



## **Additional agenda item**

### **Report of the Officers of the Governing Body**

1. At its 313th Session (March 2012), the Governing Body requested its Officers to undertake a mission (the “Mission”) to Myanmar and to report to the International Labour Conference at its 101st Session (2012) on all relevant issues, with a view to assisting the Conference’s consideration of a review of the measures previously adopted by the Conference<sup>1</sup> to secure compliance by Myanmar with the recommendations of the Commission of Inquiry that had been established to examine the observance by Myanmar of its obligation in respect of the Forced Labour Convention, 1930 (No. 29).
2. The Mission, composed of Mr Greg Vines, Chairperson of the Governing Body, Mr Luc Cortebeeck, Worker Vice-Chairperson of the Governing Body, and Mr Brent Wilton, Secretary of the Employers’ group of the Governing Body, as the personal representative of Mr Daniel Funes de Rioja, the Employer Vice-Chairperson of the Governing Body, visited Myanmar from 1 to 5 May 2012. The Mission met with authorities at the highest level, including: the President of the Republic of the Union of Myanmar; the Speaker of the Parliament’s lower house; the Minister of Labour; the Minister of Foreign Affairs; the Attorney-General; other representatives of the Government; and the Commander-in-Chief of the Defence Services. It was also able to meet and discuss with Daw Aung San Suu Kyi, President of the National League for Democracy (NLD); representatives of other opposition political parties; the National Human Rights Commission; labour activists; the leaders of newly registered workers’ organizations; and employers’ representatives from the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) and recently registered employers’ organizations. The Mission also met with leaders of the Federation of Trade Unions of Burma (FTUB) in Bangkok on 6 May 2012. The list of persons that the Mission met can be found in Appendix I.
3. The Mission was fully mindful of its responsibility to assist the Conference in its consideration of a review of the measures previously adopted by the Conference to secure compliance by Myanmar with the recommendations of the Commission of Inquiry.

<sup>1</sup> Resolution on the widespread use of forced labour in Myanmar, adopted by the International Labour Conference at its 87th Session (June 1999), and the resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Myanmar, adopted by the International Labour Conference at its 88th Session (May–June 2000). The texts of these resolutions are contained in Appendices II and III.

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4. The Mission sought to assess the extent to which the expression of commitment to the elimination of forced labour that it heard from the top-level civilian and military authorities was being, and would be, realized on the ground. In other words, are those changes “real”? Through its extensive discussions, the Mission was able to subject its perceptions of commitment expressed by high-ranking authorities to a reality check with a wide range of non-governmental stakeholders.
  5. Developments in respect of forced labour have been regularly reported to the Governing Body by the ILO Liaison Officer in Myanmar, most recently in March 2012,<sup>2</sup> and also through his reports to the Conference Committee on the Application of Standards for its special sittings on Myanmar. The Mission therefore considered that it should, through the most extensive discussions possible, supplement the information already available to the Conference by providing its evaluation of the current situation in Myanmar, with particular emphasis on recent events relevant to the measures under review. To this end, it considered it necessary to also give an evaluation of wider developments in respect of labour issues in Myanmar, as well as its evaluation of the overall process of political and economic reform, taking into account the views of key government and non-government stakeholders.
  6. The speed of change is impressive. The Mission was assured by all Government representatives with whom it met of their commitment to political democratization. During its visit, Daw Aung San Suu Kyi and other recently elected members of Parliament, mostly from the NLD, were sworn in as members of Parliament. Daw Aung San Suu Kyi and other opposition party representatives all considered that the reform appeared to have taken hold, particularly in the last few months. The President delivered a May Day speech stating that decent work for all was a fundamental objective of Myanmar, committing to the abolition of forced labour and the promotion of freedom of association. The Commander-in-Chief of the Defence Services stated that the military recognized that its role under the new civilian Government was different from the one it had had in the past.
  7. The very fact that the Mission had the opportunity to hold a long and open discussion with Daw Aung San Suu Kyi, whose release from house arrest had repeatedly been requested by both the Conference and the Governing Body for a number of years, is an indication of the positive and significant developments in the country. During the discussion, Daw Aung San Suu Kyi expressed cautious optimism about the reform process, and noted that the next six months would provide clearer evidence of the sincerity of the Government in that regard. She felt that there was a danger of the international community acting too quickly. She underlined that establishing the rule of law – which did not yet prevail – was crucial for real democratization and change. She cautioned the international community to ensure that international development assistance and private investment served to empower people and to improve their lives, rather than to consolidate the current power settings. In particular, she stressed that the ILO’s standing and influence in Myanmar meant that it should not be concerned about losing ground to other actors because of any perceived delay. However, she also emphasized the importance of, and need for, ILO technical cooperation and assistance, particularly in the areas of community empowerment, youth employment, and child soldiers and their reintegration into society.
  8. It was evident to the Mission that the process of political transformation is already eliciting widespread interest in foreign direct investment opportunities. This is likely to continue in the foreseeable future, with important consequences for decent working conditions in the country. The UMFCCI stressed that it wished to see socially responsible business practices by all employers operating in the country, and that it had already decided to engage with

<sup>2</sup> GB.313/INS/6, GB.313/INS/6(Add.) and GB.313/INS/6(Add.2).

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the United Nations Global Compact to that end. The representative of a recently registered employers' organization recounted that, until recently, strong Government interference in wage setting had kept wages unduly low, leading to unrest among workers in his company, but that he now looked forward to using his "voice" to pursue negotiated arrangements. The representatives of the UMFCCI stressed the need for social dialogue.

9. In respect of freedom of association, at the time of the Mission's arrival, 15 workers' organizations and ten employers' organizations had been registered under the Labour Organizations Law, with more applications for registration being processed. This Law entered into force in March 2012 with the issuance of implementing regulations. The representatives of the workers' organizations had met on May Day to freely elect, for designation by the Government, the Workers' delegate to the 101st Session of the Conference. The Mission was able to meet with the leaders of many of these organizations. They expressed the view that registrations had been going smoothly, despite all parties' relative inexperience with the new system. However, a few indicated some examples of inappropriate interference by the local authorities or some employers.
10. The Mission raised with all Government representatives the issue of the status of the FTUB. It was told that organizations connected to the FTUB had not been registered because they had not yet made the necessary application in accordance with the Labour Organizations Law. These organizations were encouraged to take the necessary steps, and would be duly registered if they met the requirements of the Law. However, the Mission received differing messages from the Government concerning the future role of the FTUB and the possible return of its exiled leaders so that they could undertake trade union work. The FTUB had been labelled a "terrorist organization" by Declaration No. 1/2006 and some of its leaders had been branded as terrorists. This Declaration is still in force.
11. Daw Aung San Suu Kyi expressed the view that, in the new political climate, it was up to the FTUB, like any other workers' organization, to secure its representative status under the terms of the labour legislation now in force. She expressed concern that there was a danger that some trade unions could be manipulated by political parties, and that this should not be allowed to happen. The Mission considers that in the atmosphere of a more inclusive political process, it is important for the Government to permit the representatives of the FTUB, an affiliate of the International Trade Union Confederation (ITUC), to return and lawfully engage in the building of an effective trade union movement and social partnership. All those concerned should engage in a constructive dialogue with a view to resolving this issue, to which both the Conference and the Governing Body have paid particular attention. In the Mission's view, the way forward is to ensure that: (1) U Maung Maung (General Secretary of the FTUB) and his colleagues are able to return to Myanmar as free persons and without any threat of legal action; (2) U Maung Maung and his colleagues are free to undertake trade union activity within the framework of Myanmar's legislation; and (3) the Declaration labelling the FTUB as a terrorist organization is rescinded. The Mission presented this view to the Government, which committed to considering it. The Mission was able to meet with the FTUB leadership in Bangkok. U Maung Maung confirmed that it has always been, and still is, the firm intention of the FTUB leaders to return to Myanmar as soon as this can be achieved without fear for life or safety. The FTUB's leadership acknowledged the significant changes occurring in Myanmar and indicated that it was keen to play an active part in stimulating healthy economic and social development in the country by organizing workers and by taking part in social dialogue.

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## Action on forced labour

12. The measures decided by the Conference in 1999 and 2000 were aimed at ensuring Myanmar's full compliance with the recommendations of the Commission of Inquiry. The Mission therefore paid particular attention to examining first-hand the action being taken by the Government to meet its obligations under each of the three recommendations of the Commission of Inquiry and the most recent conclusions of the Governing Body on the subject.
13. Significantly, the Government, through the Minister of Labour, acknowledged that the Commission of Inquiry, and its recommendations, had been fully justified and that the Government at the time had not adequately implemented those recommendations. The Minister had given them his full attention since taking office in 2006, and this had resulted in the signing of the Supplementary Understanding in 2007. Some ministries had initially been limited in their participation, but considerable political will to eliminate forced labour by 2015 was now emerging. The new Working Committee on the Joint Strategy for the Elimination of Forced Labour, chaired by the Deputy Minister of Labour, had been able to engage the Ministries of Labour, Defence, Home Affairs and Foreign Affairs, as well as the Defence Services, in its efforts to comply with the recommendations of the Commission of Inquiry. The Minister of Labour expressed the view that the new Government had given substantial effect to each of the recommendations. Consequently, in the Government's view, the measures adopted under the Conference resolutions should now be lifted.
14. The Mission was able to confirm the information previously reported to the Governing Body that the necessary legislative base had been put in place with a view to meeting the requirements of Convention No. 29. That had involved repealing the Village Act and the Towns Act of 1907, and the adoption and entry into force of the Ward or Village Tract Administration Act in 2012. The latter Act had been amended in the meantime to include a specific definition of forced labour and provisions relating to its prohibition and to the punishment of perpetrators of forced labour under the Penal Code.
15. This welcome development led the Mission to stress to all those it met in Myanmar the pressing need to ensure that the new legislation was applied fully so that in actual practice, and without delay, no forced or compulsory labour was imposed by the authorities, including the military, inside or outside conflict zones.
16. In this context, the Mission attached particular importance to the finalization and implementation of the comprehensive, proactive, joint strategy for the full elimination of all forms of forced labour by 2015 (the "Joint Strategy"), which had been the subject of a Memorandum of Understanding signed by the Deputy Minister of Labour of Myanmar and the ILO Liaison Officer on 16 March 2012. It urged the Government and the ILO Liaison Officer to conclude the action plans for the implementation of the Joint Strategy in sufficient time for it to be brought to the attention of the Conference, to ensure that all parts of the Government and the military were engaged fully in its implementation, and that adequate resources were allocated for that purpose. The Mission made it absolutely clear, and the Government acknowledged, that there was a need for immediate action, and that the setting of a date limit of 2015 for the final elimination of all forms of forced labour could not be a pretext for delay. It was stressed that action should be taken to eliminate forced labour as soon as possible before that date. The Mission was particularly encouraged to hear that the Joint Strategy would be endorsed by the Government's Cabinet, as this reinforces the elimination of forced labour as a common endeavour to be undertaken by all public authorities. It is also important that the Joint Strategy be widely publicized to ensure the broadest public awareness.

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- 17.** It should be recalled that, at its March 2012 session, the Governing Body concluded that the new Joint Strategy “should be accompanied by a high-level public commitment to its implementation and to full compliance with Convention No. 29”. The Mission was therefore particularly pleased to note the following strong statement made by President U Thein Sein on 1 May 2012:

Our elected Government has been in the office for over a year and it is high time we should eliminate all forms of forced labour once and for all for the enhancing the eternal principles of justice, liberty, equality in the Union. Forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily. Therefore, the process of eradicating forced labour in Myanmar has been accelerated and the International Labour Organization and the Government of the Republic of the Union of Myanmar have launched a Joint Strategy for the absolute elimination of forced labour in Myanmar by 2015.

- 18.** This statement was widely publicized in the national media and reproduced in full on the front pages of the national press, in both the English and Myanmar languages.
- 19.** In addition, the Mission was informed by the Commander-in-Chief of the Defence Services that he had issued instructions to all units on 21 March 2012 to the effect that the prohibition of forced labour by law applied to the military; that the exaction of forced labour would not be tolerated and would be punished pursuant to article 374 of the Penal Code; that non-military personnel, including convicts, would not be used for forced labour in conflict zones; and that the military must engage non-military personnel in non-conflict zones for purposes such as construction or portering, by way of freely engaged and paid employment. The Mission has requested a copy of these instructions. The Mission sought to establish the extent to which these formal commitments to the elimination of forced labour were being translated into real action. While incidents of forced labour continued to be brought to the Mission’s attention, the testimony of ILO facilitators working on the ground, opposition members of the Parliament and the FTUB indicated that there had been a substantial reduction in, or in some cases a cessation of, forced labour, particularly in the last few months.
- 20.** The Mission received information on the prosecution of perpetrators of forced labour, both by the civilian and military authorities. The Commander-in-Chief stated that article 65 of the Military Code provided for more severe punishment of perpetrators of forced labour than the Penal Code did (i.e. a maximum of seven years of imprisonment compared to a maximum of one year), but that he had decided to comply strictly with the recommendations of the Commission of Inquiry. The Mission was informed that the forced recruitment of under age children was not part of the Defence Services’ recruitment policy. Children below the minimum age limit (18) were systematically rejected and returned to their parents. An age verification of new recruits had been undertaken, and more than 300 recruits found to be under age had been released or their application rejected. A number of children imprisoned for desertion had also been released. Action had been taken under the Penal Code against 28 officers and 142 other officials supervising the recruitment process, while five military staff members had already been convicted and 28 officers had lost their right to promotion. The Mission has requested that more detailed written information on and confirmation of the punishment of perpetrators be provided by the Government to the ILO at the Conference. The Mission received assurances that the Government was committed to applying the full force of law against offenders – civilians and military alike.
- 21.** The Mission noted that ten labour activists are still in prison and provided the Government with a copy of the list of their names, requesting again their release. The President undertook to follow this up.

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## The Mission's evaluation of the current situation

22. The Mission was able to recognize the accelerated process of democratization, mindful of the fact that the current Government only took office a little more than one year ago. Individuals previously imprisoned by the military Government informed the Mission that they now feel more secure. A strong commitment to advancing and accelerating the process was expressed by both President U Thein Sein and others in the Government, and by Daw Aung San Suu Kyi, with all recognizing that many challenges remained to be overcome. While there can be no certainty of irreversibility, the Mission is cautiously optimistic. Daw Aung San Suu Kyi said that the necessary top-down drive for reform now needed to be matched by a mechanism of genuine, bottom-up people's participation in a sustainable process of democratization, underpinned by the rule of law. The Mission was of the strong view that it was a fundamental responsibility of the ILO to contribute in all ways available to it, within its mandate, to the advancement of democracy, to the respect of human rights and to social justice in Myanmar.
23. The Mission was left in no doubt as to the significance and the impact ILO action has had in respect of Myanmar from the time of the Commission of Inquiry.
24. The Mission takes account of the view of the Government and the opposition that it is now time to recognize the extent of positive change in Myanmar and also that consideration should be given to the needs of its 60 million citizens.
25. Beyond the fact that the measures adopted in 1999 and 2000 by the Conference, and subsequent action by ILO constituents, have had an obvious impact, the activities of the ILO Liaison Officer and his team in Myanmar are widely regarded as having been very effective and valuable, and need to be continued and strengthened. The complaints mechanism established by the Supplementary Understanding remains a powerful tool in promoting progress in the elimination of forced labour.
26. Moreover, it is clear that the current assessment by the Mission of the situation in Myanmar, the regular reports of the ILO Liaison Officer and the deliberations of the Governing Body and the Conference are key international reference points that have influenced, and that will continue to influence, the decision-making processes of individual Members and relevant international bodies.
27. The Mission noted that the advice provided by the ILO on draft laws and regulations concerning freedom of association was perceived as useful and productive. The process had resulted in the registration of workers' and employers' organizations. While the registration process was generally regarded as having operated promptly and fairly in most cases, it was part of a new culture that Government, employers and workers had yet to adapt to. Inevitably, some issues had arisen that would require further dialogue between the Government and the ILO with a view to clarification. Moreover, some labour activists and their representatives told the Mission of continuing acts of interference by some employers and local authorities against workers seeking to organize. This underlined the urgency for the ILO to operationalize its support structure in order to increase the capacity of the social partners in Myanmar.
28. The Mission noted that there is some ambiguity as to whether Order No. 2/88, which prohibits the gathering, walking or marching in procession by a group of five or more people, and Order No. 6/88, which requires permission for the establishment of any organization, are still in force, and that a further clarification is expected from the Government on this point, as requested by the Committee of Experts on the Application of Conventions and Recommendations in its observations on the application of the Freedom

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of Association and Protection of the Right to Organise Convention, 1948 (No. 87), by Myanmar. Similarly, the current status of the Unlawful Associations Act, 1908, which was confirmed to be still in force, needs to be clarified as to its relationship with the new labour laws.

- 29.** The resolution adopted by the Conference in 2000 paid particular attention to the activities of other international organizations. In this context, it is important to note that the Mission's visit took place immediately after that of the United Nations Secretary-General to Myanmar. The Secretary-General's visit highlighted the move now under way towards engagement with Myanmar by the different organizations in the multilateral system. Furthermore, he had urged the international community "to go even further in lifting, suspending or easing trade restrictions and other sanctions". Shortly before the Mission's visit, the World Bank had announced its intention to open an office in the country.
- 30.** Similarly, it was clear to the Mission that large-scale foreign direct investment was being deployed or planned. The President confirmed to the Mission that he had met with several government and business delegations from different countries to discuss investment in Myanmar. He identified increased investment as a key component of the Government's policy for job creation, poverty reduction and rural development that was critical for sustaining stability in the country and for the process of democratic change. Economic expansion would also help promote the return to Myanmar of some 3 million of its nationals who had migrated overseas and whose treatment as migrant workers had been a source of serious concern to the Government. Daw Aung San Suu Kyi cautioned that some investments could be purely speculative or motivated by a desire for short-term gains. A new investment law was being prepared that could provide important indications in that regard. She suggested the ILO had a role to play in steering development aid and private investment towards productive infrastructure development, to be decided upon by and for communities. The FTUB shared the view that poorly governed investment inflows could well lead to exploitation, the depletion of environmental resources and urban congestion, rather than to balanced community development.
- 31.** The Mission took the view that this rapid transformation of Myanmar's relationship with the multilateral system, and with private investors, should be taken into account by the Conference in its review of existing measures in respect of Myanmar. Many of those with whom the Mission spoke had drawn its attention to new needs and opportunities generated by the newly emerging circumstances, to which the ILO and its constituents could make a very valuable contribution. The Government drew attention in particular to the areas of job creation, rural development and poverty reduction, while Daw Aung San Suu Kyi spoke of the urgent need to tackle the unfolding problems of mass youth unemployment and the reintegration of child soldiers into society.
- 32.** The Mission concluded that there is currently both sufficient political will and technical need in Myanmar to justify a substantially increased and diversified engagement by the ILO. That leaves the question of whether sufficient progress has been made in implementing the recommendations of the Commission of Inquiry on Convention No. 29 to justify a modification or withdrawal of the measures decided by the Conference in 1999 and 2000.
- 33.** In this regard, the Mission concluded that the legislative changes introduced by the new Government, and increasingly taking effect in recent months, appear to respond appropriately to the Commission of Inquiry's first recommendation. The ILO should make available its assistance for the review of the necessary implementing legislation and guidelines.

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- 34.** The Mission was encouraged by the explicit commitment of the Government and the Commander-in-Chief of the Defence Services to prosecute and punish all perpetrators of forced labour in accordance with the Penal Code and took note of the information provided on action taken so far in that regard. However, the Mission noted Daw Aung San Suu Kyi's concerns that the new military instructions might be a recycled version of previous regulations that had never been observed, and recognized that existing practices that have been accepted for decades would require a major and sustained effort of awareness raising. As long as the practice of the use of forced labour persists, those responsible for it must be investigated, prosecuted and punished. An independent and impartial judiciary trained on issues of forced labour would help put an end to the climate of impunity. The role of judges, prosecutors and attorneys should be both preventive and corrective. The ILO should develop and use new and existing tools, including those of the International Training Centre of the ILO in Turin, to support the effective application of the rule of law.
- 35.** The Mission furthermore concluded that, notwithstanding the progress made in creating an appropriate legal framework, and the efforts being made to ensure its enforcement, the greatest outstanding challenge in the implementation of the recommendations of the Commission of Inquiry is the total elimination of the actual practice of forced labour in Myanmar.
- 36.** In this regard, the Mission recalls that the Governing Body welcomed the Government's commitment to developing the comprehensive, proactive, Joint Strategy with the ILO for the full elimination of all forms of forced labour by 2015 at the latest. The declared target date should be met by confronting the most serious causes and patterns of forced labour as an immediate priority. The Mission considers that the finalization and determined implementation of such a strategy, in line with the commitment expressed by the President on 1 May 2012, would be of critical importance in the definitive fulfilment of the recommendation of the Commission of Inquiry. This would require the systematic involvement of all parts of the Government and the Defence Services, as well as the support of the ILO and adequate resourcing. The Governing Body should monitor progress in the implementation of the Joint Strategy. In the meantime, the existing complaints mechanism under the 2007 Supplementary Understanding between the Government and the ILO should continue to operate.

Greg Vines

Luc Cortebeek

Brent Wilton

I have read the report and fully support its content.

Daniel Funes de Rioja

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## **Appendix I**

### **List of persons with whom the Mission held meetings**

HE U Thein Sein, President of the Republic of the Union of Myanmar  
HE U Soe Maung, Union Minister at President's Office and Chairman of the Naypitaw Council  
Dr U Tun Shin, Attorney-General  
U Min Zaw, Director-General of the President's Office  
U Kyaw Kyaw, Director-General of the Protocol Department (MOFA)

### ***Parliament***

HE U Thura U Shwe Mann, Speaker of the Pyithu Hluttaw (House of Representatives)  
U Nanda Kyaw Swa, Deputy Speaker of the Pyithu Hluttaw  
U Htay Myint, Vice-Chairman of the Commission on Legal Affairs and Special Case Assessment  
U Mya Thein, Member of the Commission on Legal Affairs and Special Case Assessment  
  
U Htay Oo, Chairman of the Pyithu Hluttaw Citizens' Fundamental Rights, Democracy and Human Rights Committee and Secretary-General of the Union Solidarity and Development Party (USDP) and the Committee's members  
  
Daw Aung San Suu Kyi, Chairperson of the National League for Democracy (NLD) and MP  
  
U Sai Boe Aung, MP for the Shan Nationalities Democratic Party (SNDP)  
U Sai Kyaw Ohn, MP for the SNDP  
U Ye Tun, MP for the SNDP  
U Soe Win, MP for the National Democratic Force  
Dr Aye Maung, MP for the Rakhine National Development Party (RNNDP)

### ***Ministry of Labour***

HE U Aung Kyi, Minister of Labour  
HE U Myint Thein, Deputy Minister of Labour  
U Myo Aung, Director-General of the Department of Labour (Ministry of Labour)  
Dr Than Win, Director-General, Central Trade Disputes Committee, Department of Labour Relations

### ***Ministry of Foreign Affairs***

HE U Wunna Maung Lwin, Minister of Foreign Affairs  
Daw Maw Maw, Deputy Director-General, Ministry of Foreign Affairs  
U Htin Lynn, Director, Ministry of Foreign Affairs  
U Win Naing, Director-General, Ministry of Foreign Affairs

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## **Defence Services**

Vice-Senior General Min Aung Hlaing, Commander-in-Chief of the Defence Services  
General Soe Win, Deputy Commander-in-Chief of the Defence Services, Commander-in-Chief (Army)  
General Hla Htay Win, Chief of Staff (Office of the Commander-in-Chief)  
Lieutenant General Hla Min, Minister of Defence  
Lieutenant General Khin Zaw Oo, Adjutant-General  
Lt Gen. Yar Pyae, Judge Advocate General  
Col. Thant Zin Myo

## **Joint Strategic Working Group on the Joint Strategy for the Elimination of Forced Labour**

HE U Myint Thein, Deputy Minister of Labour, Joint Secretary I of Strategic Working Group  
General Aung Thaw, Deputy Minister, Ministry of Defence, Joint Secretary II  
[Steve Marshall, ILO Liaison Officer, Joint Secretary III]  
U Myo Aung, Director-General of Department of Labour, Ministry of Labour  
Colonel Than Oo, Deputy Adjutant General, Ministry of Defence  
Lieutenant Colonel Thaug Naing, Deputy Judge Advocate General, Ministry of Defence  
Brigadier General Kyaw Zan Myint, Deputy Minister of Ministry of Home Affairs  
U Maung Maung Htay, Director, General Administration Department (for Director-General), Ministry of Home Affairs  
U Kyaw San, Deputy Director-General of the Attorney-General's Office [for Director-General]  
U Win Aung, Deputy Director-General (for Director-General), Supreme Court  
U Win Naing, Director-General, Ministry of Foreign Affairs  
U Thatoe Aung, Director (for Director-General) of Settlement and Land Record Department, Ministry of Agriculture and Irrigation

## **The Republic of the Union of Myanmar Federation of Chambers of Commerce and Industry (RUMFCCI)**

U Win Aung, President  
U Aung Lwin, Vice-President  
Dr Myo Thet, Secretary-General  
Ma Khine Khine Nwe, Joint Secretary-General of RUMFCCI and Secretary-General of Garment Employer Association  
U Zaw Min Win, Vice-President  
U Khin Maung Aye, Managing Director Lat War Company Ltd, Chairman of Garment Factory Employer Association No. 2 Hlaingtharya Township Industrial Zone 2, 3 and 4  
U Sein Pe, Chairman, Foreign Employment Agencies 707 A Employers' Association

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Colonel Khin Maung Lat (retired), Chairman, Garment Factory Mingaladon Township Employer Association

Major Tint Naing (retired), Chairman, Garment Factory Employer Basic Organization, North Okkalapa Township, Yangon

U Myint Soe, Chairman, Garment Factory Basic Employer Organization of Shwepyithar Township, Yangon

### ***National Human Rights Commission***

U Win Mra, Chairman

U Tun Aung Chein, Professor (retired), Department of History, Member

Dr Nyan Zaw, State Medical Officer (retired), Member

Daw San San, Director (retired), Department of Labour, Member

U Khin Maung Lay, Director (retired), Department of Labour, Member

### ***Federation of Trade Unions – Burma (FTUB)***

U Maung Maung, General-Secretary

U Ronnie Maung Than Lwin, Vice-President

### ***Registered basic labour organizations***

The Mission met with representatives of the following registered basic labour organizations and of one registered federation:

Pyinoolwin Township Inland Cargo handling Basic Labour Organization

Echo Inspection Centre, Garment Inspection Factory Basic Labour Organization

Central New Market Hall D- Theingyi Market Cargo Handling Workers Organization

Construction Workers Basic Labour Organization in Kone Dala Baung Thaug Wine

Myanmar Seamen Federation

Tai Yi Shoe Factory

Shwe Zin Aye Garment Factory Labour Organization

Pyinsa Thonedari Garment Factory Labour Organization

Opal Garment Factory Labour Organization

Bo San Pipe Factory Labour Organization

Aung Tile Factory

Mingaladon Construction Labour Organization

Teak Finished Product Factory Labour Organization

### ***Other labour organizations and activists***

The Mission also met with representatives of organizations that are in the process of establishment and registration as well as ILO facilitators.

### ***Representatives of member States***

The Mission held discussions with representatives of diplomatic missions both in Yangon and in Bangkok.

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## Appendix II

### **Resolution on the widespread use of forced labour in Myanmar, adopted by the International Labour Conference at its 87th Session (June 1999)**

The International Labour Conference,

Reaffirming that all member States have an obligation to apply fully, in law and in practice, the Conventions that they have voluntarily ratified,

Recalling that Myanmar ratified the Forced Labour Convention, 1930 (No. 29), and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), on 4 March 1955,

Taking note of the provisions of United Nations General Assembly resolution 53/162 of 9 December 1998 and of United Nations Commission of Human Rights resolution 1999/17 of 23 April 1999, which also address the use of forced labour in Myanmar,

Recalling the decision of the Governing Body to place on the agenda of its November 1999 session an item entitled: “Measures, including recommendations under article 33 of the ILO Constitution, to secure compliance by the Government of Myanmar with the recommendations of the Commission of Inquiry”,

Gravely concerned by the Government’s flagrant and persistent failure to comply with the Convention, as concluded by the Commission of Inquiry established to examine the observance of the Forced Labour Convention, 1930 (No. 29),

Appalled by the continued widespread use of forced labour, including for work on infrastructure projects and as porters for the army,

Noting the report (dated 21 May 1999) of the Director-General to the members of the Governing Body on measures taken by the Government of Myanmar following the recommendations of the Commission of Inquiry in its report on “forced labour in Myanmar (Burma)”;

1. Deeply deplores that:

- (a) the Government has failed to take the necessary steps to bring the relevant legislative texts, in particular the Village Act and Towns Act, into line with the Forced Labour Convention, 1930 (No. 29), by 1 May 1999, as recommended by the Commission of Inquiry;
- (b) at the end of the twentieth century, the State Peace and Development Council (SPDC) has continued to inflict the practice of forced labour – nothing but a contemporary form of slavery – on the people of Myanmar, despite repeated calls from the ILO and from the wider international community for the past 30 years;
- (c) there is no credible evidence that those exacting forced labour in Myanmar have been punished under section 374 of the Penal Code;

2. Reaffirms that this issue should be further considered by the Governing Body in November 1999;

3. Resolves:

- (a) that the attitude and behaviour of the Government of Myanmar are grossly incompatible with the conditions and principles governing membership of the Organization;

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- (b) that the Government of Myanmar should cease to benefit from any technical cooperation or assistance from the ILO, except for the purpose of direct assistance to implement immediately the recommendations of the Commission of Inquiry, until such time as it has implemented the said recommendations;
  - (c) that the Government of Myanmar should henceforth not receive any invitation to attend meetings, symposia and seminars organized by the ILO, except such meetings that have the sole purpose of securing immediate and full compliance with the said recommendations, until such time as it has implemented the recommendations of the Commission of Inquiry.

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## Appendix III

### **Resolution concerning the measures recommended by the Governing Body under article 33 of the ILO Constitution on the subject of Myanmar, adopted by the International Labour Conference at its 88th Session (May–June 2000)**

The International Labour Conference,

Meeting at its 88th Session in Geneva from 30 May to 15 June 2000,

Considering the proposals by the Governing Body which are before it, under the eighth item of its agenda (*Provisional Record* No. 4), with a view to the adoption, under article 33 of the ILO Constitution, of action to secure compliance with the recommendations of the Commission of Inquiry established to examine the observance by Myanmar of its obligations in respect of the Forced Labour Convention, 1930 (No. 29),

Having taken note of the additional information contained in the report of the ILO technical cooperation mission sent to Yangon from 23 to 27 May 2000 (*Provisional Record* No. 8) and, in particular, of the letter dated 27 May 2000 from the Minister of Labour to the Director-General, which resulted from the mission,

Considering that, while this letter contains aspects which seem to reflect a welcome intention on the part of the Myanmar authorities to take measures to give effect to the recommendations of the Commission of Inquiry, the factual situation on which the recommendations of the Governing Body were based has nevertheless remained unchanged to date,

Believing that the Conference cannot, without failing in its responsibilities to the workers subjected to various forms of forced or compulsory labour, abstain from the immediate application of the measures recommended by the Governing Body unless the Myanmar authorities promptly take concrete action to adopt the necessary framework for implementing the Commission of Inquiry's recommendations, thereby ensuring that the situation of the said workers will be remedied more expeditiously and under more satisfactory conditions for all concerned;

1. Approves in principle, subject to the conditions stated in paragraph 2 below, the actions recommended by the Governing Body, namely:

- (a) to decide that the question of the implementation of the Commission of Inquiry's recommendations and of the application of Convention No. 29 by Myanmar should be discussed at future sessions of the International Labour Conference, at a sitting of the Committee on the Application of Standards specially set aside for the purpose, so long as this Member has not been shown to have fulfilled its obligations;
- (b) to recommend to the Organization's constituents as a whole – governments, employers and workers – that they: (i) review, in the light of the conclusions of the Commission of Inquiry, the relations that they may have with the member State concerned and take appropriate measures to ensure that the said Member cannot take advantage of such relations to perpetuate or extend the system of forced or compulsory labour referred to by the Commission of Inquiry, and to contribute as far as possible to the implementation of its recommendations; and (ii) report back in due course and at appropriate intervals to the Governing Body;
- (c) as regards international organizations, to invite the Director-General: (i) to inform the international organizations referred to in article 12, paragraph 1, of the Constitution of the Member's failure to comply; (ii) to call on the relevant bodies of these organizations to reconsider, within their terms of reference and in the light of the

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conclusions of the Commission of Inquiry, any cooperation they may be engaged in with the Member concerned and, if appropriate, to cease as soon as possible any activity that could have the effect of directly or indirectly abetting the practice of forced or compulsory labour;

- (d) regarding the United Nations specifically, to invite the Director-General to request the Economic and Social Council (ECOSOC) to place an item on the agenda of its July 2001 session concerning the failure of Myanmar to implement the recommendations contained in the report of the Commission of Inquiry and seeking the adoption of recommendations directed by ECOSOC or by the General Assembly, or by both, to governments and to other specialized agencies and including requests similar to those proposed in paragraphs (b) and (c) above;
- (e) to invite the Director-General to submit to the Governing Body, in the appropriate manner and at suitable intervals, a periodic report on the outcome of the measures set out in paragraphs (c) and (d) above, and to inform the international organizations concerned of any developments in the implementation by Myanmar of the recommendations of the Commission of Inquiry;

2. Decides that those measures will take effect on 30 November 2000 unless, before that date, the Governing Body is satisfied that the intentions expressed by the Minister of Labour of Myanmar in his letter dated 27 May have been translated into a framework of legislative, executive and administrative measures that are sufficiently concrete and detailed to demonstrate that the recommendations of the Commission of Inquiry have been fulfilled and therefore render the implementation of one or more of these measures inappropriate;

3. Authorizes the Director-General to respond positively to all requests by Myanmar that are made with the sole purpose of establishing, before the above deadline, the framework mentioned in the conclusions of the ILO technical cooperation mission (points (i), (ii) and (iii), page 8/11 of *Provisional Record* No. 8), supported by a sustained ILO presence on the spot if the Governing Body confirms that the conditions are met for such presence to be truly useful and effective.

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