <https://investsrilanka.com/downloads/>.

¹⁶ ILO CEACR, "Observation (CEACR) - adopted 2020, published 109th ILC session (2021)" available at: https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4058568.

¹⁷ AFL-CIO et al., [COVID-19 Pandemic: A Pretext to Roll Back Sri Lankan Garment Workers' Rights](#) (March 2021).

2. A stronger environmental and social and action plan that guarantees compliance with all relevant International Labor Standards including ILO Conventions 87 and 98, resolves ongoing noncompliance related to the October COVID-19 outbreak and commits to consultation with trade unions in the remediation plan;

3. Full monitoring of the above, with disbursements of any loan tied to progress on the environmental and social action plan, and;

4. An independent and binding plan for monitoring, verifying and enforcing labor standards including freedom of association and health and safety protections consistent with Sri Lankan law.