



FOR DEBATE AND GUIDANCE

EIGHTH ITEM ON THE AGENDA

**Developments concerning the question
of the observance by the Government
of Myanmar of the Forced Labour
Convention, 1930 (No. 29)****Introduction**

1. The recent situation in Myanmar has been extensively documented in the world news. The large-scale demonstrations in September 2007 started as protests over rising prices resulting from major fuel price increases following the Government's reduction of fuel subsidies. Actions on the part of the authorities to stop these demonstrations resulted in their gaining momentum and evolving into broader based action, not only in protest against rising prices but also seeking redress to perceived social wrongs and promoting political reform. The serious concerns of the international community with regard to the Government of Myanmar's violent repression of the protest led to high-level intervention by the United Nations Security Council, through the services of the Secretary-General's Special Envoy to Myanmar.
2. At the time of writing this report, steps are being taken to promote negotiation and dialogue between Senior General Than Shwe and his Government and Daw Aung San Suu Kyi and her National League for Democracy (NLD). A relative calm has returned to the streets, but the night-time curfew remains in force. There are continuing reports of home occupancy inspections and the detention of perceived protesters, potential leaders and opposition supporters.
3. This report will be submitted in two parts. This initial part reports on progress since the 298th Session of the Governing Body in respect of the application of the Supplementary Understanding signed between the ILO and the Government of Myanmar on 26 February 2007, establishing a mechanism to enable victims of forced labour to seek redress, and covers the period through to the end of September 2007. The second part will report on the situation after September as regards both the application of the Supplementary Understanding and the activities of the Liaison Officer. It will be distributed at a later date as a separate addendum, so as to be as relevant as possible.

Position and activities to 30 September 2007

4. As at 30 September 2007, the Liaison Officer had received 53 complaints. Of these, 19 fell outside the Officer's mandate, relating for example to such matters as land confiscation, payment of wage disputes and unjustified termination of employment claims; 21 had been duly assessed and formally submitted to the Deputy Minister of Labour, Major-General Aung Kyi, in his capacity as Chairman of the Government Working Group on Forced Labour; four had been closed after assessment determined insufficient basis to proceed; and nine are still being assessed or cannot proceed until further information is received from the complainants.
5. As at 30 September, of the 21 complaints submitted to the Deputy Minister of Labour, ten had been processed through to a conclusion considered acceptable for the closure of the file. In respect of the other 11, information is still pending from the Government Working Group on the findings of its investigation and the action it proposes to take in response to those findings. A copy of the up to date complaints register will be attached to the addendum to be distributed at a later date.
6. Within the limitations of the Supplementary Understanding, the Government Working Group and the Ministry of Labour have been cooperative in their administration of the procedure and have responded seriously to complaints. While there have been no further prosecutions of offenders resulting in imprisonment or criminal conviction beyond those reported to the Governing Body at its March 2007 session, a number of complaints have resulted in the termination of the employment of the responsible officials and the issuing of administrative warnings. The Government Working Group appears to be more successful in achieving prompt and constructive outcomes in cases associated with civil administrations. It is more difficult to obtain timely and appropriate responses on complaints involving the military.
7. During August and September 2007, two joint ILO/Ministry of Labour mediation, training and awareness-raising exercises were carried out in a number of villages. While there were attempts at some levels to downplay forced labour complaints, the cooperation of the Ministry at the senior level was positive. This approach, combining education and mediation, has been useful in the context of forced labour complaints relating to community-based infrastructure projects. It entails raising the awareness of all the people in a village as to the difference between forced labour and voluntary work. It envisages the introduction of a procedural protocol, acceptable to all parties, for the identification, acceptance, planning and undertaking of beneficial community projects where the requirement for labour is not too great. This approach is, of course, valid only for small projects within a community, where work is to be undertaken on a purely voluntary basis with no reprisal or punishment for non-involvement. An understanding along these lines has been reached in two villages so far. If the planned follow-up and verification show that the approach is effective, this model could potentially be used elsewhere in the country in similar small-scale circumstances.

8. Such an approach is not applicable to activities which quite clearly involve forced labour rather than community projects, including major infrastructure works such as large-scale road- and bridge-building projects. Obviously, such an approach cannot be applied to forced labour exacted by the military. In both of these areas, it is necessary to remind the administration continuously of the legal prohibitions relating to forced labour and of its responsibilities under the law, and also to ensure that the law is enforced. The Government has undertaken widespread training for administrators to raise awareness of the law and to explain the Supplementary Understanding procedure. A further round of such training on a joint ILO/Ministry of Labour basis has been discussed. The Government has drafted a booklet entitled *Eradication of forced labour – Educational Paper No. 1*; consultations on its content and format are continuing prior to the intended publication and dissemination of the booklet throughout the administration. In parallel to this educational activity, measures must be taken to enforce the law, with formal investigations taking place and with perpetrators being charged under the law or otherwise appropriately dealt with. The Supplementary Understanding procedure can only play a limited role in that regard.
9. It is both physically and financially very difficult for victims of forced labour or their relatives to lodge a complaint if they live outside Yangon. Informal networks have been developed to make it easier to lodge complaints. Although valuable, these informal networks do not necessarily extend to all parts of the country. Discussions are under way on the establishment of a more formal network encompassing international organizations, international non-governmental organizations and non-governmental organizations. It is hoped that such a network will facilitate the broader dissemination of materials explaining the law and rights under that law. In the absence of a network of ILO representation throughout the country, such a network could be used as a local repository for the receipt of complaints. Network partners would, by necessity, act solely as “mailboxes” for complaint submissions. If such a network is developed, emphasis must be placed on selecting appropriate partners and providing their field staff with basic training on complaint receipt procedures, confidentiality and security.
10. Although the international press regularly publishes allegations of widespread and brutal forced labour practices, very few of these reported cases are referred directly to the Liaison Officer. The same is true for the publications and reports produced by a number of border organizations. It would be in the interests of all for such allegations and reports to be brought under the ambit of the Supplementary Understanding, to enable the verification of the facts and an investigation into the complaints to be carried out.
11. In May 2007, six labour activists were detained in connection with a May Day meeting held in the American Center in Yangon. The arrests were brought to the Liaison Officer’s attention and the matter was raised with the Government in the context of its responsibilities as a signatory to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). In July, it was established that the detainees had been charged and that court hearings had commenced. On 7 September, the detainees were convicted and sentenced for alleged offences under the Unlawful Associations Act, the Immigration (Emergency Provisions) Act and the sedition sections of the Penal Code. They each received a prison sentence of between 20 and 28 years. The ILO, through its Geneva headquarters, issued a press statement calling for the review and overturning of those convictions and the release of the individuals concerned. These calls were reconfirmed by the Liaison Officer in communication with the Government, both orally and in writing.

12. Since the last session of the Governing Body, the Government has granted an entry visa for an assistant to the Liaison Officer. Ms Piyamal Pichaiwongse started work in Yangon on 24 July 2007. This additional professional resource has provided valuable support to the Liaison Officer, including with regard to receiving and assessing complaints and undertaking field investigations. It has further permitted the Liaison Officer to involve the ILO as appropriate in such matters as the forced labour aspects of children in armed conflict zones, child soldiers, child protection, juvenile justice and the trafficking of children, in cooperation with other United Nations agencies, in particular the United Nations Children's Fund (UNICEF). Similarly, the presence of additional professional support has permitted the Liaison Officer to be part of the Human Rights Group recently formed by the United Nations Country Team, the aim of which is to ensure that appropriate emphasis is placed on fundamental human rights issues in balance with the humanitarian programmes currently in place. It is hoped that this support base will be maintained in the next biennium.

Geneva, 29 October 2007.

For debate and guidance.