



Reports of the Selection Committee

Second Report

Additional agenda item: Review of further action that could be taken by the ILO in accordance with its Constitution in order to: (i) effectively secure Myanmar's compliance with the recommendations of the Commission of Inquiry; and (ii) ensure that no action is taken against complainants or their representatives

The Chairperson recalled that the purpose of this meeting of the Committee was not to review the application of the Forced Labour Convention, 1930 (No. 29), by the Government of Myanmar, which had already been dealt with by the Committee on the Application of Standards, the conclusions of which were available to the Committee members. This Committee now had to debate what further action could be taken by ILO constituents in order to secure Myanmar's compliance with the recommendations of the Commission of Inquiry, and to ensure that no action was taken against those who complained of forced labour.

The representative of the Government of Myanmar took the floor and pledged his full cooperation with the Committee. He considered however that the meeting was unfortunate. The recommendations would determine the future of Myanmar's relations with the ILO and he hoped that Committee members would exercise wisdom and prudence in making those recommendations.

He recalled the history of cooperation between the ILO and the Government of Myanmar, including nine ILO missions conducted between 2000 and 2006, the establishment of an ILO presence in the country and the appointment of a focal point in the army to deal with forced labour in 2005. All this demonstrated the willingness and commitment of his Government to eradicate forced labour. He was of the opinion that the measures proposed in *Provisional Record* No. 2 were extremely harsh and, if adopted, would prove counterproductive. Such action could only hurt the workers of Myanmar, who risked losing their jobs and facing hardship. He called instead for continued cooperation and dialogue with the ILO, stating that his country was doing what it could and, over time, would achieve the desired objective.

At the last meeting of the Governing Body, he had stated his Government's willingness to consider Option I proposed by the ILO for establishing a mechanism to deal

with complaints of forced labour, and invited the ILO to discuss the details of this option regarding modalities, legal framework, etc. The role of the ILO was to assist its member States to implement Conventions, and not to impose sanctions. He considered that the ILO was being used as a political forum by some powerful member States to impose their own political agenda on Myanmar. He called again for voluntary cooperation in good faith and mutual trust, through a process of negotiation and dialogue with a view to finding a mutually acceptable solution.

He indicated that, since the 294th Session of the Governing Body, Myanmar had received an ILO mission in March 2006 to explore the two options that had been proposed and that intensive discussions had been held to this end. Two issues remained to be resolved – appropriate mechanisms for receiving complaints of forced labour and for the prosecution of false complainants. At the special sitting of the Committee on the Application of Standards on 3 June 2006, he had announced that the Government of Myanmar had decided to place a six-month moratorium on the prosecution of complainants on an experimental basis. During this period, complaints would be handled by the Director-General of the Department of Labour and the ILO Liaison Officer a.i. Meanwhile, both sides would pursue further the details for the establishment of a mechanism to receive complaints. He believed that these arrangements would allow the Liaison Officer a.i. once again to travel freely around the country without fearing negative consequences for complainants.

He was pleased also to announce the release of Su Su Nwe on 6 June, again demonstrating clearly the goodwill of the Myanmar authorities and their willingness to cooperate with the ILO. Therefore, the ILO should try its utmost to foster voluntary cooperation. He sincerely hoped that the Committee would not recommend harsh measures against Myanmar to the International Labour Conference, but rather extend a helping hand. Otherwise it would risk setting a dangerous precedent, especially regarding small developing countries.

The Workers' group noted that the Ambassador of Myanmar had been unable to find time to speak with them prior to this meeting. They agreed with the Government representative of Myanmar that small developing countries held a special place in the ILO. However, the small size of a country should never stand in the way of the rights of its people to work, to disagree and to be free from forced and child labour. They agreed that voluntary cooperation was the preferred course of action, but that it could be continued only when that cooperation was seen to be having a positive effect. If that was not the case, the time would come when talking should stop and action must be taken.

The workers' strength lay in their numbers and their commitment to justice and to fair play. They wished to use the ideals of the ILO to ensure respect for workers' rights. They had tried all possible courses of action, but none had worked in Myanmar; something new needed to be done. They agreed with the representative of the Government of Myanmar that if you show goodwill to others then goodwill will flow back to you, but they awaited real evidence of such goodwill on the part of the authorities.

The Workers did not wish to target a particular country. In fact, they wished to put their energies into the eradication of poverty and the creation of a better society, and discussions such as this one served only to deflect them from that purpose. They expressed the hope that the authorities of Burma/Myanmar would lead by example.

The Committee members all agreed that the 2000 resolution represented a sound and reasonable basis on which the Government of Burma/Myanmar could take appropriate steps to end the practice of forced labour, but this had not been the case. They reminded the Committee of decisions taken at the March 2006 meeting of the Governing Body that

set out practical and realizable steps which the ILO constituents and the Office could take to address the situation in Burma/Myanmar.

The Workers remained deeply concerned that the situation on the ground remained unchanged. Severe cases of forced labour continued to be reported, even during this session of the Conference, in Karen and Arakan States, indicating a further deterioration in the situation. A further source of concern was that, although Su Su Nwe had been released, the situation of other complainants remained the same. The appeal by U Aye Myint had just been rejected by the Supreme Court.

The Worker members therefore proposed that the Conference be requested:

- to urge the Government once again to implement all the recommendations of the Commission of Inquiry;
- to ask the Director-General to request an advisory opinion from the International Court of Justice on a question to be specified by the Governing Body at its November 2006 session;
- to instruct the Officers of the Governing Body to propose a system for the regular monitoring and reporting of actions taken by the ILO constituents and by international organizations in order to give effect to the 2000 resolution and subsequent Governing Body decisions, including those concerning foreign direct investment;
- to request all Members to establish tripartite committees at national level to assist this reporting; to direct the Office to allocate human and material resources to establish and service this reporting system;
- to direct the Office to establish, in collaboration with the authorities and the Liaison Officer a.i., bodies and procedures to deal with complaints by victims and to ensure that no retaliatory measures are taken against complainants;
- to request the Director-General to forward the present conclusions to the United Nations Secretary-General with a request that the situation of forced labour in Myanmar be included in any further discussions in the Security Council concerning the situation in the country;
- to further request the Director-General to encourage governments to implement article 20, paragraphs (a), (b) and (e), of the GATT agreement relating to measures necessary to protect public morals or health and to block products made by prison labour, as an acceptable justification for restrictions on trade with Myanmar.

The Worker members also requested the Conference to ask the Officers of the Governing Body to address the UN Economic and Social Council (ECOSOC) at its sitting on 26 July 2006 in order to inform it of the present conclusions and seek the adoption of recommendations dealing with the situation of forced labour, directed by ECOSOC or the General Assembly, or by both, to governments and to other specialized agencies. In line with the June 2000 resolution, the examination of the implementation of the Commission of Inquiry's recommendations and of the application of Convention No. 29 by Myanmar should continue during the future sessions of the Conference, at a special sitting of the Committee on the Application of Standards, so long as this Member has not fulfilled its obligations deriving from the Convention and from the ILO Constitution. Until this condition was met, the examination of the effects of the June 2000 resolution and of the present conclusions should likewise be placed on the agenda of future sessions of the Conference. They asked the representative of the Government of Myanmar to recognize that all those proposals were aimed at achieving the well-being of people.

The Employer members recalled that the Governing Body had decided in March 2006 to put an additional item on the agenda of the Conference to discuss two items, in particular: compliance by Myanmar with the recommendations of the Commission of Inquiry; and prosecution and threats of prosecutions in relation to persons accused of making “false allegations” of forced labour. As a basis for discussion, the Office had prepared a document entitled “Review of further action that could be taken by the ILO in accordance with its Constitution in order to: (i) effectively secure Myanmar’s compliance with the recommendations of the Commission of Inquiry, and (ii) ensure that no action is taken against complainants or their representatives.” The Employers commended the Office for the excellent paper which thoroughly analysed past developments and carefully considered possible options for action. When reviewing the developments of the case in recent years, one could notice that there had been ups and downs. The cooperative attitude of the Government of Myanmar had shifted in 2004, and since then, no substantial progress had been achieved and the situation had even worsened in certain respects. That impression was borne out by the Government’s attitude at the discussion of the Committee on the Application of Standards on 3 June 2006. The ILO had arrived at a deadlock in its relations with Myanmar. It was therefore time to draw lessons from the past and to consider possible options for future steps to take.

Effective elimination of forced labour in Myanmar could not be achieved without the cooperation of the country’s authorities. ILO actions in that regard could take two directions: firstly, to encourage Myanmar to enter into good faith cooperation with the ILO; and secondly, to stress clearly the need for Myanmar to discontinue its uncooperative behaviour. As actions of the first kind had not been very effective in the past, the emphasis should now be put on the second option in order to make clear that the ILO was determined to achieve progress and to exhaust the means of action at its disposal to that end.

The Employers considered the prosecutions by the Government of Myanmar of persons making “false” complaints to the ILO representative to be clearly counterproductive and questioned the ILO role in the country. As for the three possible actions put forward in paragraph 24 of the Office report in this regard, the Employers appreciated that they all had positive and negative aspects. An advisory opinion by the ICJ was a result which could be obtained in a relatively short time, and it would be a binding ruling that could be enforced through the UN Security Council. The Employers did not have a particular preference for any of the proposed options and would be willing to discuss and accept all of them.

As regards the proposals to establish a joint panel to examine complaints of forced labour on a confidential basis, or strengthening the capacity of the ILO Liaison Officer a.i. to deal with such complaints, the two proposed measures had already been rejected by the Myanmar authorities. Both would be helpful in obtaining reliable information, but the first offered the additional advantage that the joint panel would allow the Government to satisfy itself that complaints were related to the issue of forced labour only and were not simply politically motivated. Additionally, a joint panel could be the first step towards a government complaints procedure as required by Article 23, paragraph 2, of Convention No. 29. Furthermore, during his intervention at the recent sitting of the Committee on the Application of Standards, the Government representative of Myanmar had indicated that his Government would be willing to consider the first option but not the second one.

Concerning the third point for action, the Employers felt that the first proposed option of terminating Myanmar’s membership in the ILO would be a very serious step with wider implications that were not fully clear. It should be clear that, even if the ILO would take such a serious decision, the door for good faith cooperation could still remain open.

As regards the substantive steps put forward in the report, the Employers agreed that the potential of the 2000 resolution had not been exhausted yet, but rather than giving the resolution a more mandatory character, more precise indications and guidance as to possible effective action should be provided, including examples of concrete actions taken to date. This could also help ILO Members to coordinate their action to avoid action taken by one Member being undermined by others. This concerned in particular countries maintaining significant economic relations with Myanmar. Employers' and workers' organizations and other international organizations might play a more proactive role in the implementation of measures contained in the resolution.

The Employers would also consider the proposals to hold multi-stakeholder forums to exchange ideas on best practice of action taken; to appeal to international organizations to have the Myanmar issue and possible responses considered by their governing organs; and to complement the review in the Committee on the Application of Standards by an annual discussion in a special committee of the Conference with limited membership. The latter proposal would seem justified because of the seriousness and long duration of the present case. A special committee of the Conference would provide more focus and visibility to the forced labour problem in Myanmar and could thus be a suitable measure to increase the pressure on the Myanmar Government to return to a more cooperative attitude. The possibility of prosecuting at international level those responsible for forced labour in Myanmar might also be looked into. It would be important that all the measures envisaged be as targeted as possible so as to exert maximum influence on decision-makers in the country and to harm as little as possible innocent bystanders. The Employers could not accept the proposals for boycotts and press campaigns against companies doing business in Myanmar.

The representative of the Government of Austria, who spoke on behalf of the member countries of the European Union who were members of the Committee, as well as Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Iceland, Macedonia, Norway, Romania, Serbia and Montenegro, Switzerland, Turkey and Ukraine, recalled that the last report submitted by the Special Rapporteur of the Human Rights Commission confirmed widespread and systematic forced labour practices, including allegations of child labour, and forced recruitment, implemented by state actors throughout Myanmar. This had also been confirmed by the ILO Liaison Officer a.i. in documentation submitted to the Governing Body in March. The citizens of Myanmar, rather than pursuing their own livelihoods, were obliged by the Government to dedicate themselves without pay to the construction of military camps, bunkers and roads. The prosecution of those who are making use of their fundamental right in lodging complaints against the exaction of forced labour and the impunity of those imposing forced labour was appalling and of concern to everyone.

He noted the self-declared moratorium on Myanmar's prosecution policy and a possible mechanism to assess complaints, but many uncertainties remained concerning the nature, time frame and other practicalities of the moratorium. He welcomed the news of the release of Su Su Nwe, but he was deeply disappointed that others remained in prison. He regretted the lateness and limited scope of measures announced, as they were not convincing. He urged the Myanmar authorities to maximize and expand those measures without any delay, in particular by releasing all those persons jailed for having lodged complaints of forced labour, to stop immediately all prosecution procedures and to apply the self-declared moratorium without any time limit. In case the moratorium should be terminated, no prosecution measures should be undertaken against persons who might have lodged complaints during the lifetime of the moratorium.

He proposed to assess and monitor further developments. The international community and the ILO constituents had available a broad array of options for action, ranging from the involvement of the Security Council and the International Court of Justice, to specific actions by governments and social partners; they were complementary,

and should remain on the table for further action if deemed appropriate. He stressed the need for substantive steps which increased pressure on Myanmar to comply with its obligations, and supported most of the suggestions, especially those concerning the role of employers' and workers' organizations, more regular reporting, and the involvement of other international organizations, including for example the new Human Rights Council and the Security Council. He hoped that the Conference would adopt carefully formulated and broadly supported conclusions to give guidance to the ILO and its constituents for more effective implementation of the 2000 resolution.

The representative of the Government of Canada noted that the tactic of the Myanmar authorities had been to divert the ILO from its primary goal by introducing two new disruptive elements: prosecution of complainants, which is important, and threats against the Liaison Officer a.i., which are serious. But the central issue remains the officially-sanctioned use of forced labour. He stressed that everybody would benefit from a comprehensive list of effective targeted actions that could be taken, but thought additional reports were not needed. He firmly supported the proposal for the Security Council to discuss this case as it was a threat to international peace and security, and the proposal to seek an advisory opinion, if it would not delay the implementation of other actions to address the problem. He proposed using the Internet and media to publicize the problem more, and proposed that the Office prepare such a proposal to be discussed by the Governing Body in November.

The Government representative of Japan noted that the blackmailing and threats against the ILO Liaison Officer a.i. in Myanmar had stopped and that he had been granted travel authority; the Government of Myanmar had engaged in dialogue with the United Nations Under-Secretary-General, Mr. Gambari, during a recent visit; and the Government recently released Su Su Nwe. However, negative developments such as the continued detainment of Aung San Suu Kyi remained. He asked that the Government of Myanmar's commitment to a six-month moratorium on the prosecution of complainants and interim arrangements for complaints to be handled jointly with the ILO, be put into concrete action and even expanded, and expressed his disappointment that the Ambassador of Myanmar had not elaborated on the direct steps to be taken.

The Government representative of the United States recalled that the concern over the use of forced labour in Myanmar had been discussed in the United Nations and in informal discussions in the Security Council sessions in both December 2005 and May 2006. In addition, in July 2006 the UN Economic and Social Council (ECOSOC) would hold discussions on the matter of forced labour in Myanmar. He expressed the hope that continued and concerted efforts in the international community would lead to concrete changes in the practices in the country. He expressed deep regret for the continued detainment of Aung San Suu Kyi, U Tin Oo, U Aye Myint and over 1,100 other political prisoners being held in Myanmar, and for the Government's disregard for the 1990 election results, which had shown an overwhelming victory of the National League for Democracy and other opposition parties. The United States would monitor closely the adherence by the Government of Myanmar to the moratorium and to its commitment to work with the ILO. If Myanmar failed to take radical, concrete actions, the case should be referred to the International Court of Justice and to the highest level of the United Nations for concrete resolution.

The Government representative of India commended the Director-General for his efforts to work with Myanmar to eradicate the practice of forced labour. He supported further dialogue and cooperation between the Government of Myanmar and the ILO in order to exhaustively explore all options toward reaching a mutually-acceptable solution.

The Government representative of China noted that the ILO had now been discussing the topic of forced labour in Myanmar for 15 years and was still at the stage of discussing

options to be taken to secure Myanmar's compliance with the recommendations of the Commission of Inquiry. Forced labour is against the rights of humanity and should be eliminated; however, the use of economic sanctions as an option for pressuring the Government of Myanmar to take action was not an action his Government would support. Economic sanctions would exacerbate the poverty and suffering in the country. He emphasized that the Security Council should be left to deal with matters of security and that the matter of forced labour in Myanmar would be best dealt with by the ILO.

The Government representative of Australia stressed that the Government of Myanmar must follow through on its pledges of a moratorium on prosecution of complainants and willingness to engage in dialogue with the ILO, release the remaining political prisoners, and ensure that all future complainants would be free from prosecution. The ILO should explore what actions governments and employers' and workers' organizations have taken, to see what measures are transferable. If Myanmar failed to follow up on its recent promises, the ILO should reconsider the options available.

The Government representative of the Russian Federation condemned the use of forced labour and supported the ILO's work toward its eradication. In his view, a sustainable solution could best be found through dialogue. Sanctions would not likely produce the desired results. The expressed commitments by the Government of Myanmar, which showed a degree of good faith should be taken into account. He would not support any of the judicial actions proposed in *Provisional Record No. 2*, largely because questions remained on certain legal aspects. He reserved his further comments on these issues and the proposed measures for a later discussion.

The Government representative of Belarus endorsed the comments made by the Government representatives of China and the Russian Federation. He condemned the use of forced labour, but did not support economic sanctions since they would lead to a worsening of the social and economic position of the people involved.

The Government representative of Cuba condemned the use of forced labour. However, his country had suffered economic sanctions for 46 years, repeatedly opposed by resolutions of the United Nations General Assembly, and he would oppose any effort to apply international sanctions against another country. Only with the cooperation of the Government would any progress be made.

The Government representative of Viet Nam welcomed the latest developments which the Ambassador of Myanmar had stated. He encouraged dialogue and cooperation rather than to adopt drastic measures. He reiterated his strong support for continuing cooperation and dialogue, mutual trust and confidence, between the Government of Myanmar and the ILO with a view to finding a mutually acceptable solution to eradicating forced labour in the country.

The Government representative of Sri Lanka noted the efforts made by the Government of Myanmar toward the elimination of forced labour in response to ILO concerns, and encouraged the ILO and the Government of Myanmar to continue to work together.

The Government representative of the Philippines noted that in 2005, the Philippines had ratified Convention No. 29, making it one of the countries to have ratified all eight core ILO Conventions. With ratification came two commitments: the first, to safeguard and strengthen institutions in the country that have helped in efforts to eradicate forced labour and, second, to join the international community in its fight to ensure that forced labour has no place in a free and democratic world. Efforts to eradicate forced labour must rely on specific, time-bound measures that deliver concrete, verifiable results to the population.

The Worker member of Italy felt that recent decisions reported by the Myanmar Government did not modify the substance of the situation regarding complainants. The conclusions of the Committee would affect the role of the ILO and the concrete issue of forced labour. The decision taken just immediately before the special sitting on Burma of Su Su Nwe could not be seen by the workers as a sign to start once again a dialogue and a business-as-usual attitude. Reports continued to be received during this session of the Conference of forced labour being exacted by the army, including 800 civilians and 1,000 prisoners being forced to undertake portering. In a press conference only two days previously, the Minister of Information had claimed that contracts for construction and transportation were now awarded through a tender system, by paying charges, and that forced labour was never used. She favoured the ILO seeking an advisory opinion from the International Court of Justice, following article IV of the 1946 agreement between the United Nations and the International Labour Organization, which could include a role for the employers and workers; however, she also supported the other options that, independently of ILO decisions, foresees that governments could seek a binding ruling by the International Court of Justice. Real improvements in people's lives could be achieved only through a process of open economic development; but the lack of peace, stability and respect for human rights meant that there was no real possibility for foreign direct investment in the country.

The Chairperson invited the representative of the Government of Myanmar to take the floor, if he so wished. The representative responded that he had listened to the debate with great interest, but that he preferred to reserve his comments for the time when the draft conclusions of the Committee would be presented and discussed.

The Employer members noted that there was consensus on how serious this case was, concerning the lives of individuals affected by forced labour and persecuted for making complaints about it. Although there had been some cooperation, at times the work of the ILO Liaison Officer a.i. had been severely constrained, and there was no information available to confirm that progress had been made. The Employers remained convinced that the ILO was the institution responsible for adopting appropriate measures, thus asserting and preserving its moral authority over these questions. The ILO should re-establish effective commitment and cooperation by the Government of Myanmar and establish a sound monitoring mechanism to ascertain whether the situation had improved by the time of the next Governing Body meeting in November 2006.

The Worker members stressed that although progress could not be expected to be instant, the path should be clear, transparent and have progress indicators. The Workers wanted to cooperate, but it depended on the Government of Myanmar. Numerous speakers had said that "both" parties should continue to talk; the two parties were not the ILO and the Government but the Myanmar Government and its citizens. They should be able to speak up. Even some employers had left Myanmar – not because they wanted to punish the country, but because they were conscious that one could not promote respect of human rights while continuing to invest in a country that does not respect them.

Consideration of draft conclusions

The Chairperson introduced the draft conclusions, expressing his appreciation to Committee members who had been involved in the intensive consultation process.

The Employer members stated that the conclusions were based on extensive consultations and that they addressed the main concerns and constraints of all concerned. As such, they approved of the text as an instrument that could promote fruitful cooperation, and expressed appreciation for the efforts of the Chairperson and the Office.

The Worker members commended the Chairperson and the Office for the level of consultations with the Workers' and Employers' groups as well as with Government representatives in producing the conclusions and noted that all consultations had been held in good faith. He added that, given the level of consultation and in the spirit of compromise, the Workers' group had moderated from its original position, yet were generally satisfied with the results, seeing the conclusions as a positive step forward.

The Government representative of Austria, speaking on behalf of the EU member countries which were members of the Committee, and the Government representative of Canada, both expressed their appreciation for the efforts made in putting the text together and signalled their approval.

The Chairperson declared the conclusions adopted.

The Government representative of Myanmar thanked the Chairperson and the Office for its efforts in preparing the conclusions. He thanked those Governments which had spoken against punitive measures and in favour of continued dialogue and cooperation. He noted that the text of the conclusions appeared to endorse a dialogue and cooperative approach. However, his delegation was not prepared to address certain points in the conclusions at this time and would therefore refer the document to the Government for further study.

Appendix

Conclusions

The Committee, after listening to Ambassador Nyunt Maung Shein on behalf of the Government of Myanmar, has carefully reviewed the situation on the basis of *Provisional Record* No. 2 entitled “Review of further action that could be taken by the ILO in accordance with its Constitution in order to: (i) effectively secure Myanmar’s compliance with the recommendations of the Commission of Inquiry; and (ii) ensure that no action is taken against complainants or their representatives”. It also had before it the conclusions adopted by the Committee on the Application of Standards on 3 June.

There was general agreement that the 2000 resolution provided a balanced framework on which to build, although a certain number of countries reiterated their general opposition to sanctions. A number of salient points emerged as regards the promotion of enhanced awareness and implementation of the 2000 resolution, and subsequent Governing Body decisions, which included the following steps, it being understood that they have to be carefully read in the context of the detailed record of the debate:

- The ILO has the possibility to seek an advisory opinion from the International Court of Justice which would, as the Workers stated, require the formulation of a specific legal question relating to the Forced Labour Convention, 1930 (No. 29). This is without prejudice to the fact that member States have the possibility to themselves institute contentious proceedings before the International Court of Justice on their own initiative. It was made clear that such action was complementary to, and not a substitute for, other action to be taken by the ILO itself.
- The application of the measures could be enhanced by providing more precise indications as regards the kinds of concrete steps by member States which might be more effective, and which would be most relevant to the sectors and types of enterprise in which forced labour appears to be currently employed. Such indications and guidance could be elaborated through examples of concrete actions taken to date.
- There could be more active involvement of employers’ and workers’ organizations, including at the national level, in the implementation of the measures.
- An enhanced reporting mechanism could also be developed, on the basis of a user-friendly questionnaire addressed to members.
- Multi-stakeholder conferences could be convened in order to exchange ideas of best practice in the implementation of the 2000 resolution.
- Steps should be considered with a view to fostering greater awareness and a consistent attitude on the issue among other international organizations, within their specific fields of competence, in particular ECOSOC.

In addition, it was suggested that the Office should provide information about other remedies that may exist under international criminal law for action against perpetrators of forced labour.

It was also suggested that appropriate and effective use should be made of public diplomacy in support of the ILO’s efforts.

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The Committee shared all the very grave concerns expressed in the conclusions of the Committee on the Application of Standards as to the continued widespread use of forced labour by the Myanmar authorities, as well as their failure to implement the recommendations of the Commission of Inquiry. The unprecedented gravity of the forced labour situation in Myanmar was reflected in the Commission of Inquiry’s report and, despite limited progress in a number of areas, there was every reason to believe that widespread and very serious abuses persisted. In some parts of Myanmar, villagers were liable to be detained for arbitrary periods by the army and forced to carry supplies during military operations, in terrible conditions and subject to brutal treatment. Across the country, local authorities continued to force the population to carry out local infrastructure work. It was unacceptable to the ILO that a member State not only tolerated such

practices, but was itself responsible for them. This was a violation of the commitment to a shared humanity that a civilized world demanded.

The Committee underlined that progress could be made only if the Government of Myanmar really committed itself to ending forced labour – a step that was indispensable for the modernization and development of the country – and resumed genuine cooperation with the ILO. A number of speakers noted that, even though the recent steps taken by Myanmar once again came very late and did not go far enough, the path of cooperation should continue to be further explored, taking into account Myanmar's expressed willingness to do so and the fact that they had given some concrete effect to their commitment to a moratorium on prosecutions by releasing Su Su Nwe from detention. The Committee made it clear that any such cooperation needed to rapidly produce tangible and verifiable action from Myanmar towards the implementation of the recommendations of the Commission of Inquiry. The first test of this would be Myanmar's willingness to address the following points:

1. The Government must give credibility to its stated moratorium on prosecutions, by providing further details on how this moratorium would be applied, extending it to cover prosecutions currently under way (in Aunglan) and releasing any person still in detention (in particular Aye Myint). This should be done as soon as possible but in any event no later than by the end of July 2006. It must also be clear that anyone lodging a complaint during the moratorium should have immunity from any action being taken against them subsequently for doing so.
2. The moratorium would be considered strictly binding. It was understood that if the moratorium was breached, or if it came to an end without agreement on a satisfactory mechanism as envisaged under points 3 and 4 below, then the situation would immediately be brought to the attention of the membership, to review any steps that it may be appropriate to take, including international legal steps on the basis of article 37.1 of the ILO Constitution.
3. The authorities now need to immediately enter into discussions with the ILO with a view to agreeing by the end of October 2006 on the establishment of a credible mechanism for dealing with complaints of forced labour, which would include all necessary guarantees for the permanent protection of complainants or their representatives. This would also require that the ILO Liaison Office had the necessary resources and personnel.
4. Any mutually agreeable solution which would be reached on that basis should receive clearance at the highest level on both sides (i.e., through the Officers of the Governing Body in the case of the ILO).

It would be for the Governing Body to examine in November 2006 whether these points had been met, it being understood that the Office should in the meantime undertake all the preparatory work that may be necessary to allow for immediate decisions to be taken. Then, in the light of the developments or lack thereof, the Governing Body would have full delegated authority to decide on the most appropriate course of action, including as appropriate on the basis of the abovementioned proposals for the enhanced application of the measures. It was also understood that the Governing Body should make all the necessary arrangements so that the Conference at its 2007 session is able to review what further action may then be required, including the possibility of the establishment of a special Committee of the Conference.

In the meantime, as contemplated by the Committee on the Application of Standards, all the deliberations of this Committee, together with the report of the special sitting of the Committee on the Application of Standards, should be brought to the attention of ECOSOC in time for its July 2006 session.

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