



THIRD PART

**Special sitting concerning the application by Myanmar of the Forced Labour Convention, 1930 (No. 29),
in application of the resolution adopted by the International Labour Conference at its 88th (2000) Session**

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A. RECORD OF THE DISCUSSION IN THE COMMITTEE ON THE APPLICATION OF STANDARDS

The Chairperson recalled that the item which was being discussed at the present sitting of the Committee had been placed on the Committee's agenda pursuant to paragraph 1(a) of the resolution adopted by the Conference at its 88th Session, under article 33 of the ILO Constitution, with a view to the adoption of measures to ensure compliance with the recommendations of the Commission of Inquiry established to examine the observation of the Forced Labour Convention, 1930 (No. 29) in Myanmar. The resolution of the Conference stated that: "The question of the implementation of the Commission of Inquiry's recommendations and of the application of Convention No. 29 by Myanmar should be discussed at future sessions of the International Labour Conference at a sitting of the Committee on the Application of Standards specially set aside for the purpose, so long as this Member has not been shown to have fulfilled its obligations."

For the examination of this case, the Committee had before it the following documents:

- (1) the observation of the Committee of Experts on the application of [Convention No. 29](#) by Myanmar; and
- (2) on the one hand, document D.6 (containing the document [GB.280/6](#), [GB.280/6 \(Add. 1\)](#) and [GB.280/6 \(Add. 2\)](#) (March 2001) regarding item 6 of the agenda of the Governing Body on "Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)" and the provisional minutes of the discussion of this item), and, on the other hand, document D.7 (Arrangements for an objective assessment of the situation of forced labour following measures taken by the Myanmar Government), which had been submitted to the Committee at the request of the Governing Body. Annex 5 to document D.7 contained the text of an understanding for an objective assessment to be carried out on how the legislative, executive and administrative measures reported by the Government were being applied in practice. This understanding made direct reference to the observation of the Committee of Experts.

A Government representative of Myanmar welcomed the general feeling that the situation surrounding the issue of Myanmar had radically changed and that the atmosphere in the Conference Committee had also changed a great deal from the atmosphere that had prevailed at the 88th Session of the Conference in June 2000 and the 279th Session of the Governing Body in November 2000. There was now much optimism and positive outlook shared by most of the member States and delegates on the Committee. This atmosphere of optimism and the positive outlook had been generated by a very important development, namely the agreement between the Government of Myanmar and the ILO on the "modalities of the objective assessment", which was the outcome of the visit of the ILO Team to Myanmar the previous month.

He reviewed the process that had now culminated in the agreement on the modalities of the objective assessment. The Government of Myanmar had already put in place a comprehensive framework of legislative, executive and administrative measures to ensure that there was no practice of forced labour in Myanmar. In addition, the Order supplementing Order No. 1/99, issued on 27 October 2000, clearly stipulated that the use of forced labour was illegal and that it was an offence under the existing laws of the Union of Myanmar. It directed responsible persons, including members of the local authorities, members of the armed forces, members of the police force and other public personnel, down to the village and ward levels, not to requisition forced labour or involuntary service. It also clearly set out the legal consequences for breach of the Order by explicitly stipulating that any person, including local authorities, members of the armed forces, members of the police force and other public personnel would have action taken against them under Section 374 of the Penal Code in consequence of such a breach. Moreover, Secretary (1) of the State Peace and Development Council had himself issued a directive on 1 November 2000 to all chairmen of the State and Divisional Peace and Development Councils in all regions of the country prohibiting the requisitioning of forced labour. National implementation measures and national monitoring activities were also being continued.

He emphasized that, at the 279th Session of the Governing Body, most member States and delegates had recognized the concrete measures taken by the Government of Myanmar. However, the issue of "objective assessment" had turned out to be a sticking point. The Government of Myanmar had made a generous offer to receive an ILO Team, either based in Bangkok or in Geneva. At that time, there had been differences of opinion on this issue. He said that what had happened at the 279th Session of the Governing

Body had been most unfortunate. Nevertheless, he reaffirmed his belief in the process of engagement, dialogue and cooperation as a means of resolving the issues. For that reason, Myanmar had entered into an engagement with the Director-General of the ILO. On 22 March 2001, the Deputy Minister for Foreign Affairs had called on the Director-General of the ILO, on his way to attend an international conference in South America, and had held exploratory discussions on the modalities of the objective assessment. In the course of the discussion, the Deputy Minister had informed the Director-General of the ILO that the Government of Myanmar had designated the Permanent Representative of the Union of Myanmar in Geneva as a contact point to conduct discussions with the Director-General of the ILO on the modalities of the objective assessment. Accordingly, the Government representative had himself conducted wide-ranging discussions with the Director-General of the ILO on this matter. Subsequently, on 4 June 2001, the Minister at the Office of the Prime Minister, attending the 89th Session of the Conference, had called on the Director-General of the ILO and had held fruitful discussions on matters of mutual interest.

He recalled that document D.7 provided full information concerning the visit of the ILO Team the previous month. The ILO Team had visited Myanmar from 17 to 19 May 2001. The outcome of the visit had been the important agreement between the Government of Myanmar and the ILO on the "modalities of the objective assessment". Under the agreement, a High-Level Team, led by an internationally respected person, would go to Myanmar on an objective assessment mission in September 2001.

He expressed the belief that the measures taken by the Government of Myanmar were concrete, comprehensive and effective. He recalled that the ILO considered that there ought to be an objective assessment of these measures to lend them international credibility and confidence. He therefore reaffirmed that the Government of Myanmar had not only put in place a comprehensive framework of legislative, executive and administrative measures, but had also accepted to receive the objective assessment by a High-Level Team. Things were therefore moving forward in the right direction.

He warned, however, that the value of the application of sanctions was highly questionable. He expressed the belief that the best sanctions were those that were never used and never carried out. Sanctions were like nuclear weapons. Their value lay in their deterrent effect, not in their actual use. As a matter of principle, his Government opposed the application of sanctions against a member State as a means of resolving an issue. Now that there was an agreement between the Government of Myanmar and the ILO on the modalities of the objective assessment, the difficulties to which he had referred had been overcome.

He urged the Committee not to look back on the past, but to look to the future and move forward to resolve the issue step by step. Most member States and delegates had recognized that the Government had the genuine political will and commitment to resolve the issue of the alleged use of forced labour. No one could deny that the agreement on the modalities of the objective assessment constituted a significant step. Indeed, it was a breakthrough. In view of this very important positive development, he urged the Committee to recommend to the 282nd Session of the Governing Body that it should review the measures taken under article 33 of the ILO Constitution in the light of the outcome of the visit of the High-Level Team, with a view to removing those measures.

The Worker members stated that the situation of forced labour in Myanmar concerned so many people that the Committee could discuss this case for three days, or even a week. It was essential that this case, as with all other cases, be seriously reviewed, according to the procedures of the Conference Committee. They noted that, as with the discussion on individual cases, it was important to know the position of the Employer members, even though they were convinced that in this particular situation they shared the same views.

They deplored the fact that the case of Myanmar was once again before the Committee. Unfortunately, this case already had a long history, which had, for the first time in the existence of the ILO, required the use of a special procedure (article 33 of the ILO Constitution). They strongly regretted this situation, which was due to the persistence of unacceptable forced labour practices in Myanmar. They stated that they would continue to place this matter on the agenda of the ILO supervisory bodies as long as the recommendations made by the Commission of Inquiry were not implemented. With regard to the Commission of Inquiry, the Government of Myanmar was required to ensure that: (a) the legislation was brought into conformity with the provisions of [Convention No. 29](#); (b) that practice was brought into line with the provisions of Con-

vention No. 29, in other words, that no compulsory or forced labour could be imposed by the authorities; and (c) that sanctions were provided for and applied to those found guilty of violating the prohibition against forced labour.

They added that they did not intend to review the history of this case, but recalled the serious, persistent and systematic violations of **Convention No. 29** on forced labour which existed in Myanmar. They stated that they had not invented these violations and recalled that there was abundant proof of these practices.

The Worker members added that the Committee was once again discussing this very serious case of forced labour after a two-year hiatus, during which time the severity of the situation and the chronic nature of the Government's lack of cooperation and compliance had driven the case to unprecedented levels of the ILO's supervisory machinery. The Committee was acting on the resolution adopted under article 33 of the ILO's Constitution at last year's Conference that charged it with keeping the spotlight on the practice of forced labour in Burma. The Committee's special session today was an essential part of the ILO's efforts to compel the Government to fulfil its treaty obligations under **Convention No. 29** and to end the suffering of the tens of thousands of victims of forced labour. The Worker members considered this to be a very important responsibility.

The Worker members emphasized at the outset that, notwithstanding the comments made by the Government representative, only a few months ago the Government had continued to deny the existence of forced labour in the country. In its 9 March 2001 statement to the United Nations Commission on Human Rights, the representative of the Permanent Mission of Myanmar in Geneva had stated that "Myanmar nationals believe that the contribution of labour is both meritorious and conducive to mental and physical well-being. Accordingly, the local populace contribute labour in village community works (...) The populace, who are contributing labour, look fresh and happy with full of mirth and laughter and in festive mood. They do not at all look unhappy; nor show signs of being forced to work against their will." The Worker members noted that such statements by the Government had been a staple in past Committee discussions. Further, the "conciliatory" tone taken by the Government representative did not in any way concede that a problem existed or that one had ever existed.

Not surprisingly, the Committee of Experts had structured its rather extensive comments this year in accordance with the three recommendations made by the Commission of Inquiry. The first section of the Committee of Experts' comments focused on the legal aspects of ending forced labour by addressing the issue of amending the relevant legislation. The second section focused on the measures taken, or rather not taken, to end the continuing practice of forced labour by the regime, as well as the available information on the actual practice. Finally, the report contained a third section on enforcement, in order to determine whether any actions had been taken to hold anyone accountable for using forced labour under the Penal Code, or in other words whether anyone had been punished. The answer to those questions, according to the Committee of Experts, was a resounding "no."

The Worker members emphasized that all three aspects of the Commission of Inquiry's recommendations must be implemented in full before any consideration could be given to ending the measures adopted by last year's Conference under article 33 of the ILO Constitution. This meant that the legal framework providing for the widespread use of forced labour had to be eradicated, the practice itself had to be demonstrably eliminated and all those found to be responsible for using forced labour had to be punished. Until such actions were taken, the regime had to be made to understand that the ILO would remain vigilant.

The ILO had demonstrated its willingness to assist the regime in any and every way possible to implement fully the recommendations of the Commission of Inquiry. But the bottom line had to be that the only avenue available to the regime, to reduce international pressure and ostracism, was the complete end of the system of forced labour, both in law and in practice, and the punishment of those responsible. The comments of the Committee of Experts demonstrated that there was still a long way to go.

In the first section of its report, the Committee of Experts once again reviewed the legal steps taken by the regime, namely the Order issued to disregard those provisions of the Village Act and the Towns Act that provided for forced labour. The Committee of Experts' view of this Order remained quite clear. Paragraph 4 of the report indicated that these orders "still reserved the exercise of powers under the relevant provisions of the Village Act and the Towns Act, which remain incompatible with the requirements of the Convention". Paragraph 6 of the report then concluded that the amendment of these two Acts sought by the Commission of Inquiry and promised by the Government for many years had not been made.

Furthermore, the first part of the second section of the Committee of Experts' report expressed the repeated concern that those

most responsible for the use of forced labour, namely the military, did not appear to be affected by this Order. The Worker members had heard the Government representative's statement that the military authorities no longer made use of forced labour. The fact was, however, that the military remained somehow above the law. This had of course been the reality in the country for many decades, and until this situation was remedied, forced labour would continue.

The report devoted a few short, but extremely important paragraphs to the information available on actual practice. Paragraph 20 recalled that the documentary appendices contained in the ICFTU report of last November, representing over 1,000 pages drawn from 20 different sources, included reports, interviews of victims, over 300 forced labour orders, photographs, video recordings and other material. The report noted that the overwhelmingly large proportion of the documents concerned the period from June to November 2000. In other words, it concerned the period after the article 33 measures had been adopted at last year's Conference, leading to the November Governing Body session, when the regime and its supporters had lobbied extensively to avoid having the article 33 measures take effect. The report emphasized that an essential part of the ICFTU submission consisted of hundreds of "forced labour orders", issued mainly by the army, which were similar in kind, shape and content to the orders examined by the Commission of Inquiry and found to be authentic.

The ICFTU had issued a second report for the March 2001 Governing Body, which consisted of another 300 pages of similar documentation demonstrating that, without question, the practice continued. As reported in paragraph 66 of document D.6, the ICFTU report indicated that the authorities had used a number of methods to cover up the use of forced labour. These had included "issuing orders for villagers to attend meetings at the army camp, where they were requisitioned for forced labour, rather than issuing explicit orders for forced labour; issuing undated, unsigned and unstamped orders; demanding that written orders were returned to the issuing army personnel; using civilian authorities to requisition labour on behalf of the military; and arbitrarily arresting young, healthy persons, who after a few days in prison would be sent to work as porters for the military, dressed in army uniforms (...)"

There were other credible reports, such as a report to be issued by Amnesty International in two days, that included interviews with victims of forced labour this year. The Worker members pointed out that, when the time was taken to independently investigate whether or not forced labour was continuing, especially near ethnic border areas, it was clear that new evidence, conclusive evidence, tragic evidence continued to flow out of the country. They reminded the Committee that, according to the Commission of Inquiry and the Committee of Experts, the practices in question particularly affected farmers and the most impoverished, as well as the non-Burmese ethnic communities. It was a practice that was especially cruel and inhuman to women, who had found themselves the victims of rape and other barbarities, and to children. People, including women and children, were being used to clear minefields for the military in its continuing military action against some of the ethnic communities.

Many speakers had reminded the Committee during its general discussion that its role was to go beyond the legal analysis of the Committee of Experts and to bring a dimension of reality to the situations discussed, and this was the reality in Burma today, a reality which had existed tragically for decades, a reality so pervasive that it affected virtually every community and every family in certain parts of the country. It was a reality which persisted despite the best efforts of the ILO to compel change after many years.

With regard to the Director-General's communications to the ILO's constituent groups and the responses given to his request (contained in document D.6), the Worker members expressed their extreme disappointment over the lack of action taken by member States. Citing the example of the Japanese Government, they stated that there were even some governments that had responded to the Director-General's request by doing precisely the opposite, by enhancing their relationship with the military regime through the resumption of development assistance. The Worker members found such action to be not only unfortunate, but deplorable. They noted the statements made in defence of such actions that these governments saw the ILO, figuratively, as the north wind, while projecting themselves as the sun, arguing that both the north wind and the sun were needed to produce the changes that were desired by everyone. It was clear to the Worker members that, from the point of view of the perpetrators of forced labour, these governments were indeed the warm sun. However, they stressed that, from the point of view of the tens of thousands of victims of forced labour, from the point of view of the citizens of the country, these governments were the northern wind and it was the ILO that, to its credit, was the warm sun.

Some governments, including the United States, had given the Director-General a good explanation for their lack of action. Short-

ly before the Governing Body met in November 2000, the regime had begun a conversation with Ms. Daw Aung San Suu Kyi, who had been under virtual house arrest for almost a decade and remained so today. It was the view of the Worker members that the beginning of these secret talks was no coincidence, and that the actions of the ILO, especially the adoption of measures under article 33, had convinced the regime to do what it had steadfastly refused to do for over a decade. The ILO deserved credit for this.

Citing the example of the United States, the Worker members expressed their conviction that in late 2000, the United States Government had been poised to impose a ban on imports from Burma in response to the Director-General's call. The emergence of the secret talks had delayed the imposition of such a ban. There was, however, bipartisan legislation introduced in the United States Senate to ban all imports from Burma to the United States. The legislation specifically referred to the measures called for by the ILO. In addition, there was a coalition of groups in the United States that were communicating with major retail companies requesting them not to allow any apparel items produced in the country to be sold in their stores. The ILO's actions were cited in the letters to these companies. Thus far, nine companies, including a number of the larger and most well-known retailers in the United States, had given a public commitment, or strengthened a previous commitment, to keep such products out of their stores. The same could not be said, unfortunately, about many extraction industry companies which had been entrenched in the country for many years. Recently, however, resolutions had been introduced at shareholder meetings supporting disinvestment because of the widespread practice of forced labour. One of these resolutions had been supported by 22 per cent of the shareholders, a significantly large and apparently growing percentage for this type of resolution.

The Worker members noted that all those present, except perhaps the representatives of the military regime themselves, wanted talks to succeed, producing a transition back to civilian rule and the rule of law. But these talks had been going on for nine months with no apparent result. They surely could not yet be described as reconciliation talks given the fact that, as the Worker members had stated previously, Daw Aung San Suu Kyi remained under virtual house arrest. She still could not travel, nor could she consult with large groups of her supporters. Accordingly, the Worker members questioned how long member States were willing to wait, using the secret talks as a pretext for inaction, before responding to the Director-General's call. Would one year of no reported progress be sufficient, a period which would elapse before the November 2001 Governing Body meeting? When would a "decent interval" to allow these discussions to produce results become "indecent" and merely a pretext to avoid action under any circumstances? It remained clear to the Worker members that pressure had to be maintained on the regime as, in their view, any perceived weakening of international pressure would doom the talks to failure.

The Worker members reminded governments that the issue before the Committee, as it had been for almost 40 years, was not political normalization, but the eradication of forced labour inside Burma. This was the sole measure that the Committee must use to assess the effectiveness of steps being taken by the regime, and as long as there was evidence of forced labour, then the measures taken under article 33 must continue. To weaken or eliminate those measures prematurely might do irreparable damage to the ILO at a time when the ability of the ILO to enforce its own standards was being called into question.

The Worker members noted that, in a recent development, the regime had agreed to accept a High-Level Team into the country in September 2001 to conduct an assessment of the extent to which forced labour had been eliminated. The Worker members viewed this mission as a potentially positive, if somewhat flawed, first step and hoped that it would develop into an effective and if necessary long-term programme to eliminate the widespread use of forced labour in that country once and for all. But this was only a first step and, in reality, only a baby step, not a radical change, as claimed by the Government. They recalled the (unfounded) rumours at last year's Conference and at the November Governing Body meeting that, in order to avoid the measures under article 33 coming into effect, the regime was willing to accept a permanent ILO presence inside the country to monitor the elimination of forced labour. Now was not the time to debate the pros and cons of such an idea, but the Worker members emphasized that what was being proposed was not even close to what had been discussed last year.

The Worker members affirmed that they would monitor closely the results of the mission, and hoped it would bring positive results. But clearly this latest gesture by the regime was only a very small beginning. And there was already evidence emerging of the regime instructing people to deny the existence of forced labour. The Worker members had seen one report that just last week an SPDC township chairman in Mon State had called a gathering of villagers to inform them that foreigners might soon be coming to the area to

ask questions about forced labour. They had reportedly been instructed to deny any forced labour and to deny paying the military to avoid forced labour. Such evidence would, of course, be turned over to the ILO.

The effectiveness of the ILO regarding this long-standing case of forced labour must not be measured in baby steps. It must only be measured by its ability, our ability, to compel this member State to do what it clearly had never wanted to do — that is, to live up to its treaty obligations under [Convention No. 29](#). While some governments seemed content with gestures by the regime even at this late date, the tragic reality was that, even now, thousands of men, women and children were poised to become the latest victims of the most unspeakable forms of forced labour. This was the reality that the Committee had to confront.

In light of the preceding developments, the Worker members indicated that the problem of forced labour in Burma was complex, due to its very nature, its diversity, its scope and size. The situation was one which weighed heavily on the entire population of Burma/Myanmar. It had had terrible consequences for the country's inhabitants, including on their social life. It was detrimental to employment, as it kept people from being able to have "normal" jobs, particularly due to the problem of mass requisitioning by the authorities. The situation was consequently disastrous for the economy of the entire country.

The violations of [Convention No. 29](#) were widespread, systematic and institutionalized, in national legislation and in practice. The military and civil authorities systematically resorted to forced labour for a series of tasks and services. Thousands of people were requisitioned to carry out this work. From a legal standpoint, most of the violations of the Convention were based on the Towns Act and the Villages Act. As previously indicated, forced or compulsory labour was imposed by the authorities at all levels and especially by the military.

The Worker members considered that, after having described the problem, it was appropriate to work towards finding possible solutions. To this end, they noted the promises made by the Government including the declarations made by the Government representative, according to which progress had been achieved and improvements made. They wished to remind the Government that these initiatives and changes needed to be evaluated by the ILO. It was necessary for the ILO to be able to evaluate the practical implementation and real impact of the measures taken by the Government in an objective and impartial manner.

The Worker members considered that it was essential for the ILO to be able to send missions to the field regularly in order to guarantee an objective evaluation of the situation. Once this first condition had been met, the mission Team would need to be composed of individuals of a high level, with outstanding expertise in the subject matter and familiar with the region and the situation of the country. One of the members of the Commission of Inquiry should take part in the mission.

The Worker members stressed that, as Burma was a large country, it was not possible to visit all regions in a short period of time, particularly if there were not many members of the mission Team. It would be desirable for the Team to be large enough to distribute the work geographically and essential for the mission members to have contacts, not only in the country itself, but also in neighbouring regions. They emphasized that, owing to its existence in many forms, the problem of forced labour was widespread and that the mission must be able to examine all the forms of forced labour which existed, which was another reason to send a large mission.

They considered that, in order to ensure an effective outcome, the members of the mission should have access to all information, regions and persons they deemed it necessary to consult, a requirement which would probably be the greatest problem the mission faced. They asked that every possible measure be implemented in order to avoid, to the greatest extent possible, having any limitations imposed on the mission's investigations. The subject of security must not be a pretext for restricting the mission's access to regions in conflict. It was important that interpreters be placed at the disposal of the mission, not only for translation from Burmese, but also from the languages of the ethnic minorities. It was the ethnic minorities who were the primary victims of forced labour in the country. In their view, the most important condition concerned the protection of witnesses. It was essential to guarantee effective protection for persons possessing essential information and whom the mission might contact. This protection must be guaranteed not only at the time of the contact, but also and even more importantly, after contact. Creative means might be required to find the means to guarantee this protection. Finally, careful thought should be given to deciding the best time for the mission to take place, taking the climatic conditions into account.

The Government of Burma wished to convince the Conference Committee of its willingness to improve the present situation with a view to abolishing forced labour. The Worker members expressed

the hope that, in accepting a mission with the mandate described above, the Government would prove its political will. In any event, such a mission would not mark the end of this case. It represented only the beginning of a process, one step towards the improvement of the forced labour situation in the country. The Worker members recalled a suggestion made by a colleague during the general discussion to the effect that the Committee on the Application of Standards was a patient committee. They therefore undertook to follow the development of this particular case closely and to regularly request that the Government take measures until such time as it actually took action. The Committee would insist on this point until the recommendations of the Commission of Inquiry had been implemented and forced labour in Burma abolished. The Worker members informed the Committee that they would urge that missions be sent to Burma at different times of the year until this objective had been achieved.

The Worker members took careful note of document D.9, Memorandum on the understanding between the Myanmar Government and the ILO on the modalities of objective assessment on Myanmar's observance of ILO [Convention No. 29](#) (prohibiting forced labour), and of the statement made by the Government representative. They disagreed with the conclusions contained in that document. The Worker members insisted that the ILO continue on the same path and that its objective remain the same, namely the implementation of the recommendations by the Commission of Inquiry. The situation must be evaluated by the ILO in a permanent objective manner. Only on the basis of such objective evaluation could the ILO draw conclusions in respect of this case.

The Employer members thanked the Government representative of Myanmar for his statement. They noted that, although he had predicted a certain optimism, it remained to be seen whether this prediction was premature.

The Employer members considered this to be an unusual case, not because of the circumstances involved or the interest it generated. Rather, it was unusual due to the serious nature of the violations of the most ratified of all Conventions, the length of time the situation of grave violations of human rights had persisted, and the stubborn refusal of the Government over many years to comply with its international obligations under [Convention No. 29](#). This case had been examined by the ILO supervisory system over a period of years. The Employer members noted that the ILO standards system was rightly considered the most efficient in the United Nations system, pointing out that this two-tiered system had been introduced 75 years ago this year. As always, the Committee's deliberations were based upon the report of the Committee of Experts. The report once again contained a precise description of the situation in Myanmar and its evolution over the past three years. They noted that the Committee of Experts had examined this case almost every year since 1991 and time and again had reported on multiple and serious violations of the Convention. Similarly, the Conference Committee had examined this issue four times since 1992 and had repeatedly expressed its concern at the seriousness of the violations of the Convention in special paragraphs entitled "continuous failure to implement" in 1995, 1996 and 1997.

The Employer members recalled that many people in Myanmar were forced to engage in forced labour and that this practice affected women, young people and older persons, who were required by local and state authorities, both military and civilian, to carry out forced labour. This forced labour included transporting materials for the armed forces, constructing and maintaining military camps, building roads and participating in industrial and agricultural projects. This was heavy labour which many people were forced to carry out. For many years, the Government had denied these violations of the Convention, referring inter alia to a tradition under which such labour was considered as community work and usual.

The Employer members noted that the July 1998 report of the Commission of Inquiry established by the ILO had found that this widespread practice of grave violations of the Convention was based mainly on the Towns Act and the Villages Act. Amendment of these Acts had long been called for and the Commission of Inquiry had asked that this be done by 1 May 1999. A government Order of 14 May 1999 had not made the requested changes. In parallel with amendment of the law, profound changes also needed to be made to the practice in the country through clear and specific (and not secret) orders to all the authorities, including the military. Finally, Section 374 of the Penal Code needed to be strictly enforced. Although it provided for penalties for the imposition of forced labour, it was never applied in practice.

The Employer members recalled that the recommendations of the Commission of Inquiry had been taken up by the Governing Body and the Conference Committee and that both bodies had demanded repeatedly that the Government comply with them. In the absence of sufficient noticeable progress, last year's International

Labour Conference, at the recommendation of the Governing Body, had adopted its resolution under article 33 of the ILO Constitution. The resolution demanded that Myanmar implement fully the recommendations of the Commission of Inquiry. All ILO bodies and member States were to be informed and review their cooperation with Myanmar. The same applied to the United Nations and the specialized agencies. Further developments were to be discussed in the Conference Committee.

The measures mentioned in the resolution had come into effect on 30 November 2000, after the Governing Body had determined that the measures taken or announced by the Government until that date had been insufficient. At its November 2000 session, the Governing Body had examined the Government's Order of 27 October 2000, supplementing the May 1999 Order to eliminate the use of forced labour. An ILO technical cooperation team had visited the country and recommended that this be supplemented with specific orders or directives. In its report this year, the Committee of Experts had called for a detailed list of such specific orders or directives. Only in this way could enforcement of the prohibition of forced labour be achieved in practice. There had then been an exchange of correspondence between the Director-General and the Myanmar Government in which the Government had indicated its willingness to comply with the recommendations of the Commission of Inquiry. The Employer members referred to documents D.6 and D.7, which contained further details in this regard.

The Employer members indicated in the first place that over a period of years they had followed the case of Myanmar with concern. They stressed the seriousness of the issue of forced labour and added that there should be no doubt that the Employer members considered the observance of these fundamental principles to be crucial, and particularly the principles contained in [Convention No. 29](#).

The Employer members recalled that, in November 2000, under the authority delegated to it by the International Labour Conference, the Governing Body had determined that the resolution under article 33 of the ILO Constitution should enter into force. At the same time, the Governing Body had requested the Director-General to continue his cooperation with the Government of Myanmar to promote the full implementation of the Commission of Inquiry's recommendations. The Employer members did not consider that article 33 was the only means to be adopted. They were also concerned to resolve the core of the problem which had given rise to the application of article 33 in order to put an end to forced labour. Moreover, they indicated that the contacts with the Government of Myanmar continued to demonstrate that the measures adopted by the Government should be verified and verifiable by the ILO, with a view to determining their implementation and the current situation in practice.

They recalled that a mission had visited Yangon from 17 to 19 March to discuss specific details regarding the High-Level Team to be sent. As a result, it had been agreed that the Team would visit the country in September, that its members would be designated by the Director-General on the basis of their qualifications, impartiality and knowledge of the region, that the Team would have discretion in establishing its programme as well as the full authority to act and move within the territory, with all procedural guarantees and, lastly, that the Team's report would be submitted to the Governing Body in November.

The Employer members also indicated that the Committee of Experts considered that the amendment to the Village and Towns Acts of 27 October 2000 could form a basis for observance of the Convention. The Employer members considered that the necessary steps should be taken to ensure the elimination in practice of forced labour imposed by the authorities, particularly by the armed forces. They stressed that the Committee was dealing with fundamental human rights deriving from the fundamental Conventions ratified by Myanmar. They were convinced that both law and practice should be clear with regard to the prohibition of the exaction of forced labour by the authorities, including the armed forces.

They indicated that they had listened carefully to the statements of the representative of the Government of Myanmar and had taken into account the comments of the Worker members. They requested that the Government of Myanmar give the High-Level Team all the cooperation necessary to enable it to carry out its functions and verify the absence of forced labour in the country. The Governing Body should receive the new report in November to enable it to present the relevant recommendations to the next International Labour Conference.

In conclusion, they stated that any progress made must be clearly demonstrable, that the Government must cooperate fully and the High-Level Team must be granted broad powers of verification. They hoped that, in the future, they would be able to confirm that the situation which had given rise to the application of article 33 had been resolved.

The Government member of Sweden, speaking on behalf of the Member States of the European Union, the Central and Eastern European countries associated with the European Union, namely the Czech Republic, Bulgaria, Estonia, Lithuania, Poland, Romania, Slovakia and Slovenia, the associated countries, Cyprus, Malta and Turkey, as well as Croatia and Norway, said that, in view of the deep concern about the situation with regard to forced labour in Myanmar, the European Union supported the resolution adopted by the Conference in June 2000 which had led to the implementation of measures in November 2000 under article 33 of the ILO Constitution. He recalled that, four years ago, the Commission of Inquiry on forced labour in Burma/Myanmar had made a series of clear recommendations to the Government on the issue, namely that the legislation should be brought into line with Convention No. 29, no more forced or compulsory labour should be imposed by the authorities in practice and that those enforcing forced labour should be brought to face criminal responsibility. The Government was therefore under an obligation to implement these recommendations fully.

On many occasions, the European Union had made it clear that, in order for the Conference to lift the measures taken under article 33 of the ILO Constitution, it needed to be assured that forced labour was completely eliminated. Only the ILO could make such an assessment. The European Union had urged the Government to resume its cooperation with the ILO and to allow a full-time ILO presence in the country with a view to verifying whether the Government had put an end to the practice of forced labour and enabling the ILO to provide technical assistance to that end. In that context, he welcomed the decision taken by the Government to resume cooperation with the ILO and noted the agreement on the modalities for an objective assessment of the practical implementation of the recommendations of the Commission of Inquiry. The High-Level Team should be allowed complete freedom of movement throughout the entire territory and he trusted that the authorities would provide any security measures necessary. The Team should also have full freedom of access to speak to anybody it wished to, including Daw Aung San Suu Kyi and other NLD leaders. The Team should decide upon the timing of its visits and on its programme. Finally, the Director-General should have complete freedom to decide on the composition of the High-Level Team. He noted the commitments entered into by the Government in that regard.

Finally, he emphasized that a three-week mission was not enough. Further steps needed to be taken. He expressed the belief that a full-time ILO presence in the country was necessary to assist the Government to implement the legislative measures it had adopted and verify their implementation. He looked forward to receiving the report of the High-Level Team following its mission in September with a view to considering its implications for further action at the Governing Body in November 2001.

The Government member of Australia, speaking on behalf of the members of the Asia-Pacific Group, noted with interest the report to the Committee on the developments since the last session of the Governing Body. The Asia-Pacific Group welcomed the decision of the Government to receive a High-Level Team appointed by the Director-General to carry out an objective assessment in September, for a period of up to three weeks, on the issue of forced labour. This was a very positive development. He particularly welcomed the fact that the Government had agreed that the ILO Team should have complete discretion to establish and implement its programme of work, meetings and visits. He expressed appreciation for the continuing efforts of all concerned, including the Director-General and the staff of the Office. He called upon the Government to continue to extend every cooperation to the ILO and the High-Level Team when it visited the country in September. He urged the members of the Conference to await the report of the Team's visit and its consideration by the Governing Body in November before deciding upon any further action.

The Government member of Malaysia, speaking on behalf of the ASEAN member States of the ILO, thanked the Director-General for his readiness to cooperate with the Government of Myanmar. He noted with appreciation the visit by the Representative of the Director-General and his team to Myanmar in May 2001 and the report of the mission, and particularly the agreement reached between the ILO and the Government on the modalities of an objective assessment of its observance of Convention No. 29. He expressed encouragement at the assurance given by the Government that it would implement the comprehensive framework of legislative, executive and administrative measures that it had put in place and the follow-up implementation measures and national monitoring activities, as well as the cooperation between the Government and the ILO. He recognized the political will of the Government to resolve the issue and to receive an ILO High-

Level Team in September 2001 to carry out the objective assessment.

He concluded that the 282nd Session of the Governing Body in November 2001 should review the measures taken by the ILO under article 33 of the Constitution in the light of the outcome of the objective assessment, with a view to removing those measures. He also called upon the Government and the ILO to continue cooperation until the issue was completely resolved.

The Government member of the United States recalled that the previous year the Conference had adopted the measures recommended by the Governing Body under article 33 of the Constitution to secure compliance with the recommendations of the Commission of Inquiry. The evidence of the continuing use of forced labour in its most brutal forms was so compelling that it had been recognized that to do otherwise would be to fail in the responsibility of the Conference towards the workers of the country and to the historic mission of the ILO. Her delegation had stated on that occasion that "to do any less, to look away, to avert our gaze would be to break faith with all that we are and hope to be". At the Governing Body in November 2000, it had been decided that there was no reason to delay the implementation of the resolution, notwithstanding the fact that the authorities had taken a number of administrative measures following a last-minute ILO technical cooperation mission to the country in October 2000.

The Committee of Experts had thoroughly analysed the measures taken, as well as extensive information from other sources on the actual situation in the country. The Committee of Experts had concluded that the Government still needed to: amend the relevant legislative texts; ensure that in actual practice no more forced or compulsory labour was imposed by the authorities, and particularly the military; and strictly enforce penalties for the exaction of forced or compulsory labour. Additional evidence of the continuing use of forced labour on a large scale had been presented to the Governing Body in March 2001. This included reports of efforts by military and civilian authorities at every level to hide the extent and nature of forced labour, to weaken or nullify the effects of any orders preventing forced labour which might have been issued by superior levels, and to counter the resolution adopted by the Conference through campaigns of disinformation and deception.

She recalled that, despite its rejection of the Conference resolution, the Director-General had continued to extend cooperation to the Government in relation to Convention No. 29, as requested by the Conference and the Governing Body. She commended him for those efforts. The objective of the ILO was not to exact punishment, but to help the Government eliminate a practice which all the members of the ILO, whether or not they had ratified Convention No. 29, had agreed must be eliminated. As a result of the Director-General's efforts, the Government had now agreed to receive a High-Level Team for up to three weeks in September 2001 to carry out an objective assessment of the situation regarding forced labour. While welcoming the agreement, she called for realism about what the High-Level Team could accomplish in so short a period. The understanding reached with the Government in May 2001 was a step in the right direction. But the usefulness and effectiveness of the visit of the High-Level Team would depend on the extent to which the Government fulfilled the commitments that it had undertaken. It had agreed to accord the High-Level Team its full cooperation. Such cooperation must include, at a minimum, the right of the Team to meet with whomsoever it wished, in closed and confidential session if it so desired, and the right of all persons who wished to meet with the Team to do so without fear of retaliation against themselves or their families. Anything less would tend to cast doubt on the credibility of the Team's efforts, which would serve neither the interests of the country nor those of the ILO.

She noted that the Governing Body would listen attentively to the report of the High-Level Team in November 2001 and would also examine the report in the context of the full range of information available to the Governing Body from other sources. At that time, it would be decided what further action, if any, the ILO should take in pursuance of the objectives of the Conference resolution. Meanwhile, all the provisions of that resolution remained in effect and should continue to be implemented, including steps to ensure that the issue was discussed at the forthcoming session of the United Nations Economic and Social Council. Her Government would continue to review its relations with the country and urged others to do the same. The United States already had a strong set of sanctions in place against the country, including a ban on new investment, a ban on assistance to the military regime, denial of trade preferences and a visa ban on senior government officials. Those measures would remain in place and additional options had not been ruled out at the present time.

The Government member of South Africa emphasized it had long been his country's conviction that the existing situation in

Myanmar could only change with the coming into play of new elements on the basis of an objective assessment carried out by the ILO. His Government had also indicated its unambiguous and unwavering support for the maintenance of action against the Government of Myanmar as long as it showed no willingness to change its position on forced labour. He was therefore heartened by the report before the Committee, which showed some positive gestures towards the achievement of the objective of eradicating forced labour in Myanmar. The report of the mission led by the Representative of the Director-General was quite encouraging and he commended the parties on their vision in resolving the matter.

The speaker urged the Office to remain vigilant and support the dispatch of the High-Level Team, which should be allowed complete discretion as to its activities during its work. He urged the Government of Myanmar to continue on its positive path, which he believed would lead to a conducive working environment for its people. He looked forward to examining the report of the High-Level Team in November.

The Worker member of Pakistan recalled that the resolution adopted by the Conference the previous year under article 33 of the ILO Constitution was the result of a process which dated back to the 1960s. The Committee of Experts had already raised the issue of the use of forced labour in the country in 1964, 1966 and 1967. Following the ICFTU representation under article 24 of the Constitution in 1993, and the persistent attempts by the Government to deny the evidence of forced labour, the Commission of Inquiry had been set up in 1997. In its report, following a series of hearings in which the Government refused to participate, as well as refusing to let the Commission into the country, three areas had been addressed in which measures were required to achieve compliance with **Convention No. 29**: the amendment of the legislation in accordance with the Convention; the adoption of measures to stop the exaction of forced or compulsory labour in practice; and the imposition of penalties on those who had perpetrated the crimes. The time limit set by the Commission for compliance with the recommendations was 1 May 1999.

This historical review underlined the fact that the series of measures envisaged by the Conference the previous year were rooted very clearly in the implementation of all three of the broad recommendations of the Commission of Inquiry. The resolution adopted in June 2000 had been the decisive factor in prompting the Government to enter into discussions with the NLD leader, Daw Aung San Suu Kyi, and to accept an ILO mission. However, until all the three areas had been irreversibly addressed with action to restore democracy and end forced labour, the measures envisaged in the resolution should be maintained and their implementation strengthened as a key instrument of pressure on the regime. He therefore commended the Director-General on the action taken and he hoped that the work of the ILO would bring relief to those who were suffering in the country. He urged the Government to implement the recommendations of the Commission of Inquiry in their letter and spirit and to give all due cooperation and support to the ILO.

The Government member of the Netherlands supported the statement made on behalf of the European Union. He added that since the decision taken by the Governing Body in November 2000 to give effect to the measures under the resolution adopted in accordance with article 33 of the ILO Constitution, his country had held tripartite consultations and reviewed its relations with the Government. Since its first response to the request for information from the Director-General, his country had taken further steps and had the intention of discouraging transactions relating to trade with and investment in the country. The Netherlands had taken note of the agreement of the Government to receive an ILO High-Level Team and took a keen interest in the findings of the Team, which would be discussed by the Governing Body in November 2001. His country would continue to monitor carefully the forced labour situation and was convinced that, in the absence of a concrete and clear improvement in the situation, it was too early to exclude the possibility of further measures.

The Worker member of Japan welcomed the understanding concluded between the ILO and the Government in May 2001 concerning the visit of the High-Level Team and urged both parties to implement it with sincerity. He expressed the hope that all forms of forced and compulsory labour would be eliminated in the country as soon as possible in both law and practice. However, he noted information that the military regime had threatened villagers in several areas not to tell the truth about forced labour. He therefore urged the ILO and the Government to give the High-Level Team full authority to investigate the current situation. He hoped that the work of the High-Level Team would enable the international community to understand what was going on in the country. He appreciated the efforts

made by the United Nations and Asian countries, including Japan, to restore dialogue between the ILO and the Government.

He emphasized that democratization was another important issue which was closely related to resolving the situation with regard to forced labour. Human rights and trade union rights were of great importance to democracy, but were incompatible with the military regime. The Japanese Trade Union Confederation (RENGO) supported the activities of those who had been compelled to leave Burma because of their participation in democratizing the country. A Burma office had been set up in Tokyo to promote democracy in Burma. He urged the Government to guarantee pro-democracy activities without any restrictions in the country. He also called upon the Government of Japan to put pressure on the Government to guarantee its people freedom from all kinds of oppression and for the restoration of democracy. An important meeting had been held in Tokyo earlier in the year on further trade union action on the question. It had been decided to implement a programme of action to promote and strengthen the ILO resolution and to request the Government of Japan to review its relations with the country. Trade union representatives had proposed that Japanese overseas development aid should be strictly limited to humanitarian purposes and used cautiously so as to ensure that it did not promote the use of forced labour. They had also called on the Government of Japan to request the Government not to use forced labour for the activities covered by Japanese overseas development aid and to accept an international group of inquiry to monitor its use.

He expressed deep concern about the resumption of Japanese overseas development aid to the country, which had been halted in 1988 after the takeover of the military regime, and especially the grant for the repair of the Baluchaung hydroelectric power station. The aid was still premature. Apart from humanitarian assistance, Japan should not provide aid that would benefit the military regime. The Japanese Government had a great responsibility for resolving the forced labour issue, as Japanese aid had amounted to 62.7 per cent of the total external aid to the country in 1997. If the current situation with regard to forced labour was not improved, this assistance should immediately be stopped. If necessary, concrete action should be taken with the international community to eradicate all forms of forced and compulsory labour in the country.

The Government member of Canada welcomed the recently signed understanding on the ILO's objective assessment, which was to focus on the practical implementation and actual impact of the framework of legislative, executive and administrative measures against forced labour which the Government had announced that it had taken since October 2000. He stated that unless this assessment suggested otherwise, existing ILO measures should remain in place and emphasized that the ILO alone could provide an assessment of sufficient authority to bear legal, political and practical consequences internationally.

Given the vital standards at stake, he hoped that the Government of Burma would fully respect the agreed modalities and provide every guarantee that it would cooperate to ensure that the assessment was objective and credible. He emphasized that, to that end, the ILO's High-Level Team should be accorded complete discretion and freedom of movement in the organization and conduct of its programme of activities and meetings, as agreed in the understanding signed on 19 May 2000. He repeated his comments to the Governing Body in November 2000, namely that Canada had never sought a quarrel with the people of Burma, but sought an end to the abuse of their rights. He emphasized that forced labour amounted to indecent work which was unworthy of any ILO member State.

The Worker member of Colombia regretted that the members of the Committee were once again required to address the issue of Myanmar due to the Government's stubborn refusal to comply with ILO Conventions and Recommendations, to which was added the Government's inexplicable failure to comply with the resolutions adopted by the ILO.

He added that in 1997 Myanmar's unacceptable conduct had forced the Committee on the Application of Standards to place its comments in a special paragraph, given the Government's failure to effect any real change. He called for all workers to unite in the face of Myanmar's failure to submit to the ILO supervisory mechanisms and expressed his solidarity with the workers of Myanmar, especially in their struggle to achieve the observance of the ILO's fundamental Conventions and Recommendations, particularly **Convention No. 29** on forced labour.

He stressed that under no circumstances could any government in any part of the world justify work performed under conditions of slavery and exacted through the use of force. He agreed with the Government of Myanmar that the best sanctions were those that were not applied. However, when a Government systematically refused to play by the established rules, implementing sanctions was the only method left, although no one liked to apply such methods.

Speaking on behalf of the workers of Latin America and the Caribbean, he once again urged the Government of Myanmar to comply fully with the provisions of ILO Conventions and Recommendations, beginning with [Convention No. 29](#), thereby ending the suffering of those workers who were victims of forced labour. He also asked the Government to impose sanctions designed to make an example of those responsible for these violations of human rights.

He appealed to the Government of Myanmar to cooperate fully so that the ILO might carry out its work directly in the territory where the events had taken place. If the Government were truly convinced that its attitude and conduct were democratic, it should not have any reservations in agreeing to the ILO mission.

The Worker member of Italy, referring to the major problems and results relating to companies under paragraph 1(b) of the Conference resolution, said that the report to the Governing Body showed that few employers' organizations had replied to the Director-General's request for information. Respondents included the Finnish Confederation of Industry, the Confederation of Norwegian Business and the Confederation of British Industry, as well as the International Organization of Employers. She appreciated the fact that many companies had ceased to do business in the country. However, major companies based in other countries were still importing goods produced in the country. There had been an explosion of clothing exports, including to the United States and the European Union, despite the ILO action which had been taken. Goods such as rice and beans were being exported by transshipment through countries such as Malaysia and Singapore. Before the last session of the Governing Body, the ICFTU had presented the ILO with a wide-ranging report indicating that many companies involved in the oil and gas, timber, rice, agriculture, fisheries, textiles, finance and tourism industries were still doing business with or in the country and had made other business contacts with the regime since November 2000. There were some 300 such companies from over 30 countries.

The ICFTU report also contained information on over 580 cases of forced labour. Some of the evidence of forced labour related directly to the operation of the gas pipeline linking Burma with Thailand, involving French and American multinationals, as well as the construction of tourist infrastructure, in which the country's military leaders appeared to be directly involved. A British-owned company was also heavily involved in gas pipeline operations in the country. Moreover, a hydroelectric plant would be built as a result of a 29 million dollar grant from the Japanese Government, as a reward for opening dialogue with the opposition leader Daw Aung San Suu Kyi. Some other governments and industries were hiding behind these apparently new developments to continue business as usual. In that respect, she recalled that similar talks in the past had yielded no results.

She said that a large share of the income generated by foreign investment was used by the Junta to buy weapons for use against its own people. China was one of the main arms suppliers. The ICFTU and the International Trade Secretariats had already planned action to place pressure on those companies, some of them multinationals, which had been identified in Canada, France, Malaysia, Netherlands, Norway, Singapore, Spain and the United States. Trade unions in the energy industry, meeting recently in Bangkok, had called on oil and gas companies to cease investments in Burma while the use of forced labour continued. The trade union campaign had also started to target shareholders and institutional investors in some multinational enterprises investing in the country. One of the largest pension funds in the world had announced at its annual general meeting that it was proposing a resolution asking the company to withdraw from the country. In a case in the United States, a judge had stated the opinion that the company concerned by the lawsuit knew that forced labour was being utilized and that joint ventures benefited from the practice. In the past, governments and companies had hidden behind the absence of a global and binding decision to justify their inaction. Now there was a global decision by a United Nations body which gave them legitimate grounds to take action, as some of them had already done. She therefore urged employers' organizations and companies, in consultation with trade unions, to comply with the full provisions of the resolution. She also called on international and regional financial organizations to verify carefully the indirect projects and foreign direct investment in the country carried out through other countries and organizations. Any hesitation at this stage in implementing the agreed measures could jeopardize the efforts to eliminate forced labour and the resumption of talks for democracy.

The Government member of Switzerland noted that she had listened attentively to the explanations given by the Government of Myanmar as well as to the opinions expressed by the Employer and Worker members.

She indicated that the report of the last mission to Myanmar had contained positive points. She added that the three-week evaluation mission, which would take place next September, should examine the effective and good faith application of the legislative amendments requested. It was important that this mission have complete freedom of action, particularly so that it could define its own programme. These recent developments were an important step toward a constructive commitment on the part of the Myanmar Government to respond to the recommendations of the Commission of Inquiry. The Swiss Government therefore awaited with optimism the report that the mission would submit to the November 2001 Governing Body and would evaluate at that time the real political will of the Burmese authorities.

The Worker member of Swaziland emphasized that forced labour was a very serious violation and flagrant disregard for human dignity and must not be forgiven for as long as it existed. Every effort to eradicate the evil of forced labour had to be supported by all advocates of humanity and social justice. The present case put to the test the fundamental obligation of the ILO and its mandate. The ILO needed to answer the question of what was the acceptable desired result of ratification. Was it merely the adoption of a statute that was in conformity with the obligations undertaken, or did it need to be applied in both law and practice? The ICFTU report had shown that forced labour was still prevalent on the ground. He affirmed that a law that only existed on the statute books, and was not applied in practice, was not worth the paper it was written on. Unless the Government accepted that it was out of line with the requirements of [Convention No. 29](#), which it had ratified voluntarily 46 years ago, it would be impossible for it to correct the wrongs that it was committing. Nevertheless, as indicated in document D.6, the Government had written to the United Nations Secretary-General condemning the decision of the Governing Body as a "grave injustice" and querying the mandate of the Director-General and the Conference on this issue.

He reaffirmed that the ratification of any international covenant by any government was a direct undertaking that it would enforce the covenant in law and in practice and that it would accept being monitored and questioned in the event that it violated the provisions of the covenant. [Convention No. 29](#) was one of the core labour standards which, when applied, gave dignity to the worker. Without such dignity there could be no decent work. Moreover, forced labour constituted slavery and a crime against human dignity, and as such was incongruent with the dictates of social justice. The Committee was duty bound to uproot the evil of forced labour to restore dignity to the workers and people of the country. It should not therefore underestimate the gravity of this violation against humanity.

He said that governments which were prone to commit crimes against humanity did not readily desist from such practices without international pressure. If sanctions had not been applied against the apartheid regime in South Africa, its people would not have achieved democracy when they did. He therefore implored all countries to support social justice and maintain the sanctions until the people of Burma enjoyed an environment which was free of forced labour, guaranteed democracy and respected human and trade union rights and the rule of law. Only when the evaluation process by the ILO confirmed that [Convention No. 29](#) was applied in law and practice could the sanctions be lifted.

The Worker member of Thailand indicated that in his country, there were more than 1 million illegal immigrants and nearly 20,000 refugees from Myanmar. These migrations had taken place over many years. The persons affected suffered from very bad social and economic conditions and had migrated to Thailand to escape poverty which resulted from both economic conditions and forced labour in Myanmar. These immigrants from Myanmar were vulnerable and were often badly exploited by their employers as they had no one to help them. At the same time, employers used the illegal immigrants to replace Thai workers who were facing difficulties in maintaining their working standards, especially in the area of occupational safety and health, and who demanded that ILO standards be respected. The political, economic and social condition of Thai workers was affected by these illegal immigrants and refugees who were the result of the political, economic and social conditions in Myanmar. Unless there was stability in that neighbouring country, Thailand would continue to face adverse consequences. Finally, the speaker welcomed the decision to send an ILO High-Level Team which would monitor the forced labour situation in Myanmar. He suggested that this Team visit the border between Thailand and Myanmar to gather information about the situation by talking to the refugees and the immigrants there. At the same time, he suggested that in accordance with article 33 of the ILO Constitution, the ILO resolution on Myanmar be kept in place until forced labour was totally eradicated in that country.

The Government member of Namibia stated that his Government was deeply concerned and horrified by the continued instances of forced labour in some parts of the world and, in particular, the critical situation in Myanmar. While he welcomed the statement of commitment and the assurance made by the representative of the Government of Myanmar, he strongly urged it to match this undertaking with concrete steps. Furthermore, he unreservedly endorsed the proposal for the ILO to send a team of experts to Myanmar to fully investigate the situation as soon as practicable. It was his firm view that this matter should remain on the ILO agenda until the Government of Myanmar fully complied with [Convention No. 29](#).

The Government member of India stressed that her Government was strongly opposed to the practice of forced labour. Countries voluntarily adhering to the ILO Conventions should comply fully with them. In regard to the matter before the present Committee, her Government believed that the ILO's objectives could best be promoted through dialogue and cooperation and not through punitive measures or the threat of use of such measures. Her Government, therefore, advocated the path of constructive dialogue and cooperation between the ILO and the Government of Myanmar. The speaker also took note of an ILO mission to Myanmar the previous month, mentioned in document D.7. She also took note of the information submitted by the Government of Myanmar in document D.9 (information submitted in writing by the Government of Myanmar regarding the Memorandum on the understanding between the Myanmar Government and the ILO on the modalities of objective assessment on Myanmar's observance of [ILO Convention No. 29](#) (prohibiting forced labour)). The undertaking of an ILO objective assessment through the visit of a High-Level Team to Myanmar in September this year was a step in the right direction. The flexibility and constructive approach shown by the Government of Myanmar and the ILO were to be appreciated. This development underscored yet again the need to abnegate the punitive approach and to pursue the path of dialogue and technical cooperation.

The Worker member of Sweden indicated that her intervention would be focused on the replies of the governments and UN agencies to the 200 letters sent by the Director-General, asking them to act in accordance with the ILO resolution and to inform the ILO about specific measures taken. She was pleased to note that in some countries the political establishment was responding. On 22 May 2001, in the United States, Senators Tom Harkin and Jesse Helms introduced a Bill prohibiting all imports from Myanmar, specifically in response to the ILO's request. This Bill had bipartisan support in both Houses of Congress. In Norway, the Government was engaged in serious talks with groups in opposition to the Junta in order to divest its investments. At the same time, the speaker stressed that more should be done, and that pressure on the regime should be maintained by all. Disturbing events had taken place since the timid steps taken by the Junta. After the visit paid by the European Union Troika to Yangon at the end of January, the European Union had considerably slowed down its engagement in condemning the current situation in Myanmar. The European Union was apparently content with the mere hope that contacts would develop further, broadening as well as deepening, so as to promote national reconciliation, democracy and human rights. The speaker put into question the decision by the EU to grant a visa to a high representative of the Government enabling him to participate in an international forum last May in Brussels. What was most disturbing, however, was the situation regarding trade and investments. Myanmar's trade with both the United States and the European Union had soared recently, while the United States remained Myanmar's largest export market. In this respect, she indicated that the government export to the US grew by around 400 per cent after 1997 and by about 200 per cent to Norway. Bilateral trade between Myanmar and the three north-east Asian countries (China, Japan and the Republic of Korea), totalled US\$187.69 million in the first two months of this year, a 36.3 per cent rise compared with the same period in 2000. China, which had border trade with Myanmar in addition to normal trade, stood as Myanmar's third largest trading partner after Thailand and Singapore, while Japan and the Republic of Korea remained Myanmar's fourth and fifth largest trading partners respectively. In particular, the speaker recalled the reported intention of the Government of Japan to provide a 3.53 billion yen grant for the repair of the Baluchaung Hydropower Station, a project in Karenni State, a region affected by the civil war in Myanmar for which forced labour would most likely be used, directly or indirectly. This was against the spirit of the adopted ILO resolution which needed to be implemented by all its member States, now more than ever.

The Government member of the United Kingdom fully supported the statement made by the Government member of Sweden on behalf of the European Union. He recalled that the European

Union had been unstinting in expressing its concern about the practice of forced labour in Burma and had been instrumental in pushing for steps to apply article 33 measures during the last International Labour Conference and the Governing Body in November. He therefore did not recognize the portrayal of the European Union position contained in the Swedish Worker member's statement. The crucial question before this Committee was not a technical issue relating to the bureaucratic processes adopted by the Burmese regime. It was for the Committee to decide how and when the morally abhorrent practice of forced labour in Burma could be ended. The visit of the High-Level Team to Burma in September would be a first step in the assessment process, although three weeks was a very short time to ascertain whether forced labour had diminished or stopped in Burma. He reiterated the importance of the High-Level Team being granted freedom of access to witnesses and stressed the importance of all interviews being conducted in conditions where the interests of witnesses could be protected. The High-Level Team should be able to visit all areas of the country, including difficult border areas such as Rakhine, Chin, Kayin, and Kayah. The High-Level Team should also be able to decide when was the most appropriate time to visit Burma and the Director-General should have full freedom in appointing members of the team. In that context he was attracted by the suggestion that members of the original Commission of Inquiry should participate in the team. One thing should be clear: if in November the High-Level Team was able to report that forced labour in Burma had ended, then article 33 measures would be lifted. If, however, the High-Level Team reported that forced labour still existed or that they had been impeded in carrying out their assessment, then the United Kingdom Government, like that of the Netherlands, would be forced to consider what further measures could be taken against the Burmese Government.

The Worker member of the United Kingdom endorsed his Government's sentiments that the visit of the High-Level Team in September of this year was a step in the right direction. However, he did wish to raise certain issues. First of all, he wondered whether it would not be better for the High-Level Team to undertake this mission a little later when the monsoon season was over. Moreover, in order for the High-Level Team to do its work effectively and visit various regions of Myanmar during a three-week period, it might be preferable to appoint five members rather than three to this High-Level Team. In addition, a single visit of a three-week duration might prove insufficient to provide a clear and comprehensive picture of the situation regarding forced labour in the country. Hence, it would be necessary to ensure that follow-up visits were undertaken. Preferably, a permanent ILO presence in the country could well prove necessary to ensure that Myanmar remained free of forced labour. Another important aspect was the requirement of full cooperation from the Government of Myanmar in providing access for the High-Level Team to the border areas. A very important issue was that of the protection of witnesses. Those who were accused might seek reprisals. Indeed, the Worker members knew, and it had been reported by Amnesty International, that some 12 persons who had spoken to a UN envoy had subsequently been detained, tortured and given long prison sentences. Hence, it was the responsibility of all involved, including the Government of Myanmar, the Office, the High-Level Team, as well as governments who maintained a mission in the country to ensure that those who volunteered to give evidence were not subjected to reprisals. Finally, persons who were not part of the current Government, including members of the democratic opposition, should be involved in the work of the High-Level Team.

The Government member of Japan indicated that the Government of Myanmar had taken a variety of legislative and administrative measures to eradicate forced labour. While results at the level of implementation remained to be seen, he considered that a constructive approach with the Government of Myanmar was the only one that would solve the problem prevailing in that country. The ILO was to be commended for its cooperation with the Government of Myanmar. The Government of Japan was constantly in touch with Myanmar at several levels in order to remind it of the need to cooperate with the ILO. Finally, the speaker stressed that his Government's relationship with Myanmar, including in the form of development assistance, did not and would not in any way induce, directly or indirectly, forced labour in that country. In this regard, he emphasized that the assistance by the Japanese Government to repair the Baluchaung Hydropower Station was only intended to prevent, in the future, further harm to the general population by the deterioration of the said power plant. Regarding this assistance, he pointed out also that the Japanese Government took into account the solicitation made by the Special Representative of the United Nations Secretary-General, Mr. Rasali.

The Government member of Portugal endorsed the interventions made by the Government member of Sweden on behalf of the European Union and the Government member of the United Kingdom on the measures taken by the European Union with regard to putting to effect article 33 of the ILO Constitution. The Commission of Inquiry had recommended that a series of administrative, legislative and regulatory measures be taken so as to put an end to the practice of forced labour, and to ensure the application of Convention No. 29. The previous year, the Governing Body of the International Labour Organization had noted that such measures had not been taken and thereby for the first time referred to article 33 of the Constitution. That decision was taken in order to strengthen the role played by the ILO as well as enhance its credibility in the promotion of fundamental rights at work. In that context, there was reason to endorse the sending of a High-Level Team, even if the option of a continued presence in the country would have been better. A step forward could be made by the Team provided that three conditions were fulfilled: the mission should be free to move; it should have access to all requested places; and finally, the Director-General should be free to select its members. As a member of the Governing Body, Portugal expressed its specific wish to participate in a constructive tripartite discussion on that question at the next session of the Governing Body.

The Government member of Brazil reiterated his support for constructive dialogue and cooperation as the way to resolve the question of forced labour in Myanmar. He underlined the importance of the ILO presence on the ground as a way of ensuring the credibility and effectiveness of the legislative and administrative measures applied by the Government. He expressed his support for the visit by a High-Level Team to Myanmar which would allow an objective evaluation of the measures adopted. That evaluation would provide a sufficient basis for the Governing Body, at its November meeting, to be able to recommend in an impartial and objective manner the measures to be taken in the future.

The representative of the Director-General indicated that he already had some clarifications on certain points raised. Regarding the participation and provision of information to actors other than the government authorities in the process which lead to the Memorandum of Understanding and the High-Level Team, he underlined that Ms. Aung San Suu Kyi had been informed of the content and importance of the Memorandum of Understanding. In this respect, she had expressed the wish to get in contact with the High-Level Team. Moreover, regarding the representatives of civil society, a list of NGOs present in Myanmar had already been established. Regarding the period during which the High-Level Team would visit Myanmar, the month of September had been chosen after taking into consideration the climatic conditions and the need to have adequate time to prepare a report for the November Governing Body. These considerations were of a practical nature and the exact date could be re-examined later on.

The Employer members recalled, at the end of a detailed and serious discussion, that their position, as clearly presented at the outset, was fully in line with the steps taken up to now by the various bodies of the ILO. It was their impression that there was today a rather uniform evaluation of many aspects of the case by different members of the Committee, which had expressed very cautious hope. The Government of Myanmar had made the first step in the right direction. However, the desired results had not yet begun to become reality. Great efforts were still required to overcome the difficulties, which included the size of the country, the long duration of forced labour practices, as well as the fact that over the years many authorities in Myanmar had become used to the practice of forced labour: in particular many civil and military authorities were beneficiaries of forced labour and this was a barrier to change. In view of these facts, the results sought were a difficult task and a challenge for all involved. The agreements so far reached did not yet guarantee anything; they contained promises and formal arrangements for addressing the problem. Without real goodwill nothing would succeed — not even an objective assessment of what was actually occurring in practice. Under these circumstances, it was necessary to stick without any modification to the decisions taken up to now by the ILO bodies. In this respect they could not support the Government of Myanmar's suggestion in the Memorandum on the understanding between the Myanmar Government and the ILO on the modalities of objective assessment on Myanmar's observance of ILO [Convention No. 29](#) (document D.9) to loosen the measures taken regarding Myanmar in application of article 33 of the Constitution. Up to now, all small steps announced stood on sheets of paper. But the Committee's objective here was with regard to all ILO standards was to shape social reality. Where could this be more necessary than with regard to human rights? Being optimists with experience — i.e., realists, the Employer

members considered that further developments in this case should be followed soberly and critically, with hope for the people in Myanmar.

The Worker members said that they had listened carefully to the various statements. Despite the information provided by the Government representative of Myanmar, the serious violations of Convention No. 29 continued. The case under examination was extremely important because of the gravity of the violations and the continued systematic, not to say institutionalized, practice of forced labour. The Organization's objective remained to implement the recommendations of the Commission of Inquiry. To that end, the Government must ensure that national legislation and practice were aligned with [Convention No. 29](#) such that no forced or compulsory labour could be imposed by the authorities and that persons who infringed the prohibition on forced labour would be punished. The ILO was the only body which could objectively evaluate whether the recommendations had been implemented. The High-Level Team was a first step in that evaluation. The Worker members, however, considered that the composition and functioning of that Team should meet certain criteria. It should be composed of people with a high degree of expertise in the subject, including at least one of the members of the Commission of Inquiry and participation by the International Labour Standards Department. It should be big enough to cover the different regions of the country and the various types of forced labour which had been identified. It should have access to all the information, persons and places that it wished both inside and outside the country. It should have interpreters available. It should be guaranteed that witnesses would enjoy effective protection and it should be allowed to choose an appropriate period to undertake its mission. The Worker members were at pains to emphasize that the mission to be carried out by that Team should under no circumstances be regarded as the end but rather the beginning of a process. The Organization must pursue the examination of this case assiduously and undertake the objective evaluation of the implementation of the three recommendations of the Commission of Inquiry. Further missions would be necessary for that purpose. In conclusion, the Government representative who spoke on behalf of the European Union deserved support when he stated that the measures taken in application of article 33 of the Constitution could only be lifted if forced labour was genuinely abolished and the recommendations of the Commission of Inquiry effectively implemented.

The Government representative of Myanmar noted that a number of delegations of member States had expressed their appreciation concerning the agreement between his Government and the ILO on modalities of the ILO objective assessment. He expressed his gratitude to the ASEAN member States and the member States of the Asia/Pacific Region for their joint statement on the issue. With regard to the timing of the visit of the High-Level Team, the speaker recalled that the month of September had been chosen after taking into consideration the weather conditions. The monsoons would almost have stopped by then and the High-Level Team could undertake its visits without any problem. However, other dates were also possible such as the month of October as had been suggested. Regarding the size of the High-Level Team, nothing had yet been decided on this matter. However, he pointed out that the membership of the High-Level Team should not be too large. Furthermore, measures were already being taken with regard to implementation. In this respect the National Implementation Committee had formed five teams in April 2001 to ensure implementation. However, the application of legal texts required a certain amount of time which was why no immediate results could be observed. With regard to the protection of witnesses, these were fully protected by the existing provisions of the Penal Code. In this respect, the legal system of the country was inherited from the British legal system and was therefore very solid. Concerning freedom of movement of the members of the High-Level Team, they could have free access to all areas, including those where there were allegations of the use of forced labour. The only exception to this were those places where the security of the members of the High-Level Team would be under threat due to the ongoing activities of the armed insurgents. This issue was already reflected in the terms of the Agreement. The Government representative stressed that now was the time for confidence-building through the High-Level Team which would conduct an objective assessment mission in Myanmar this year. The Government of Myanmar was ready to cooperate with, and facilitate the work of the High-Level Team, in accordance with the agreement on the modalities of the objective assessment. He asked that the words of appreciation and positive comments made by speakers during the present sitting of the Committee be reflected in the closing remarks of the Chairperson. He also asked that the closing remarks reflect the opinion of member States that the 282nd Session of the Governing Body in November 2001 should

review the measures taken against Myanmar under article 33 of the ILO Constitution in light of the outcome of the forthcoming visit of the High-Level Team, with a view to removing them.

The Worker members, referring to their earlier statements, indicated that they had not been convinced by the Government's plea.

The Employer members recalled that their hopes, expectations and demands had been summed up in their earlier declarations; positive results were still awaited and could not be taken for granted.

The Committee held a special sitting on the application by Myanmar of the Forced Labour Convention, 1930 (No. 29), further to the resolution adopted by the International Labour Conference at its 88th Session, concerning the application of article 33 of the Constitution. It noted the oral and written information submitted by the Government, and the discussion which followed. It recalled that this case had been discussed repeatedly in the Committee before the appointment of a Commission of Inquiry under article 26 of the Constitution, and deplored the lack of progress towards the elimination of forced and compulsory labour. The Committee noted the results of the Director-General's appeals to the ILO constituents, including employers' and workers' organizations as well as governments, and other international organizations, to review their relations with the Government of Myanmar in order to ensure that the Government of Myanmar could not take advantage of relations with them to perpetuate or extend the system of forced or compulsory labour referred to by the Commission of Inquiry. It also noted that, according to information submitted to the Governing Body in March 2001 and to the Committee, forced and compulsory labour was still being imposed on the citizens of the country. The Committee recalled that the Commission of Inquiry had called upon the Government to halt all use of forced or compulsory labour, to amend its legislation to render the practice illegal, and to punish all those who imposed forced labour. The Committee noted that Order No. 1/99 as supplemented by the Order of 27 October 2000 was a relevant but insufficient basis for improving legislation. The conditions spelled out by the Committee of Experts should be applied in good faith, and further measures would be needed to ensure that this was in fact done. The Committee welcomed the Government's decision to resume cooperation with the ILO. In this regard, it noted with interest that a recent mission by representatives of the Director-General (17-19 May 2001) had concluded an understanding for an objective assessment of the situation of forced labour following measures announced by the Government of Myanmar, and that the results of this objective assessment were to be brought before the Governing Body at its November 2001 session. It was pointed out that this was only a beginning, and the Committee called upon the Government once again to take all possible measures with the greatest urgency to eliminate forced and compulsory labour in all its forms, *in following* the recommenda-

tions of the Commission of Inquiry; to punish those responsible for imposing forced labour; and to give full cooperation to the High-Level Team which was to carry out the objective assessment referred to above. The Committee emphasized that, taking into account the discussion in the Committee, the High-Level Team should: (1) have sufficient authority to programme its activities; (2) have an appropriate composition which will allow the work to be distributed among its members; (3) be selected within the sole discretion of the Director-General; (4) be able to carry out its investigation in all the places in the country which it considered necessary to visit; and (5) have unrestricted access to all necessary sources of information. Those people who provided information to the Team must enjoy full protection. It was also noted that the United Nations Economic and Social Council had been asked to discuss the situation at its July 2001 session. The Committee requested the Governing Body to assess the report of the High-Level Team at its November 2001 session in order to consider what further steps were necessary to be taken at that time by the Government or by the ILO, and recalled that the Government should provide a detailed report to the Committee of Experts at its next session on all measures taken to ensure observance of the Convention in law and in practice.

The Government representative of Myanmar asked that the closing remarks of the President reflect the positive comments regarding the agreement reached by the Government and the ILO on the modalities for the objective assessment which had been made by delegates, including a number of Workers' delegates. This would introduce better balance into the text. He suggested therefore that the sentence in the conclusions beginning with "In this regard, it noted with interest ..." read "In this regard, it noted with appreciation ...". He also suggested that the phrase concerning Order No. 1/99 reflect the original wording of the Committee of Experts which read that the Order "... could provide a statutory basis for ensuring compliance with the Convention in practice ..." [paragraph 7]. The experts, who are internationally recognized independent persons, had made an objective assessment in moderate language which should be retained.

In response to several questions, **the Chairman** clarified that the phrase in the conclusions concerning Order No. 1/99 to which the Government representative referred, used different wording but did not modify the conclusions on the same subject in paragraph 7 of the Committee of Experts' observation, and was entirely compatible with the Experts' meaning. This clarification would figure in the report of the discussion in the Committee's report.

The Employer members proposed to insert a paragraph in the general part of the Committee's report to the Conference to indicate that the Committee had held a special sitting on the issue of forced labour in Myanmar. The proceedings of this sitting should be reproduced in a special Part Three of the report. The Worker members agreed with this proposal.

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