

## Stakeholders Forum on Labour Law Reform

Yangon 18-19 May 2015

### 1. Background

The *Initiative to Improve Labour Rights and Practices in Myanmar* (the Initiative) was formally launched by Myanmar, United States, Japan, Denmark and the International Labour Organization (ILO) in November, 2014. The European Union announced its membership to the Initiative on 7 May 20125.

The Initiative is designed to support the government and stakeholders in promoting compliance with international labour standards and responsible business practices, helping to make Myanmar an attractive sourcing and investment destination, protecting Myanmar's workers and supporting its businesses, and advancing Myanmar's overall sustainable growth and development (<http://www.whitehouse.gov/the-press-office/2014/11/13/joint-statement>).

The Initiative has two main pillars: 1) supporting the development of a multi-year labour reform plan, and 2) building meaningful stakeholder engagement in the labour reform process and strengthening labour relations. The first pillar seeks to build on the Government of Myanmar's (GOM) ongoing work on labour law reform by providing assistance to the GOM to formulate and draft a unified labour code, which will address gaps and inconsistencies in existing labour laws relative to international standards; and to identify capacity building needs that will enable the GOM to implement and enforce these legal changes going forward. The second pillar seeks to augment the labour reform efforts and strengthen labour relations by providing a forum for both domestic and international stakeholder engagement and input.

As an important first step, a Stakeholders Forum on Labour Law Reform was conducted on 18-19 May 2015 in Yangon. The Stakeholder Forum (SF) created an important opportunity to bring together domestic and international stakeholders with representatives of the government of Myanmar, international partner governments and the ILO to discuss labour issues in Myanmar, identify priority challenges, share global experiences and best practices, and support domestic efforts to address these challenges.

The SF was intended to complement and strengthen domestic tripartite consultations and existing labour-related initiatives, provide international support for Myanmar's labour reforms, and foster collaboration among international and domestic stakeholders. Ultimately, this engagement was intended to contribute towards constructive industrial relations and progressive improvement of worker rights and working conditions as Myanmar's economy integrates with the global economy.

The objectives of the Stakeholders Forum were for the GOM to: 1) share with the domestic and international business and labour communities its plans for reform; 2) receive input and feedback on the labour law reform planning process from stakeholders; 3) gain insights on how to address particular labour challenges based on international experiences; and 4) further develop its ability to meet its own stated goals of broader consultation and greater transparency.

The Stakeholders Forum was attended by around 200 participants from the Government of Myanmar, private sector, labour organizations, civil society, international investors and buyers, research institutions, foreign Governments and international organizations.

## 2. Highlights of the Forum

### Day 1 – 18 May 2015

#### Opening Session

The Stakeholders Forum was opened by the Assistant Minister for International Affairs of the Ministry of Health, Labour and Welfare of **Japan, Mr. Akira Isawa**, on behalf of the Initiative Partners. Japan noted the progress of Myanmar in its reform process, including the initiation of democratization to support continued, sustainable economic growth. The speaker emphasized that all stakeholders will play an important role in both the labour law reform process and the enforcement of the rule of law as well as the upholding of respect of human rights and freedom. He further emphasized the importance of promoting decent work for all workers. *(Full speech is attached).*

The Deputy-Director General of the **ILO, Mr. Greg Vines**, provided opening remarks in which he noted that labour law reform is an important subject to be tackled as part of the transition process. This Stakeholders Forum is designed as a practical venue for business, labour, civil society and development partners to engage with the Government on the labour law reform process. Moreover, it is emphasized that broad ownership of the process is critical to the success of the initiative, hence ongoing support to the process needs to be established. The Ministry of Labour, Employment and Social Security (MOLES) has committed to the labour law reform initiative and Myanmar political and economic structures have opened their doors for investments. It is important to realize the potential of these opportunities. It has been proven beyond doubt that labour laws support the Government to reinforce its rule of law; that labour laws are a means for businesses to maintain competitiveness and that labour laws support workers in the enhancement of their well-being. This is at the heart of the ILO's Decent Work Agenda.

**His Excellency U Aye Myint**, Union **Ministry of Labour, Employment and Social Security (MOLES)** gave the keynote message. He noted that the GOM is leading the country in a major transition; political, economic, social and administrative. These areas do not stand alone, they are all inter-related with each one affecting the other. A sound labour market environment depends on the solid foundation of legislation; employment creation calls for strong institutions, which support the application of the legislation; application of fundamental principles and rights provide workers and employers with the tools for decision making and to build relationships. Any development can be based on either conflict or cooperation – GOM is committed to the provision of a legislative and institutional framework which supports the cooperation model. A strong legislative framework and continuous institutional capacity building are needed. He reiterated that the Stakeholders Forum is an opportunity for people and institutions to provide inputs and guidance on how to move forward. The Forum is only the beginning as there will be other consultations to be held and he expressed the hope that participants will provide suggestions for ongoing consultative structures.

The Minister also noted the ongoing efforts of the MOLES on the labour law reform.

- A range of new legislation has been introduced and other key legislative priorities – industrial relations and labour disputes, minimum wage and child labour issues – are in the process of being addressed.

- A lot of existing institutions have been revitalized but also a lot of new institutions have been established such as services for conciliation, mediation and reconciliation, and the NSSA established by the Employment and Skills Development law.
- MOLES is expecting to have a total of 127 labour inspectors in 2015 (OSH and general law inspectors) with budget proposals being made to progressively increase this number further.
- The Minister also emphasized on the need for capacity building for Government and social partners on the application of the labour laws. *(Full speech attached)*.

A representative of the European Union (EU), Ms Monika Hencsey, confirmed their recent decision to join the initiative and the EU's full support to the initiative and the initiative partners. Twenty-eight EU member States, Ministers for trade, employment, development cooperation, and high representative for foreign affairs have all declared their support to this initiative. By joining the initiative, the EU intends to contribute to the promotion of fundamental rights as well as the creation of opportunities for business. The EU hoped that, as a result, trade partnerships with Myanmar could be strengthened including through the promotion of core labour standards and responsible business practices. The EU emphasizes that this is an opportunity to further work together to promote decent work in Myanmar.

### **Session 1: Labour Law Reform**

The objectives of session 1 were to:

- (1) Understand the MOLES' current legislative efforts and current and immediate priorities on labour law legislations drafting and amendments;
- (2) Discuss strategic options for the labour law reform process in Myanmar going forward, including how to prioritize reforms and have a balanced and inclusive process;
- (3) Understand the ILO's body of international labour standards and how they can be used as benchmarks for labour law reform

Technical presentations were provided by the Director-General, U Myo Aung, of the Department of Labour, MOLES, Mr. Aaron Halegua, labour law consultant and Ms. Piyamal Pichaiwongse, Deputy Liaison Officer of ILO Yangon. Mr. Steve Marshall, ILO Liaison Officer, moderated the session.

**U Myo Aung, Director-General of the Department of Labour**, Ministry of Labour, Employment and Social Security provided an introduction of the Government's current legislative efforts and medium-term strategy *(powerpoint presentation attached)*.

The DG highlighted the various laws enacted by MOLES including the Workmen Compensation Act, Dock Labourers Act, Payment of Wages Act, Factories Act, OSH bill, Social Security Law and the Settlement of Labour Disputes Law, among others. He indicated that the ILO was generally requested to provide advice on proposed legislation citing as particular examples the Labour Organization Law and the social security law. Recently, the law amending the Settlement of Labour Disputes Law was enacted and further technical guidance and inputs from the ILO are being sought on its application in the knowledge that the law will need to be continuously revised as the policy and practice evolves.

The DG explained the steps of Myanmar's legislative process emphasizing that discussion and consultations within Government and with stakeholders are an integral part of the legislative

process with the final decisions however resting on the Parliament and the President's Office. The process to introduce a new law usually takes around one year.

**Mr. Aaron Halegua**, the ILO/Initiative consultant for labour law reform, gave a presentation on the proposed Roadmap for Myanmar's Labour law reform process (*powerpoint presentation attached*).

The objectives of the paper are two pronged: (1) to start a conversation about developing a comprehensive labour law framework over the next several years; and (2) foster discussion on making the law reform process more open and consultative.

The paper recommended that a three phase approach be adopted.

Phase one: being the process for supporting the immediate MOLES legislative reform program towards as early as possible introducing new and amended legislation identified as critical to fill gaps, to support the economic and social transition and to meet International Standard commitments.

Phase Two: being the development of a Labour Standards Act (LSA) as the centerpiece legislation for the eventual adoption of a comprehensive and coherent, modern and compliant labour code

Phase three: being the consolidation of the LSA and other related law into a full Labour Code as above.

Having an LSA has many advantages – it would provide consistency, since in the LSA there will be general principles and common definitions; efficiency, since the process of drafting, consultations and passage by Parliament will only be done once; and improved accessibility, since key provisions governing employment are consolidated in a single place. It is up to the Government of Myanmar and its social partners to decide on what to include in the Labour Standards Act and which themes/topics should be encompassed in the consolidated labour code. However in so deciding it is important to consider the management process for such activity and the consultative framework that would be utilized.

In relation to both the management and consultation processes, there are existing relevant bodies that could be considered as the platform for both management and consultations:

- (1) National Tripartite Dialogue Forum (NTDF), which is composed of the tripartite constituents that has recently been established and for which a TOR is under discussion and
- (2) The Labour Law Reform Cluster under the Employment Opportunities Sector Working Group of the Naypyitaw accord (LLRC), although this does not include yet workers representatives (a situation which has been agreed will be rectified).

It is felt unnecessary to set up further new structures given the existence of these fora. One possible approach would be for the NTDF to be recognized as the body responsible for overseeing/guiding the labour law reform process and providing a forum for ongoing tripartite consultation, with the LLRC having a broader membership and acting as an advisory body. Whatever structure the Government decides on, the important point is that the mechanisms are accessible to the tripartite partners and that the process will be as broadly consultative as possible with consultation taking place before the proposed legislation is formally submitted into the formal legislative approval procedure. The ILO and the Initiative Partners remain committed to supporting such structures both logistically and through the provision of technical advice.

A number of additional suggestions to strengthen the consultation process were also put forward. It was suggested that drafts of new legislation or proposed amendments be made available to the social partners (on a confidential basis if necessary) at least two weeks prior to a proposed consultation; That ILO technical guidance provided to the Government be shared with the social partners; that Parliament be involved in the process earlier; that civil society be involved in the consultation process as appropriate and that an improved process for gaining public comment be put in place.

**Ms. Piyamal Pichaiwongse**, Deputy Liaison Officer of ILO Yangon, provided a presentation highlighting the relevance of international labour standards to economic development (*powerpoint presentation attached*).

The presentation highlighted four key points:

- (1) Basic fundamental principles and rights at work embedded in the core international labour standards are non-negotiable;
- (2) Need to develop flexible systems to allow adjustments considering the competitive environment while ensuring application of general standards according to local circumstances;
- (3) Draw upon relevant international experience of industrialized countries; and
- (4) At both national and enterprise levels, a necessary informed dialogue/discussion on labour standards take place – understanding their linkages with both economic and social development so that informed choices can be made.

#### **Key points during open discussion**

- The stakeholders' forum is a good starting point on accelerating labour law reform. It was suggested that finally agreed structures should allow for broader participation in the process to enable all interested groups to provide inputs including civil society, labour activists, media and others.
- All parties recognized that there are necessary adjustments to be made in the current legislative framework (i.e. OSH law, factories act, child labour related legislation, the overseas employment act, foreign workers law etc) and that capacity needs to be built to strengthen both application and enforcement.
- MOLES agreed to proceed with the proposed three phase approach and with the labour standards act concept but stressed that Government would need cooperation from employers and workers and technical support from the ILO and Initiative Partners to undertake this work.
- Myanmar should look at the experiences of other countries on labour law reform, extract lessons learnt and apply them in the Myanmar context. A roadmap is definitely important and will help define which would be the best approach for Myanmar.

#### **Session 2: Social Partners Priorities for the labour law reform process**

The objectives of this session were to:

- (1) Understand the views and priorities of the social partners in Myanmar on the labour law reform process;
- (2) Provide the opportunity for Myanmar social partners to explain their current and immediate priorities for labour law reform;
- (3) Provide other participants with the opportunity to identify priorities and further discuss particular labour challenges in the Myanmar context.

Daw Khine Khine U from the Union of Myanmar Chamber of Commerce and Industry and U Zarni Thwe from AFFM-IUF participated as discussants.

The worker representative noted that Myanmar is now operating in a more competitive and globalized economy. Hence, it should find ways to be able to define its comparative advantage and at the same time adjust the legal framework to suit the current realities. There is a need to review the labour laws to find ways to maximize the economic and social benefits of opportunities and investments coming in. The involvement of the social partners in the legislative consultations is important. The roadmap proposal is very comprehensive. The partners now need to define a timeframe to implement it. Workers feel strongly that priority should also be given to the review of both the Labour Organization Law and Settlement of Labour disputes law with the objectives of maximizing cooperation and minimizing conflict.

The UMFCCI representative noted that the ASEAN Economic Community (AEC) is fast approaching and that it is uncertain if Myanmar is ready for the AEC. For the reform process, the business community would like consideration to be given to the conditions of the employers, as well as those of the workers. Being competitive, and productive are critical factors in achieving both economic and social progress. Employers acknowledge that there are weak points in the current labour law system and they are willing to cooperate to ensure that decent work is promoted at the workplace.

#### **Key points during open discussion**

- Increased awareness raising on the rights and responsibilities of both workers and employers is needed. It was noted that UMFCCI and business organizations as well as labour organizations, federations and confederations have a number of ongoing awareness programs for their respective members but that these should be further strengthened.
- Need to find a balance between the priorities of both workers and employers and define timeframes and responsibilities to proceed with the reform process. To undertake these, capacity development support has to be provided.
- Issues about the application and enforcement of laws were also raised: for example, on dismissal without notice, lack of adherence to the FOA convention, dismissals due to organizing of trade unions, employment contracts, and the establishment of Worker Coordination Committees.
- It was recommended that MOLES invite other Government Ministries to participate in the consultations/discussions as appropriate to the issues under discussion.

#### **Session 3: Institutional capacity building**

The objectives of this session were to:

- (1) Identify the gaps/needs of the tripartite partners in undertaking the labour law reform process;

- (2) Pose suggestions to increase the capacity of the tripartite partners and stakeholders on the application of labour laws;
- (3) Note the challenges in implementation/enforcement of labour laws;
- (4) Gain information from stakeholders on their current needs out of labour market institutions and their inputs as to possible assistance in capacity building.

Mr. Christopher Land-Kazlauskas, Chief Technical Adviser of the ILO's Freedom of Association project gave the technical presentation (*powerpoint attached*) with His Excellency Mr. Peter Hansen, Ambassador of Denmark moderating the session.

Three key issues were highlighted as areas for institutional capacity building:

1 – collective bargaining – there is no common understanding on what collective bargaining is and how this can contribute to better labour market outcomes. The concept exists but the development framework is lacking.

2 – labour dispute settlement – the legal and regulatory framework is in place, however, there are structural impediments and institutional challenges that hinder enforcement.

3 – labour inspection – there is a need to clearly define roles and responsibilities and to strengthen institutional and human resources within the FGLLID.

A coordinated and coherent multidisciplinary approach is required to support the capacity development needs of the labour market actors and labour market institutions to fully realize labour law reform. The national actors need to be in the driver's seat as it is their system.

#### **Key points during open discussion**

- The Government is ensuring that coordination with stakeholders takes place to have the process as inclusive as possible. It agrees that the national actors should be in the driver's seat but the country needs more support. The AEC is fast approaching and this needs to be considered a serious priority.
- It was agreed that both human resource development and institutional capacity building are critically needed. To that end it was proposed that consideration could be given to support being provided for the establishment of either joint or separate trade union or employer organization training schools.
- Government has both a leadership and a facilitation role but employers and workers need to accept responsibility for leading elements of the reform that directly impact on them. They should work together and engage with the Government to come up with amicable solutions.
- Employers and workers can also work bilaterally to achieve a certain level of understanding on workplace issues. Social dialogue at the enterprise level is crucial to achieving industrial peace.
- There is a lot of progress compared to two years ago as regards to the relationship of employers and workers. The social partners are willing to cooperate with the MOLES. It was again suggested that other Government Ministries can also be engaged in the discussions.

#### **Parallel Breakout Sessions**

##### **Breakout session on Child Labour**

This session discussed the international standards and Myanmar Law pertaining to child labour, buyer/investor expectations, the particular challenges of implementation in the Myanmar context, and potential modalities for systematically addressing the issue.

The session was chaired by His Excellency U Htin Aung, Deputy Minister of MOLES and panel members were from MOLES (U Thin Ko Ko), representative of workers (Daw Htwe Htwe Thein), employers (U Hnin Oo) and from international investor (Julia Bakutis, H&M). Participants were public and private stakeholders, including from the Ministry of Education, Ministry of Social Welfare and business sourcing companies. Mr Selim Benaissa, ILO CTA for the project for the elimination of child labour made a presentation on technical progress/current issues (*presentation attached*).

Ms Piyamal Pichaiwongse, ILO Myanmar Deputy Liaison Officer presented to summary report of discussion back to the plenary.

The Break-out group benefitted from a series of very useful presentations from the discussants and subsequently had extremely useful open discussion.

It was recognized by all parties that poverty is one of the root causes of child labour. There is not enough data available for all parties to come up with comprehensive measures to address the problem. There is a strong suggestion that anti-poverty measures need to be in place otherwise the work towards ending child labour will take longer than envisioned. Stakeholders acknowledged that the child labour situation seemed to be pervasive in the rural areas where the rule of law is weak and poverty is more prevalent.

There are existing laws but these remain fragmented and therefore need adjustment. It was suggested that the requirements of the recently ratified Convention 182 on the Worst Forms of Child Labour be incorporated into national laws with both those laws and their application taking account of the Myanmar context. Commitment of the stakeholders to enforce the convention is assured but support for awareness raising and capacity building is required.

The stakeholders agree on the vision of zero tolerance against child labour, in particular its worst forms which must be immediately addressed. It was recognized that in respect to the broader working children issues incremental measures and approaches should be adopted as the way forward and that partnerships are critical to achieve this objective in context of Labour, education, health, social protection and economic policy coordination.

The good collaboration between MOLES, MSWRR and MOE needs to be recognized. The political will is present, but the country needs more time to achieve its objective for the elimination of child labour. There is a call to international investors to understand the business model of Myanmar and to assist local employers to plan ahead. There is no disagreement about the importance of education for children, but income and job opportunities for their parents need to be in place so that they will not need to send their children to work.

The stakeholders noted that the Convention on the Rights of the Child Committee has defined that eligible age for employment as 16 years old, while in reality stakeholders are of the view that in Myanmar context it is very important to match the eligible age to enter the workforce with the age of school leaving and to consider the physical and mental well-being of the person, as well. There is a desire to adopt ILO guidelines on minimum age.

There is a need to improve the issuance of ID cards and to develop scientific and reliable age verification processes. The stakeholders also expressed the need to make a clear distinction between working children and child labour. They further emphasized the importance of defining hazardous work. For this, support from the social security board is needed. The social security doctor



will be able to verify the age of a person and recommend if he/she is of eligible age to work and under what conditions.

The stakeholders expressed the need for better education and TVET provision to lessen the risks of child exploitation and enhance employment opportunities for the child.

Dialogue with employers is crucial notwithstanding the criminal offense nature of the practice.

MOLES also noted the need for continued support from the ILO on research, awareness raising and appropriate legislative provisions on child labour.

### **Breakout session on Labour Disputes**

This session discussed the factors that have contributed to and/or exacerbated disputes, including the recent strikes, the current dispute settlement mechanism, its strengths and weaknesses and the interventions that could improve the current industrial relations system.

The session was chaired by U Win Shein, Director General of the FGLLID and representatives from the employers (Daw Khine Khine Nwe from UMFCCL) and workers (Dr. Sai Khaing Myo Tun from Myanmar Teachers Federation) acted as resource persons.

**Mr Christopher Land-Kazlauskas, the CTA for the ILO Freedom of Association and Social Dialogue project, reported back to plenary on the breakout session deliberations. He again reported on valuable contributions from presenters and active, constructive open discussion from all participants.**

The stakeholders noted that the relevant laws had been released very quickly, hence, workers and employers had little ability to input into the process or content. The session participants felt that many stakeholders have very limited knowledge and understanding of what constitutes a sound labour relations environment and the respective roles, responsibilities and behavioural patterns necessary to make them work well for all parties. They are unclear on definitions of concepts such as collective bargaining and this leads to misconceptions. There were recognized weaknesses in conciliation systems and in the application of the principles of conciliation and mediation.

As regards to the causes of labour disputes, these are mainly related to wages and unmet working conditions expectations. There are serious problems in compliance; arbitration decisions are being ignored; there is a lack of respect for the rule of law. It was felt that whilst it was important to apply the law with meaningful penalties against those who break the law it is also necessary to recognize those who are doing the right thing using their good practice as models for others.

Employment contracts need to be fair and transparent. There were serious issues raised on unjustified dismissals.

The absence of any substantive legal provision establishing a collective bargaining framework and providing mechanisms for its application was noted.

There were structural issues with the conciliation bodies - the limited training and the limited mandate of members of those bodies as well as weaknesses in the LOL were also raised.

What needs to be done? Participants felt that there is an urgent need to address the deficiencies in the law (LOL, settlement of disputes; employment contracts); law is key but it needs to have strong

foundations which are based on Convention 98 and appropriate penalties for non-compliance. Parallel awareness raising and training was seen as being crucial.

There is a need to monitor decisions of arbitration bodies; employers and workers need to understand the arbitration decisions and adapt their policies and approaches accordingly. Education about the labour laws is important for both workers and employers. Mutual understanding in the workplace is needed for better working relationships.

### **Plenary Session on Minimum Wage Setting**

This session provided the opportunity for MOLES to update the stakeholders on the current situation concerning the setting of the minimum wage.

Dr. Zaw Oo, Economic and Social Adviser to the President, chaired the session while DG U Myo Aung was the resource speaker.

DG Myo Aung provided an update on the ongoing process of minimum wage setting (*powerpoint presentation attached*).

Included in that presentation were the below key points:

- The Minimum wage law was enacted on 22 March 2013 and corresponding rules were issued by the MOLES Union Minister on 12 July 2013. It came into force on 4 June 2013.
- A National minimum wage fixing committee was set up comprised of representatives of Government, labour organizations, employers and minimum wage experts. This committee was formed by the President on 20 December 2014. This committee should hold regular meetings twice a year.
- Consultations with workers and employers in Yangon, Mandalay and Bago were conducted.
- A pilot survey in Yangon, Mandalay and Bago was conducted by ILO and MDRI.
- Field trips to 50 factories were conducted in Yangon, Bago, Ayeyawaddy and Kayin state in May 2015 led by the Deputy Minister.
- Numerous meetings of the regional and national committees have been held and a further national committee meeting will be held in the very near future. That meeting will also have the chairmen of regional and state committees, including the Naypyitaw council area, in attendance and will be the meeting at which the results of the household living wage survey undertaken by MOLES will be presented. It is expected that this research will inform the discussion on possible Minimum Wage rate impacts. Following this meeting a further Wage forum will be held with broader attendance from the Government, workers, employers, the Hluttaw, political parties, legal experts as well as NGO and INGO representatives and technical experts from the ILO,.
- After these fora, a recommended minimum wage rate or rates will be announced with the public having 60 days to lodge objections following consideration of which a recommendation will be submitted to the Union Cabinet and Hluttaw for approval.
- Only then, notification of the minimum wage will be published.

### **Key points during the open discussion**

- The Government is determined to set the minimum wage. This is the first time that Myanmar is setting a minimum wage. While we should take account of the situation and procedures adopted in other countries Myanmar should adopt a process appropriate to Myanmar. The minimum wage will be reviewed every two years.

- The survey aimed to get information about workers' needs and to get data on living conditions. The minimum wage aims to ensure a balance between workers' welfare and rights to fair income as well as to maintain the competitiveness and boost the productivity of enterprises.
- There is no age description in the minimum wage law.
- The employers issue on transactions costs is noted and to be considered in the minimum wage discussions.
- The minimum wage should be the minimum for the ordinary hours of work and is the rate established to protect the most vulnerable in the work force. As such it should not be confused with the actual paid wages and conditions established at enterprise or sector level.

### **Session on Way Forward**

This session with presentations and moderation by Mr Steve Marshall (ILO) and Mr Eric Biel and Ms Sarah Fox (US Government) presented a synthesis of the discussions, highlighted important priorities and recommendations and stimulated discussions on the way forward. Particular emphasis was given to suggestions for institutionalizing of dialogue going forward to inform the labour law reform process and to promote cooperation among stakeholders, including between international and domestic stakeholders.

From the presentations and subsequent plenary discussion the following consensus views and recommendations were identified:

The level of commitment of GOM is clear on LLR needs and GOM is seeking support to continue these activities. The new framework should be Myanmar specific, learning from experiences of others and developed at a pace that is manageable for Myanmar.

There appears to be a general consensus in favour of a phased approach to LL reform; short-term, medium-term and long-term.

A full labour law reform exercise will take a minimum of three years and possibly longer.

Phase 1, which is now underway, will focus on priority amendment of existing legislation, and the development of new laws and regulations such as the OSH act, to fill identified critical gaps.

The expansion of regulated industrial relations procedures supporting social dialogue and collective bargaining and a further revision of the settlement of labour disputes law have been identified as additional priority areas. It is important to note that given the parliamentary timetable and the proximity to the elections these are unlikely to be addressed in the term of the current Government but they should be considered for urgent attention under an extended phase one.

There appears to be acceptance of the labour standards act (LSA) approach as phase 2 of the process. Such an approach will provide common definitions and general conditions recognizing that specific references to industries with special requirements may need to be incorporated and that the LSA may need to be supported by other legislation in thematic areas.

Phase 3 would be the consolidation of old, amended and new legislation into a cohesive code.

On the need for consultations the forum is unanimous that a solid consultation mechanism for the labour law reform process is required.

Broad recognition exists that government must be in the driver's seat, however employers and workers should share ownership of the process and through appropriate consultation shared responsibility on the content.

General agreement was expressed that, rather than creating new structures, the existing mechanisms of the NTDF and the labour law cluster under EOSWG should be utilized to govern and guide the LLR and consultation processes.

The NTDF chaired by MOLES with Employer and Worker representation was seen as the logical focal body for the LLR process with governance provided by the main NTDF body and consultation being undertaken through the use of ad-hoc sub-committees utilizing personnel with specific issue knowledge/interest. It was noted that such committees should involve representatives of all relevant sectors (garment, transport, manufacturing, construction etc) as well as representatives with the disability and gender perspectives.

The Labour Law Reform Cluster with wider stakeholder membership was seen as an additional part of the consultative framework playing an advisory body role.

It was agreed that wherever possible, drafts (confidential as necessary) of the proposed amendment or new legislation should be provided wherever practicable at least two weeks before a planned consultation, so that people can give considered responses at consultation meetings.

It was agreed that a procedure for the early involvement of appropriate Parliamentarians and Parliamentary Committees should be developed.

It was further agreed that new legislation must be compliant with fundamental International Labour Standards, the core principles of which are non-negotiable, and further the process should be guided by the other International standards recognizing the Myanmar environment, its development challenges and capacities.

It was agreed that parallel priority must be given to the issue of capacity building; The relevance of training was highlighted in respect of both hard and soft skills including support to all parties on conceptual understanding of the new environment; In addition to specific support of Government Institutions parallel support for the social partners is critical with the suggestion of specialized training schools for employers and workers addressing amongst other things industrial relations and governance issues being tabled for consideration.

It was noted that issues such as privatization and AEC need to be considered in the labour law discussions as these have implications on legislative decision making.

It was agreed that the International labour movement, International investors and sourcing companies should be kept informed about developments in the LLR process and given the opportunity to input into it. This could be through their being invited to be part of the Labour Law Reform Cluster.

It was acknowledged that whilst there is a lot of progress being made there is still much to be done and it was also recognized that this can, if not planned and managed appropriately, be overwhelming. Social dialogue skills are very necessary to make the process work for the benefit of all stakeholders and the country at large.

There should be respect for the institution building that is ongoing in the country and there should also be respect for the rule of law with parties complying both with legislative requirements and the decisions of arbitration bodies/courts.

## **Closing Session**

At the closing session, the key representatives from the initiative partners (represented by the United States Ambassador), international investors (represented by GAP, H&M and Coca-Cola), employers (UMFCCI) and workers (CTUM) shared their “take-aways” from the Forum. The Government represented by the Deputy Minister of MOLES provided the closing remarks.

The United States Ambassador, His Excellency Mr. Derek J. Mitchell, noted that the Stakeholders Forum is an initial step in multi-stakeholder engagement. The initiative’s end goal is to underpin inclusive economic growth by protecting Myanmar’s workers. But the process is as important as the goal. He expressed appreciation to the GOM and the initiative partners for moving this reform process forward.

The international investors welcomed the labour law reform initiative. They agree with the ILO’s proposal on the key elements of the reform process. They stressed the need for Myanmar to allocate enough resources to implement the labour law reform plans. They also stand ready to support the local partners to address the current challenges and will look into ways to strengthen employers, improve social dialogue and to engage the ILO for continued support.

The UMFCCI noted that Myanmar has come a long way in terms of social dialogue. The facilitative role of the government is very important to ensure that employers and workers understand the relevant legislation. The strengthening of the legislative framework must reflect the situation in Myanmar and legislation should be applicable and implementable at all levels and reflect the concerns of both employers and employees. It is still a long road ahead but through working together the country could progressively move forward.

CTUM agreed that there has been a lot of progress made on social dialogue. Awareness has increased and everybody wants to get involved. It is hoped that multinationals on the ground could participate and cooperate with the trade unions. The role of MOLES in facilitating the dialogue should be recognized. The stakeholders would all want Myanmar to move faster but limitations have to be recognized. The process should be inclusive encompassing all sectors with consultations on matters such as child labour or minimum wages including not only the garment industry but also other sectors such as food or mining etc. On transparency, there is a need for multinationals to lay out what they have done and what else is needed for them to comply with international standards. There is also a need to monitor the results of CSR initiatives and to measure their impact on the welfare of the labour force.

His Excellency, Deputy Minister U Htin Aung emphasized in his closing remarks the following points:

- Reform will not happen overnight, we all must recognize the progress and limitations.
- Although the political will is there capacity building is needed to sustain the momentum of the reform.
- All stakeholders must participate and contribute in the reform progress. The Government cannot do it alone.

- Consultations between the MOLES law unit, Attorney General's office, ILO, workers, employers and other representatives need to be continued.
- The dialogue culture in Myanmar is progressing and we need to maintain this.
- Trade unions are encouraged to educate their members to follow mediation and conciliation processes. Everyone wants to see amicable solutions to disputes.
- There has to be a clear understanding that collective bargaining is not collective demand.
- The GOM will support social partners' efforts by providing regulations and facilitation services.
- Myanmar is the owner of this initiative. Myanmar should be in the driver's seat. MOLES calls upon all stakeholders to work towards the achievement of the identified common goals and to work together in the implementation of the Initiative.