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Sixth sitting, 13 June 2019, 11.30 a.m.
Sixième séance, 13 juin 2019, 11 h 30
Sexta sesión, 13 de junio de 2019, 11.30 horas

Chairperson: Mr Rochford
Président: M. Rochford
Presidente: Sr. Rochford

Discussion of individual cases (cont.)
Discussion sur les cas individuels (suite)
Discusión sobre los casos individuales (cont.)

Myanmar (ratification 1955)

Forced Labour Convention, 1930 (No. 29)
Convention (n^o 29) sur le travail forcé, 1930
Convenio sobre el trabajo forzoso, 1930 (núm. 29)

Government representative (Mr SWE, Minister for Labour, Immigration and Population) – The current democratically elected civilian Government has been transforming the country from authoritarian to a democratic federal union. Myanmar has started to enjoy greater freedom and democratic rights since the emergence of the civilian Government three years ago. Though our democratic transition is in its process and the

country is faced with numerous challenges, including constitutional constraint and ongoing armed conflicts in some parts of Myanmar, there are visible improvements in many areas, including health, education, socio-economic sectors. These positive changes will be reinforced by ongoing implementation of the Myanmar Sustainable Development Plan (MSDP), which provides a unifying and coherent road map for all future reforms. The MSDP is in accord with the Sustainable Development Goals (SDGs) including SDG 8.

In a multi-ethnic country like Myanmar, making unity out of diversity is a great challenge. Thus, the Government is striving for sustainable peace and genuine national reconciliation and all-round development while embracing democratic practices, human rights values and the principle of inclusiveness. As part of its agenda for peace, the Government has already convened three sessions of the Union Peace Conference or the 21st Century Panglong Conference, and agreed on a total of 51 basic principles for building a democratic federal union that guarantees security and prosperity for all, creating a peaceful and harmonious society. We are planning to convene three more sessions by 2020 to finalize those fundamental principles.

A total of ten ethnic armed organizations (EAOs) have already signed the Nationwide Ceasefire Agreement (NCA). The armed forces have also announced unilateral ceasefire in Kachin and Shan States for four months commencing from 21 December and it was extended again in April. Let me pass the floor to Ambassador Kyaw Moe Tun to apprise you of matters related to Convention No. 29.

Another Government representative (Mr TUN) – Myanmar associates itself with the ASEAN joint statement to be delivered by Thailand. The joint statement reflects the progress, actions and measures undertaken by the Government of Myanmar in its efforts in the elimination of forced labour. As we are in need of a Constitution that can truly protect the democratic rights of the people, the ruling party has recently taken a bold initiative to amend the undemocratic provisions of the 2008 Constitution. To that end, a joint

parliamentary committee was formed, and the amendment of the Constitution is in progress. Our democratic struggle is still very much alive.

As we strongly commit ourselves to the elimination of forced labour, the General Administration Department, which is responsible for many issues and matters relating to forced labour, has been transferred from the military-designated Ministry of Home Affairs to the Civilian Ministry of the Office of the Union Government in order to effectively carry out the actions which contribute to the elimination of forced labour.

We do believe that all efforts towards democratic reforms play a role for the promotion and protection of human rights including labour rights. With this in mind, our Government has been encouraging all the relevant stakeholders to intensify the process of labour law reforms, to further strengthen the culture of tripartite social dialogue, and to educate and train people who are heavily involved in the promotion and protection of labour rights in close cooperation with the ILO. Taking this opportunity, I would like to thank the ILO for its continued assistance.

Being a nascent democratic state, Myanmar faces many daunting challenges. However, our Government is resolute to overcome all the challenges in order to bring about the benefit and betterment of everyone living in the country. Due to our efforts in reforming public institutions and strengthening the rule of law to create a fair and just society, significant progress has been made in many areas, including the promotion and protection of labour rights, which is steadily making progress.

The Government of Myanmar has a strong political will and unwavering determination when it comes to the elimination of forced labour. The President of Myanmar, in his message on Workers' Day on 1 May this year, underscored the Government's efforts in bringing about the environment and the condition for the people of Myanmar in which human rights and democracy could fully be enjoyed in a lawful manner. The President highlighted, among

others, the promotion of the rights of workers, and the eradication of child labour and forced labour.

One of the root causes of forced labour in Myanmar is due to the decades-long internal conflicts as we have been faced with internal conflicts ever since we gained independence in January 1948. As we understood that the development, whether it is political, economic and social, or cultural, could not be achieved without peace and stability, the current Government has been exerting its efforts to put an end to the armed conflicts in the country and we have undergone rapid social, economic and political transformation in recent years.

We would like to thank the ILO for its remarkable contribution in the elimination of forced labour in Myanmar over the past years. The ILO adopted resolutions relating to the situations of forced labour in Myanmar at the ILC sessions held in 1999 and 2000, respectively. It is noticeable that the complaints on forced labour have significantly decreased due to the Government's steadfast efforts, which include awareness-raising, workshops, seminars and trainings conducted in close cooperation with the ILO. Our efforts combined with dedication finally yielded good outcomes, and all sanctions imposed on Myanmar have been lifted at the 102th ILC Session in 2013. As a result of our strong commitment for the elimination of forced labour, new instances of underage recruitment are declining and we are committed to resolve all underage recruitment cases. We look forward to receiving continued constructive cooperation from our partners in this regard.

Since its establishment in 2007 with the signing between the Government of Myanmar and the ILO, the Supplementary Understanding turned out well and satisfactorily met its objective in eradicating forced labour in Myanmar. It had been extended yearly and was in force until the end of December 2018. After the expiration of the Supplementary Understanding, Myanmar has been closely working with the ILO to continue implementing the activities and measures to eliminate forced labour under the newly signed Decent Work Country Programme. Therefore, the time-bound action plan is being prepared to establish an appropriate complaint mechanism. To gain deeper knowledge and better understanding and

to learn best practices of other countries in this regard, we had a workshop in January 2019. It was actively participated in by members of the Parliament and the high-level working group and technical working group, representatives of the ILO, Government, Workers and Employers. We have been developing the new action plan in consultation and cooperation with the ILO and the tripartite constituents. The negotiation is at the final stage and the draft will be submitted to the Cabinet for approval.

The time-bound new action plan includes four priorities, namely: institutionalization of national forced labour complaints mechanism; training and awareness-raising on forced labour; capacity-building to end forced labour; and mobilization of tripartite partners for prevention of forced labour in the private sector. We developed this action plan under the Decent Work Country Programme in order to put in place the relevant policies and to coordinate among related ministries. We have already prepared the concept note in order to implement the national complaints mechanism as soon as the new action plan is approved by the Cabinet.

I wish to inform you that the members of the high-level working group have met with the representatives from the relevant ministries and organizations in March and May 2019, and they had fruitful discussions on the establishment of the national complaints mechanism as well as on the interim procedures to resolve the complaints. Indeed, before the national complaints mechanism is put in place, the high-level working group will resolve the complaints made on forced labour by any organizations or individuals, including the ILO, by means of cooperation and coordination with related ministries and organizations.

In addition to working with the ILO, the issue of underage recruitment has been tackled with the collaboration of the UN Country Taskforce on Monitoring and Reporting. Moreover, the Government of Myanmar is actively cooperating with SRSG on Children and Armed Conflict to prevent and address conflict-related violations on children.

In order to further its commitment, in January 2019, the Government established the Inter-Ministerial Committee for the Prevention of Six Grave Violations during Armed Conflict. The Committee held two consecutive meetings in April and May 2019 and discussed the implementation of the new action plan.

As of March 2019, Tatmadaw (the armed forces) has already released a total of 987 minors to their parents or guardians for wrongful recruitment. A total of 448 military officers and other ranks were punished by military disciplinary action and a civilian who helped and encouraged the wrongful recruitment was sentenced to one year of imprisonment under the civilian law. In order to ensure the best interest of children, the existing Child Law (1993) was reviewed. Accordingly, the Child Rights Law has been developed in accordance with the UNCRC. Many chapters have been added to the current law and one of the important chapters includes provisions which prevent anyone from committing serious offences, including the recruitment and use of children in armed conflicts.

Let me now touch on awareness-raising activities which is one of the important components in the elimination of forced labour. Despite the fact that we have achieved many tangible developments in promoting and protecting the labour rights because of our continued efforts in awareness-raising activities and programmes, there remain challenges to overcome. We will therefore continue to conduct more training and awareness-raising courses including trainings of trainers. The awareness-raising seminars are being held across the country and the awareness-raising brochures are being distributed in many parts of the country in eight ethnic languages. Moreover, salient points of the raising of awareness of forced labour are highlighted in the newspapers, radio, TV programmes and news media, and the awareness-raising billboards are erected all over the country in collaboration with the ILO. A total of 9,221 activities, including awareness-raising workshops, seminars, and talks on forced labour were conducted with the participation of more than 360,000 persons in various townships in states and regions from July 2018 to March 2019. Furthermore, over 96,000 pamphlets have been distributed all over the country. In close cooperation with the

ILO, we have conducted trainings of trainers on the elimination of forced labour with the participation of the members of the high-level working group and the technical working group, including officials from the Tatmadaw and the police, in January 2019. In addition, the ILO conducted 34 workshops, and employees conducted ten other training and awareness-raising sessions on forced labour throughout the country. It is an undeniable fact that the culture of tripartite social dialogue has grown at the national level in Myanmar and plays a significant role to our efforts to eliminate forced labour. The National Tripartite Dialogue Forum established in 2014 meet three times a year and the discussions, decisions and adoptions with regard to the labour-related matters, including the law reforms, are made during the meetings.

We recognize the role played by the Liaison Officer in the promotion and protection of labour rights as well as the elimination of forced labour. We will continue our close cooperation with the ILO and the other relevant partners in our efforts for the promotion and protection of labour rights based on mutual understanding and trust. We do hope that the ILO can maintain its constructive approach and genuine cooperation with Myanmar for the benefit of the people of Myanmar. We wish to express our sincere appreciation to the current Liaison Officer, Mr Rory Mungoven, for his hard work and valuable contribution to the development of labour sector in Myanmar. We look forward to having the same level of cooperation from his successor.

We are fortune to celebrate the 100th anniversary of the establishment of the ILO and our tireless efforts for the elimination of forced labour should therefore be well recognized. I think it is time that the relations between the ILO and Myanmar are further enhanced. We wish to urge the ILO to upgrade the current Liaison Office into the Country Office taking into account the long-standing cooperation between Myanmar and the ILO.

In conclusion, I wish to express our sincere appreciations to the countries that supported our endeavours in the elimination of forced labour.

Employer members – We have just taken note of the comments of the Government and a number of those comments are very helpful in the context of this case. In the historical context, Myanmar is not new to the ILO. It joined the ILO in 1952 and has ratified 24 Conventions, including three fundamental Conventions and 21 technical Conventions. That tells us that Myanmar has a long-standing understanding of the sorts of obligations that it has under international labour instruments so, there is no question of confusion about the fact the country knows what it needs to do.

Myanmar ratified the Convention in 1955. However, more than half a century later, Myanmar is still regrettably very far from achieving full compliance with this Convention. We note the continuous support from the ILO and the Myanmar Government's ongoing cooperation in addressing the situation, including the establishment of a Commission of Inquiry in 1997 and several memorandums of understanding signed in 2002, 2007 and most lately, in 2018. We also note that the Committee has discussed this case in total 15 times, albeit that most of those occasions were under the previous regime, so we are looking at a relatively small number of instances under the recently elected democratic civilian regime.

We note that, as recently as this year for instance, the Committee of Experts however double footnoted this case which means that it remains high on the list of concerns that this Committee deals with on an annual basis. The Committee of Experts commented on Myanmar's obligation under Article 1 of the Convention to suppress the use of forced or compulsory labour in all its forms within the shortest possible period and that is why we are here now. It is the shortest possible period, not the amount of it, but the fact that it is taking too long to get rid of.

We note that as recently as March 2019, the ILO Governing Body discussed the follow-up item to the resolution concerning remaining measures on the subject of Myanmar adopted by this Conference in 2013. We note that the Governing Body, in March 2019, expressed serious concerns over the persistence of forced labour, noting the Committee of Experts' observations pertaining to the Convention, and urged the Government to intensify

its already close cooperation with the ILO for the elimination of forced labour, including under the auspices of the recently signed Decent Work Country Programme, through the development of a time-bound action plan which we have heard the Government says is already for submission to Cabinet and for the establishment of, and transition to, an effective complaints handling procedure. Turning now to the Committee of Experts' observations, we note a few issues. First, we note that the Committee of Experts' focus is on forced labour by the armed forces. The report does not discuss instances or practices in the wider economy. This is an important observation because it places the issues we are dealing with today in the context more of an improving situation than a deteriorating one. In other words, we are down now to the last bits, even as bad as they are. So it is important to note that Myanmar overall can be looked as a case of improvement with a few things, some bad things yet to be dealt with.

The Committee of Experts' report noted from the report of the detailed findings of the independent international fact-finding mission on Myanmar of 17 September 2018 that the use of forced labour by the armed forces persists, particularly in Kachin and Shan States, as well as among the ethnic Rakhine and Rohingya. The Committee of Experts also noted that almost all of the military personnel found and involved in forced labour received only disciplinary sanctions, and here I would add: noting the Government's comment that a number of military had been sanctioned and that a civilian who had also been involved had been jailed for a year, I would observe that there seems to be a disparity between the level of sanction applied within the military and the civilian side, and I would therefore add that to the list of issues that needs to be looked at. There should be an evenness or a clarity of treatment irrespective of who perpetrates the issue.

We reiterate the strong commitment of the Employers' group to the full elimination of forced labour as defined in Article 2 of the Convention. We consider any form of forced labour unacceptable and we fully condemn the use of forced labour by the army in these

areas. The Employers' group urges the Government to take full, urgent and transparent steps to expedite its obligations under the Convention in this regard.

With relation to penalties, Article 25 of the Convention requires that the illegal exaction of forced or compulsory labour be punishable as a penal offence, and places an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are adequate and strictly enforced.

The Committee of Experts noted with satisfaction the adoption of the Ward or Village Tract Administration Act of 2012 which repealed the Village Act and the Towns Act of 1907 and makes the use of forced labour by any person a criminal offence punishable with imprisonment and fines. However, the Committee noted that no action had been taken to amend article 359 of the Constitution of Myanmar, which exempts from the prohibition of forced labour "Duties assigned by the Union in accordance with the law in the interest of the public" and could be interpreted in such a way as to allow a generalized exaction of forced labour from the population in a number of circumstances. On this point, the Employers note that the country has not been able to undertake a revision of the Constitution yet, but that the State Counsellor recently announced its intention to proceed to a revision of the Constitution. We therefore request the Government to provide information in this regard to understand the steps that the Government has taken and is planning to take to make the revision of the Constitution a reality without delay.

While Myanmar has yet to eradicate forced labour, the measures I have just discussed are important steps towards that goal. There are more, and my colleagues from Myanmar will elaborate on some of these shortly. We appreciate the measures and the support made available by the ILO to the Government and the numerous observations and discussions the Committee, the Committee of Experts and the Governing Body have had thus far. That said, and in recognition of the fact that an unacceptable number of cases of forced labour still exist, we urge the Government to intensify its close cooperation with the ILO to accelerate an end to forced labour without further delay and as efficiently as possible. Particular effort

should be made to complete the current work on the establishment of a permanent, effective and trusted national complaint mechanism for handling forced labour complaints.

The Employers' group believes that Convention No. 29 is important not just because it is one of the fundamental Conventions, but more importantly, because its very essence is the need to protect human dignity and freedom against oppression and slavery. It is therefore essential for Myanmar to fully implement and enforce the provisions of this Convention, both in law and in practice.

We note that the Memorandum of Understanding on an action plan for the elimination of all forms of forced labour and the Supplementary Understanding setting out the complaints mechanism expired in December 2018. However, we have heard from the Government that that work has been progressed and is shortly to be submitted to Cabinet in relation to the action plan and that that sets the scene for the completion of work on the complaints mechanism. Therefore, we can have some confidence too that the new Decent Work Country Programme that was endorsed by the national tripartite dialogue forum in September 2018, which aligns with the broader Myanmar Sustainable Development Plan, will continue and strengthen the efforts made thus far in eliminating forced labour and child labour in Myanmar.

We also note that a new draft complaints mechanism was circulated to the social partners in May for their comment and that supplementary information supporting and explaining the draft mechanism has been similarly circulated in the past few days. The Employers of Myanmar are strongly committed to working constructively with the Government to bring this to fruition.

We also would like to share with you that the private sector, through the Chamber of Commerce and the MGBMA will launch soon a new labour audit service which has a specific chapter around forced labour. This will raise awareness and will support companies in assessing the presence of any form of forced labour practices in their operations.

Additionally, and in recent times, the Chamber of Commerce organized, with the support of the ILO and participation of the International Organisation of Employers, a large forum on Myanmar Responsible Business and Human Rights which will again be helpful in mapping existing initiatives and raising awareness on the importance of business mobilization to prevent any form of compulsory or forced labour.

Make no mistake, Employers are strongly committed to eliminate forced labour in Myanmar and we will work together with the Workers, the Government and the ILO to make real progress as measured by the two major indicators which are: the number of forced labour cases received by the Government and the ILO and resolved, and the number of underage recruits released from forced labour.

Indeed, thanks to the efforts of the ILO and the tripartite partners, we note that the number of complaints received under the Supplementary Understanding have decreased. Last year, 130 complaints were within the Supplementary Understanding mandate. Of these, the large majority – 108 – were cases of underage recruitment; 76 of these were submitted to the Government. During the year, the ILO also closed 431 cases from previous years. Despite the fact that the goal of full eradication of forced labour has not yet been achieved, these are encouraging numbers. We are confident that these efforts together with the Government's continuing commitment will eventually lead us to full eradication of forced labour in Myanmar.

So to this end, in our way of recommendation, we recommend and urge the Government to continue its efforts to ensure the elimination of forced labour in all its forms, both in law and in practice. We particularly urge the Government to amend any national legislation that is incompatible with Convention No. 29, particularly the Ward Village Tract Amendment Act 2019 and Penal Code; to impose and enforce dissuasive penalties against the perpetrators of forced labour, and to ensure that such dissuasion is evenly and fairly applied across both the civilian and armed forces. Conducting awareness building and capacity-building

activities to deter the use of forced labour, we note here too that the country definitely needs to scale the efforts reaching out to the regions and states.

So, as we have heard, there has been a long history of internal conflict in Myanmar, and some states are a lot more difficult to raise awareness in simply because they are a lot more difficult to access in any meaningful dialogue way. That is a particular challenge. Nonetheless, further efforts need to be made in that direction. Lastly, we urge the Government to collect and to periodically provide information on progress made to the ILO, to this Conference and more widely to the wider population, so that the population of Myanmar itself has confidence that the things that they fear most will not happen in the future.

We would also highlight the very significant progress ultimately being made in eliminating forced labour practices, and note that instances now complained of are centred mainly in the armed forces. It is therefore there that the priority must now go to close the gap completely. Recognizing the progress that has been made, can I close by saying, let us hope that the next time that Myanmar is discussed here, it is as a case of progress.

Worker members – In 2013, the Committee decided to end all remaining sanctions imposed on the Government of Myanmar pursuant to the 2000 Conference resolution. That resolution had authorized member States to take measures under article 33 of the ILO Constitution to compel Myanmar to comply with the Recommendations of the 1998 Commission of Inquiry Report into serious and systematic violations of the Convention. The 2013 decision followed the Government's adoption in 2012 of a joint strategy developed with the ILO to eradicate forced labour by the end of 2015. Tragically, the Government failed in this endeavour: neither by the end of 2015, nor the end of 2018, the deadline established under a renewed action plan. Indeed, many of the activities under the 2012 and 2018 plans were either never implemented or not implemented fully. As a result of the lack of sufficient political will, the exaction of forced labour including forced recruitment by the Tatmadaw continues, particularly in areas of conflict with ethnic communities.

Today the military human traffickers regularly exploit adults and children who end up in situations of forced labour in mining, fishing and other occupations in Myanmar. Others are trafficked abroad including to Thailand and Malaysia for work in fishing, agriculture, construction, manufacturing and other occupations. Some are brutally murdered by their traffickers and left in mass graves along the way. Despite legal reforms to punish the exaction of forced labour in Myanmar, too few have been held accountable. Those who have been punished, mostly lower level soldiers, have received only administrative sanctions not at all commensurate with their crimes.

In recent years we have seen a Government that remains hostile to transparency, by jailing reporters for obstructing international supervision, including by the UN. We note that the Supplementary Understanding that made clear commitments in 2007 is now lapsed without having been replaced by a functioning national system that has the trust of the social partners and victims. While the establishment of a new Government-operated mechanism is to be developed under the terms of the 2018 Decent Work Country Programme (DWCP), it remains to be seen whether this will be effective, given that the military itself perpetrates forced labour and that the Government has not demonstrated to date its ability or willingness to take effective measures to prevent forced labour, to hold perpetrators accountable with effective sanctions and to provide survivors with an adequate remedy.

We are deeply troubled that just six years after the last special sitting on Myanmar in the Committee, we are once again discussing widespread violations of forced labour. The Committee of Experts double footnoted Myanmar expressing deep concern at the persistence of forced labour imposed by the Tatmadaw in Kachin and Shan States as well as among the ethnic Rakhine and Rohingya.

The 2018 report of the independent fact-finding mission on Myanmar provides voluminous credible information on the exaction of forced labour in recent years, especially by the Tatmadaw (the armed forces). With regard to forced labour in Kachin and Shan States, the mission verified a pattern of continuing systematic use by the armed forces of forced

labour. In Rakhine State, the mission similarly reported atrocities, including against children and women.

The mission also reported consistent accounts of men and women who were killed by the Tatmadaw in the context of forced labour, either because they refused to work, they tried to escape from the soldiers or were simply unable to continue working. It is true that the Government has undertaken efforts to prevent the forced conscription of children into the army. However, there are credible reports that such conscription continues. The ILO liaison Office in its February 2019 report to the Governing Body reported 116 cases of forced recruitment in 2018, though noted a decline in the number of cases. The ILO also reported that 75 child recruits were discharged in August 2018, including 42 cases submitted by the ILO. Unfortunately there are reports that the Government has taken punitive action against former child soldiers. The 2018 US trafficking in persons report explains, for example, that the Tatmadaw filed fraud charges against a group of minors for lying about their age, rather than referring them to protective services.

In another case, a former child soldier was convicted on charges of defamation and sentenced to two years in prison in April 2018 for talking to the international media. As the Workers' group has consistently pointed out, those responsible for committing violations of forced labour have not been punished, or punished in a matter commensurate with the crime.

The Committee of Experts highlights that since 2007, only 377 soldiers, of which only 17 per cent were officers, have faced military discipline of any kind under the complaints mechanism. However, we know from previous reports that such discipline can mean, for example, temporary suspension from duty or demotions in rank.

Further, there has been only one person punished under the Penal Code and the report does not indicate exactly what that punishment was. This is simply not acceptable.

We recall in a previous report, from the ILO Liaison Office about complaints it received regarding the practice of forced labour in prison labour camps. There, prisoners were made

to work in quarries and plantations run by the corrections authorities for private commercial purposes. Alternatively, prisoners are put to work at private plantations nearby the correction centres, for the private gain of the authorities without being paid.

The Special Rapporteur for Myanmar also expressed deep concern at the use of hard prison labour including the shackling of prisoners as punishment. Other sources have reported the serious abuse of prison labour. This is deeply troubling in its own right, but all the more troubling as the Government has continued to arrest and imprison many people in recent years, simply for exercising their right to free expression, to assembly and association.

Moreover, forced labour is also persistent in the private sector. In 2016, the ILO undertook a detailed survey on child labour and agriculture and specifically in inland fisheries, sugarcane and beans. The findings of that survey were alarming and found that in all three subsectors, children were in conditions of forced labour. Creditable reports have indicated that men, women and children are found in situations of forced labour in agriculture, fishing and prospecting for jade and other precious stones.

The use of forced labour in the jade industry has attracted significant international attention in recent years. A report published by Global Witness in 2015, exposed human rights violations in the jade industry in Kachin State. The mines are guarded by the Tatmadaw and their presence, and the presence of armed ethnic groups, has led to increased abuses such as rape and forced labour around mine sites. Those who risk their lives to extract the jade in this multibillion dollar industry see little for their labour, with the vast majority of the benefit going to the army and traders.

Furthermore, we express our concern over the discriminatory State policies and practices against Rohingya population. The so-called clearance operations which commenced in 2017, has led to a humanitarian disaster resulting in the expulsion of over 700,000 people from the Rakhine State. The extreme vulnerability of the Rohingya has led among other problems to a greatly increased risk for forced labour, by both state and non-

state actors. For example many women and girls who fled from the army to neighbouring Bangladesh, have been subject to sex trafficking while others are trafficked to labour as domestic workers. Rohingya children fleeing violence have also been abducted in transit and sold into forced marriage in Indonesia, Malaysia and India. Those who are internally displaced also face increased risk to forced labour.

Finally, we recall that those who have exposed forced labour, including in Rakhine State, have been imprisoned by the authorities. For example in October 2017, Kyaw Moe Tun who reported on forced labour cases in Rakhine State was convicted of defamation and incitement under section 505 of the Penal Code and sentenced to 18 months in jail.

The developments in Myanmar require the urgent attention of the Government and the international community.

Employer member, Myanmar (Ms NWE) – I would like to thank the Committee for providing the possibility to comment on the observations contained in the report and give an overview on the contribution of UMFCCI the business chamber and the private sector in general to ensure Myanmar is compliant with the Convention.

The Decent Work Country Programme for Myanmar signed in September 2018 has an important outcome related to strengthening the protection against unacceptable forms of work, especially forced labour and child labour. Employers are strongly committed to eliminate forced labour in the country and we work together with the social partners, the Government and the ILO to show progress related to the two major identified indicators, the number of the forced labour cases received by the Government and the ILO and resolved and the number of underage recruits released.

Thanks to the efforts of the ILO and of the tripartite partners the number of complaints received under the Supplementary Understanding have strongly decreased. Despite the goal of full eradication of forced labour has not been achieved yet employers have noted very encouraging numbers which were known already and these progresses should be recognized.

It is also to be noted that there are a number of recent achievements and milestones in the last ten months. Seventy-five underage recruits, including 42 ILO cases were discharged and released from Tatmadaw in September. A short-term consultant was brought in for three months to support the complaints submission process.

Regarding the action plan on forced labour, a training manual on dos and don'ts guidelines and training curricula was agreed and the first TOT session took place on 14 to 15 January of this year. Several dialogues took place at both leadership and political officer levels to foster collaboration.

Myanmar is now in a critical phase as after many years of ILO support it is essential to establish an institutionalized national complaints mechanism for handling forced labour complaints. The system needs to gain trust in confidence by all stakeholders. In this respect, ILO support is still very much needed.

As social partners and private sector representatives, we have to play our part in advocating for a very transparent system, with publicly report cases-related data. We are aware that this is extremely delicate and sensitive – as forced labour is perpetrated by both state and non-state actors, in conflict and non-conflict settings. The Ministry of Labour has recently presented during the last National Tripartite Dialogue Forum – around the end of May 2019, a draft scheme to establish the national complaints mechanism. Complaints could be received by social partners and many different CSOs. The scheme should still be fine-tuned, comment-seeking letters from the Government are being circulated regarding the proposed mechanism, and that seems to be going in the right direction.

To bolster up the process, a knowledge-sharing workshop on national complaints and grievance mechanisms was held by ILO with support from FUNDAMENTALS in Geneva, highlighting the models adopted by several countries such as United Kingdom, Brazil, Qatar and Uzbekistan.

As regards the absence of action regarding the amendment of article 359 of the Constitution, which exempts from the prohibition of forced labour duties assigned by the Union in accordance with the law – in the interest of the public, and could be interpreted as to allow a generalized exaction of forced labour – the country has not been able to undertake a revision of the Constitution yet, but the State Counsellor recently announced the intention to proceed to a revision of the Constitution. If this would happen, we will make sure to draw attention to article 359.

Regarding the report of the detailed findings of the independent international fact-finding mission, we reiterate the strong commitment of the private sector for the full elimination of forced labour, and consider unacceptable the use of forced labour in the country. The Government should ensure full application of the national legislation and the penal code, including proper penalties for the perpetrators.

As concerns training and capacity-building, the country definitely needs to scale the efforts reaching out to all the regions and states. In this regard a more decentralized approach would definitely be helpful.

UMFCCI, the Business Chamber and MGMA, Myanmar Garment Manufacturers Association, with the support of ILO/ACTEMP project, have strongly expanded the labour and/industrial relations departments. On 23May 2019, a new labour audit service which has a specific chapter around forced labour, has been launched: the service will contribute to raise awareness and support companies, in assessing the presence of any form of forced labour practices around their operations. The first workplace visits are scheduled in the week of June 24 and 28. UMFCCI and MGMA have also dedicated hot lines for company-members to give advice regarding the correct practice for overtime and avoid any violation which could eventually result in forms of compulsory or forced labour.

Additionally, the chamber organized with the support of ILO and participation of the International Organisation of Employers, a big forum on Myanmar Responsible Business

and Human Rights on May 30 and 31, which again was helpful in mapping existing initiatives and raising awareness on the importance of business mobilization to prevent any form of compulsory or forced labour.

I am also glad to announce that UMFCCI is officially endorsing full membership to the International Organisation of Employers on June 9, a day before ILC. Being part of this global network will support the work of the chamber in making sure to design the best strategies and plans to completely eradicate forced labour in any business practice.

UMFCCI treasure our status of being one of the tripartite constituents. With trust and respect, with one goal for the betterment of all, we have established a strong relation among tripartite bodies.

We have succeeded in receiving the Vision Zero Fund Project, granted by the G20, in February 2017 in Hamburg, Germany. It was mentioned yesterday by Ms Angela Merkel, Chancellor of Germany, during her plenary speech, and we were granted the Japanese Grass-root Fund to build the Occupational Safety and Health Training Centre which was completed recently. The Centre will start providing trainings in the area of OSH, benefiting all social partners, all of these would not have achieved if it was not for the dedicated efforts of the tripartite constituents. While a young democracy, young economy, this tripartite achievement was applauded by the Ministry of Labour, Germany, a week ago in Berlin when we met to update on the progress of the VZF project.

Another significant achievement of the chamber, is a two-year (2019–20) Global Fund public–private partnership project, granted in the area of access to health, with two local NGOs and one international, Novartis, a pharmaceutical company based in Switzerland as partners. UNOPS is our principle recipient. Application for the Project was done in March 2018 and was approved in August 2018, to reach out to conflict-prone areas where infrastructure is weak for medicine to be delivered in time to get treatment. Target areas include Rakhine, Chin and Sagaing this year, and Kachin, Shan, Mon and Mandalay next

year. The objective is to utilize fast moving consumer goods service through the chamber network, provided by private businesses to carry needed medicines to the remote areas, linking source of medicine to reach to the places where needed.

Alongside this project, sideline activities, promoting UNGC to the businesses in those areas, awareness-raising of respect for labour and human rights, forced labour, child labour, occupational safety and health, etc. will be convened.

I am the focal point from UMFCCI for this project. I have been to Sagaing Region early March for the project and promoting UNGC. I planned twice to visit Rakhine around the third week of March and early April, both in vain since some unforeseen things happened in the areas where we would be visiting. Rethinking to visit end of this June. Planning.

UMFCCI works closely with the Myanmar Ministry of Education in the context of human capital building, strongly supported cooperation with ILO in providing short-term vocational education training in IDP camps in Kachin and in Rakhine with inclusivity, creating access to entrepreneurship, to jobs and to avoid exploitation. Thanks to the ILO. We participated in the ILO and Ministry of Education joint work on labour market assessment in Rakhine, the report was formally presented to the public on 22 May – in the interest of providing decent jobs to the needy – by bridging vocational education and industries, to avoid exploitation.

We met once in every four months at NTDF, 13 times already. The social partners we often meet during the process of labour law reforms and our partnership becomes seemingly stronger.

The growing strength of the tripartite process is a guarantee that social partners are strongly committed to invest all their energy and needed time to finally put an end to forced labour in Myanmar. We will continue working on this.

While working endlessly on strengthening partnerships, it is very discouraging to learn that the double footnoted case on forced labour has popped up. There is a possibility we are missing information; it is also possible that the Committee has not been updated with developments in the process. Whatever it may be, the important thing is, we keep moving in the right direction.

Let the case of Myanmar on Convention No. 29 be heard as a case of progress the next time.

Worker member, Myanmar (Ms AUNG) – Workers in Myanmar oppose violence and coercion of any kind in the communities or at the work place. We have been struggling hard to establish a modern society that is based on equality for all ethnicities and social dialogue.

The application of this Convention in Myanmar was first brought up in a representation under article 24 of the ILO Constitution in 1994. CTUM, known at that time as FTUB, was documenting forced labour cases, and the atrocities of the military junta to support the ILO's examination of the case. At that time, access to the areas controlled by the Burmese military and the ethnic armed organizations was forbidden. These areas are also rich in natural resources such as timber, gold, precious stones, oil and gas in Kachin, Shan, Karen and Rahkine state, where forced labour was exacted.

Today, free movement is there, although there is limited access to the affected areas. There are complaints that evicted farmers and villagers are still coerced to build roads in outsourced public works, or create profit for the businesses owned by the military personnel complicit in forced labour offences. Myanmar still has to work harder to become a country where forced labour of all forms has been eradicated.

Legal enforcement, labour inspection and freedom of association do not exist in the military controlled and conflict areas. In some of the industrial and garment sector, involuntary and uncompensated overtime work is still found. We have had some cases where

the labour inspectors often wrongly interpret the law to put a cap on the maximum claim of the back overtime pay, instead of the whole period of their labour.

Trade unions are deeply worried that the draft amendments of the Labour Organization Law continue to exclude the informal sector and the public sector. The draft amendments still restrict trade union registration by extremely narrow occupations, and intrusive application procedures. These will make workers more vulnerable to forced labour.

Poverty, continuous armed conflicts and forced displacement are pushing thousands of dispossessed farmers, villagers and workers to accept forced labour conditions without choice. The Upper House of the Parliament estimated in 2016 that 2 million acres of land across the country could be considered confiscated. About 11,000 acres of land have been given back to the farmers.

A more inclusive, transparent process at the township level for return and restitution of land is needed. The procedure is still complicated by complicit commercial concessions, misclassification, as well as lack of documentation. More needs to be done to restore the legitimate rights to land, and compensation for the dispossessed farmers and villagers.

First and foremost, it is the responsibility of the Government to ensure that villagers displaced by armed conflicts do not lose their land. Today, about 5 million Myanmar workers are working abroad. They are vulnerable to illegal recruitment fees, ineffective administration, syndicated corruption subjecting them to forced labour conditions, illegal migration and human trafficking.

Although our laws put a cap of about US\$100 to charge Myanmar workers seeking employment abroad, many workers end up in debt after paying a much higher fee of US\$600 to US\$800 to the agency companies or brokers. False and substitute contracts are common.

For example, a Myanmar domestic migrant worker in Singapore was placed to work for two households without holidays and leave. She was not allowed to quit or change the

terms and place of work, unless she paid a compensation of six months' salary to the broker. In other cases, workers sent to Thailand were repatriated since no job had been arranged. Others became undocumented workers after realizing that the visa and work permits arranged by the brokers were fake.

Involuntary domestic servitude, forced marriages across the border in China, and sex trafficking persist to account for 70 per cent of the cases reported by the Myanmar Anti-human Trafficking Police in 2018. These female victims, estimated to be in thousands are unable to complain, and are considered cases of overstay in the destination country without due redress and rehabilitation.

Myanmar is a country in transition. Trade unions are involved in the tripartite monitoring board with the migrant recruitment agencies association, and the anti-trafficking police to review complaints. By now 22 agencies have been blacklisted and remedies have been provided to the complainants. This is a very small step forward compared to the severity of the problem and support by the ILO is needed.

We need to ensure consistency and effective enforcement of this Convention in all the national legislations, and the internal rules of the public bodies would be the best if they can be included in the disciplinary codes of the military.

To do so, we urge for the establishment of a Parliamentary Commission on forced labour. The commission should be mandated with investigative powers to oversee the enforcement of the recommendations drawn by the international institutions regarding forced labour and human trafficking, including the conclusions of this Committee.

Government member, Thailand (Mr PLANGPRAYOON) – I have the honour to deliver this statement on behalf of the Association of Southeast Asian Nations (ASEAN). ASEAN recognizes that the democratic reforms process in Myanmar is gaining momentum, producing tangible results in the field of promotion and protecting labour rights, including the elimination of forced labour.

ASEAN believes that Myanmar's long-standing cooperation with the ILO also contributes to the Government's efforts in the elimination of forced labour. ASEAN welcomes the signing of the Decent Work Country Programme between Myanmar and the ILO in September 2018 since it will lead to more positive and effective reforms in promoting and protecting the rights of labour. ASEAN also expects the action plan being prepared under the Decent Work Country Programme to be finalized soon, particularly the setting up of a national complaint mechanism of the Myanmar Government to end labour.

While recognizing effective measures taken by Myanmar to eliminate forced labour in cooperation with the ILO, ASEAN would like to propose to take more innovative measures to intensify raising awareness throughout the country in order to prevent the occurrence of forced labour, not only in the public sector, but also in the private sector. ASEAN calls on the ILO and international community to continue engaging with Myanmar constructively, and assisting the Government's endeavours for the elimination of forced labour.

Government member, Romania (Mr TACHE) – I am speaking on behalf of the European Union (EU) and its Member States. The Candidate Countries the Republic of North Macedonia and Albania, the country of the Stabilisation and Association Process and potential candidate Bosnia and Herzegovina, the EFTA country Norway, member of the European Economic Area, as well as the Republic of Moldova and Georgia align themselves with this statement. The EU and its Member States are committed to the promotion, protection and respect of human rights and labour rights, including freedom of association, of assembly and abolition of forced labour. We support the indispensable role played by the ILO in developing, promoting and supervising the application of international labour standards and of fundamental Conventions in particular. The EU and its Member States are also committed to the promotion of universal ratification, effective implementation and enforcement of the core labour standards. We wish to recall the importance we attach to improvements with regard to human rights, democracy and the rule of law in Myanmar. Compliance with Convention No. 29 is essential in this respect. While acknowledging the

progress made over the last years, we note with regret that this case is now being addressed as a serious one in relation to elimination of all forms of forced labour.

Based on the report of the Committee of Experts, cases of forced labour, including underage recruitment by the Tatmadaw army are still being reported and were confirmed by the independent fact-finding mission established by the Human Rights Council, particularly in Kachin and Shan States, as well as among the ethnic Rakhine and Rohingya. Often, victims were given insufficient food of poor quality, did not have access to water and were kept in inadequate accommodation, and some were subjected to violence if they resisted, worked slowly or rested. Female victims also faced sexual violence.

Forced labour remains a persistent phenomenon in the country, despite the continuous engagement on the issue of the ILO and member States for over two decades now. The Memorandum of Understanding on a joint strategy for the elimination of forced labour was signed in 2012, and then another Memorandum of Understanding in January 2018 which agreed on a new action plan for the elimination of all forms of forced labour for the year of 2018, followed by the transition to the Decent Work Country Programme in September 2018.

The EU and its Member States are also actively engaging with the Government on improving labour rights in the country – including through the Myanmar Labour Rights Initiative. We reconfirm our strong commitment to support the country in this regard. In October 2018 and February 2019, the EU had high-level missions to the country in the context of the enhanced engagement under the Generalised Scheme of Preferences arrangement for Least Developed Countries (Everything But Arms). The EU's Generalised Scheme of Preferences requires countries to abide by the principles of the fundamental labour Conventions. This provided the opportunity for a comprehensive dialogue with national authorities, including on labour rights issues. The discussions continued during a senior officials' meeting in Brussels in mid-May and will continue during the human rights dialogue in the country on 14 June.

In the context of today's discussion in relation to the persistence of forced labour, we welcome that the Government appears to continue working together with the ILO on the existing ILO-led complaints mechanism on forced labour until a proper national mechanism for complaints is established and that the national tripartite dialogue forum is consulted in the establishment of the national complaint mechanism. At the same time, we would like to express our deep concern over a number of issues:

- Progress in the establishment of the national complaint mechanism on forced labour – While noting a new version of a national action plan to set up the mechanism was agreed with the Minister of Labour, Immigration and Population, it has not been endorsed by other ministries, and in particular by the Ministry of Defence administering Tatmadaw. Even once set up, it still remains vital that the complaint mechanism is, in practice, accessible in particular for victims of the conflict areas, complaints are independently investigated, and victims protected. Meanwhile, cooperation with the ILO-led complaint mechanism has to continue.
- Lack of penal prosecution of offenders – While a number of military personnel were punished by disciplinary action only, with only one person punished under the Penal Code, the strict application of the provisions of the Ward or Village Tract Administration Act of 2012 and the Penal Code is essential to make the use of forced labour a penal offence and dissuade the perpetrators. Moreover, the punishments should be adequate and strictly enforced.
- Article 359 of the Constitution remains unchanged despite earlier Government promises – the article exempts from the prohibition of forced labour “duties assigned by the Union in accordance with the law in the interest of the public” and as such could be interpreted as a generalized exaction of forced labour from the population.

We note that the discussion about the changes in the Constitution is ongoing in the Parliament and we hope that article 359 will be amended in the process. However, we are

concerned that despite progress made in the last years on labour issues, we are now at a turning point. We therefore urge the Government to take the necessary measures, including further capacity-building of various actors, clear instructions of the military not to rely on forced labour, proper investigation and sufficiently dissuasive sanctions and the finalization of the action plan on forced labour, which is currently drafted with support of the ILO, to address the Committee's concerns without delay.

While the elimination of forced labour is the focus of this discussion, we also urge the Government to take the necessary measures to:

- ensure that the current drafts of the Labour Organization Law and the Settlement of Labour Dispute Law comply with international labour standards. While we note that the latter Law was adopted in May, albeit not yet fully assessed, we recognize some progress such as the elimination of sanctions of imprisonment. However several gaps remain, including the non-coverage of the public sector. In addition, we have not yet seen the expected progress on the draft Labour Organization Law. In fact, the current draft, if adopted, would represent a step backwards. We urge the Government to revise the draft in a tripartite manner and by using ILO technical assistance to bridge the current gaps to international labour standards;
- ratify the Minimum Age Convention, 1973 (No. 138) – We note that tripartite consensus was reached on the issue. We urge the government to swiftly ratify Convention No. 138 as this will be a very important step to ratification of all five remaining fundamental ILO Conventions;
- align the current draft of the Child Rights Law with international labour standards on child labour. We take note that it is going to be discussed during the current parliamentary session;
- adopt the already finalized list of hazardous jobs to effectively fight child labour;

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- implement measures based on tripartite dialogue to address issues that limit freedom of association in practice;
 - take effective measures to ensure that the civil liberties of workers are ensured, including by revising the Peaceful Assembly and Peaceful Procession Law in line with the recommendations of the ILO direct contact mission of October 2018. It remains particularly vital in view of charges put forward in February 2019 against trade unionists in Mandalay;
 - take further steps to improve occupational safety and health – while we acknowledge the recent enhancement of the law as a positive step forward, we urge the Government to effectively implement the law and to regularly revise it in particular to further broaden the scope of the law.

The EU and its Member States will continue to assist the Government in this respect and we will continue to closely monitor the situation in the country.

Government member, China (Ms LYU) – We notice that with the help of the ILO, the Myanmar Government has actively conducted a number of activities promoting the elimination of forced labour and formulated a number of regulations and laws, and forced labour has been substantially reduced. In 2018, the Myanmar Government signed with the ILO the Decent Work Country Programme, and development and cooperation are very important to realize decent work in member States.

The Chinese Government urges the ILO and the international community to help the Myanmar Government to eliminate forced labour, provide more development assistance. We support the Myanmar's Government request to turn the ILO Liaison Office into a regular ILO Myanmar Office, and we also encourage the Myanmar Government to adopt new action plans to establish a forced labour complaints mechanism.

Worker member, Japan (Ms GONO) – While we note the efforts of the Myanmar Government to eliminate forced labour by the extension of the Supplementary Understanding and the agreement of the first Decent Work Country Programme in 2018, we would like to share our concerns on the forced labour situation in Myanmar described by the UNHRC independent fact-finding mission report in 2018.

First, the case of forced labour by Tatmadaw military forces of Myanmar, and ethnic armed organizations for public works. The mission found a pattern of systematic use of men, women and children for forced labour across Kachin and Shan States, throughout the reporting period, including in areas of the states not subject to active conflict. In many instances the Tatmadaw arrived in a village and arrested many people who were then detained for forced labour, without warning or consultation. They were detained near the villages or made to travel long distances, made to do different work such as cooking for Tatmadaw, portering, digging trenches, cutting down trees, building roads, or made to walk in front to show the routes, or acting as human landmine sweepers to Tatmadaw.

The duration of forced recruitment varies from a day to months. The forced recruitment includes women, children as young as 12, as well as teachers. In 2012, the Government and the United Nations signed a joint action plan to end the recruitment and use of child soldiers. In 2018, it was reported that the total number of released children since the signing of the plan was over 924. They were kept in inhumane conditions without adequate food, water or other facilities. There was no compensation of their labour. Violence, torture, sexual violence and rapes were reported. These situations are still prevalent in Kachin and Shan states. Though there are serious cases of forced labour, we acknowledge, once again, the efforts of the Government to eliminate forced labour.

I take this opportunity to recall the main decision of the last ILO Governing Body in March on this case as follows: Having considered the report submitted by the Director General, the Governing Body expressed serious concern over the persistence of forced labour, and urged the Government to intensify its close cooperation with the ILO for the

elimination of forced labour. It also encouraged the Government to promote decent work through responsible investment policies in line with the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy.

We wish further efforts of the Government to improve the situation to eliminate forced labour.

Government member, United States (Ms MORENO) – In March 1997, the ILO Governing Body established a Commission of Inquiry to examine allegations of serious widespread forced labour in Myanmar. The ILO has since worked closely with the Government to address the Commission’s subsequent findings, beginning with the agreement to appoint an ILO Liaison Officer in 2002. Significant progress was made. The 2007 Supplementary Understanding established a joint ILO–Government complaints mechanism for victims of forced labour. The 2012 adoption of the Ward or Village Tract Administration Act made the use of forced labour by any person a criminal offence punishable with imprisonment and fines.

Despite progress over the years, recent reports, including the September 2018 report of the detailed findings of the independent international fact-finding mission on Myanmar, point to the continued use of forced labour by the military, particularly in Kachin and Shan States, as well as among ethnic Rakhine and Rohingya.

The Supplementary Understanding, providing the legal basis for the ILO’s involvement in receiving and referring forced labour complaints, lapsed in December 2018 with no Government complaints mechanism in place. While the Government has recently met with the ILO on outstanding cases and is developing a proposal for its own complaints mechanism, the current proposal does not provide sufficient victim protection or articulate a credible process for independent investigations.

Significant efforts are needed to establish the conditions necessary for a government-run complaints mechanism to function effectively. To date, almost all military personnel

found involved in forced labour have received only internal disciplinary action. Only one perpetrator has been appropriately punished under section 374 of the Penal Code. Continued inadequate enforcement will hinder the effectiveness of any complaints mechanism. Additionally, while a 2019 action plan has been negotiated with the ILO, the Government has yet to secure endorsement from all necessary ministries and entities, including the military. We urge the Government to take all necessary measures for the full elimination of all forms of forced labour, including:

- develop and operationalize, in close cooperation with the ILO, an accessible, credible, and accountable mechanism for receiving and resolving complaints of forced labour;
- endorse and implement the 2019 action plan;
- address the full backlog of cases under the Supplementary Understanding mechanism;
- prosecute perpetrators under section 374 of the Penal Code;
- amend article 359 of the Constitution;
- continue to raise awareness and capacity-building on forced labour, particularly in areas experiencing ongoing violence, including through intensified public awareness campaigns.

Lastly, recognizing that the Government has accepted technical assistance, we urge the ILO to prioritize assistance on forced labour, including within the Decent Work Country Programme framework, and to actively solicit donor support where needed.

Employer member, Sri Lanka (Mr WEERASINGHE) – The EFC from Sri Lanka speaks as part of the Employers’ group and in solidarity with the representations made by the Employer spokesperson as well as our Employer colleague from Myanmar, the Myanmar Federation of Chambers of Commerce and Industry.

We wish to commend the interventions implemented by our colleagues to alleviate and eventually eliminate forced labour, specifically interventions to improve compliance of laws and international labour standards, such as the special audit with emphasis on eliminating forced labour-related practices; it is a noteworthy contribution.

The Myanmar Chambers of Commerce efforts, together with the tripartite stakeholders to improve the country's socio-economic conditions, including worker welfare, is progressive and deserves higher recognition and encouragement. We hope that the next time, if this Committee of Experts were to examine Myanmar, it would be as a case of progress.

Miembro gubernamental, República Bolivariana de Venezuela (Sr. RIVERO GONZALES) — El Gobierno de la República Bolivariana de Venezuela agradece la presentación de los distinguidos representantes de Myanmar con relación al cumplimiento del Convenio. Valoramos los avances del Gobierno de Myanmar para erradicar el trabajo forzoso, logrando significativos avances en estrecha colaboración con la OIT.

Destacamos el proceso de reformas democráticas que está produciendo resultados tangibles en Myanmar en el campo de la promoción y protección de los derechos laborales incluida la eliminación del trabajo forzoso, valoramos el Programa de Trabajo Decente por País, firmado en septiembre de 2018 entre Myanmar y la OIT, teniendo presente que éste no sólo es un avance significativo en la Agenda de Trabajo Decente, sino también es una contribución efectiva a las reformas para promover y proteger los derechos laborales.

Nos congratulamos que los casos de trabajo forzoso han disminuido significativamente, y hacemos un llamado para que la OIT y la comunidad internacional continúen colaborando con el Gobierno de Myanmar para proseguir con los esfuerzos de erradicar el trabajo forzoso.

El Gobierno de la República Bolivariana de Venezuela espera que las conclusiones de esta Comisión, producto de este debate, sean objetivas y equilibradas y así el Gobierno de Myanmar podrá proseguir con el cabal cumplimiento del Convenio.

Worker member, Canada (Ms DUBOIS) – In its efforts to achieve compliance with the Convention, the Government of Myanmar must address weaknesses in land policies that risk leaving entire communities vulnerable to conditions and practices that the Convention seeks to eliminate.

The Government classifies about a third of the country’s total land area, as vacant, fallow, or virgin land. Much of this land is actively managed by communities as farmland or productive forest in accordance with customary law and practice. Those using such land usually lack formal documents for it.

Under the Vacant, Fallow, Virgin Land Management Law, which was amended in September 2018, anyone occupying or using such land was given six months’ notice to apply for an official permit to use the land or face eviction and up to two years in jail for trespassing on land they have lived or worked on their whole lives.

Large numbers of people in Myanmar were unaware of the amendments and deadlines and could not file claims. Others displaced by armed conflict were unable to file for a permit for their lands.

This policy risks escalating land disputes in areas, such as Kachin and Shan States where there are more than 100,000 displaced persons. There is significant risk that permits to use vast areas of land designated as vacant, fallow or virgin, but belonging to people who have been internally displaced or made refugees, will be granted to investors.

Although the amended law exempts “customary lands designated under the traditional culture of ethnic people”, customary tenure is still not legally defined in this or in any other law, leaving decisions over what counts as “customary” to administrators who may themselves be implicated in land grabs.

The law creates incentives for authorities to take land from traditional communities and opens the possibility that private companies can make claims to this land. For instance,

applications by companies and individuals to use vacant land trigger a 30-day objection period, with a notice displayed outside local government offices. Many residents of camps would be unlikely to see these notices, let alone act on them with the required “evidence”.

In Kachin, a state shaped by decades of civil war, vacant land is becoming scarce and being lost to expanding banana fields. It is increasingly difficult to earn a living. There are documented cases where Government militia forced farmers to grow commercial crops and later agreed to “rent” their land to companies for banana plantations. Locals are told they are being compensated for land use but the US\$36 they received per acre also included the crops and all of their labour. In addition, companies use pesticides that has led to the contamination of water and farmers fear the irreversible impact on their land and their only means of income.

There are difficulties to take action against companies as the majority of plantation sites are in conflict zones and they are doing their business under the protection of the armed forces.

Land policies need to address these issues and not deprive people of stable livelihoods or expose entire communities to the practices of exploitation that the Convention seeks to remedy.

The sitting closed at 1 p.m.

La séance est levée à 13 heures.

Se levantó la sesión a las 13 horas.

Seventh sitting, 13 June 2019, 3.05 p.m.
Septième séance, 13 juin 2019, 15 h 05
Séptima sesión, 13 de junio de 2019, 15.05 horas

Chairperson: Mr Rochford

Président: M. Rochford

Presidente: Sr. Rochford

Government member, Canada (Ms KOESTLER) – Canada thanks the Government of Myanmar for the information provided today. Recalling Canada’s statement on Myanmar

delivered during the 335th Session of the Governing Body in March 2019, Canada notes the Government's efforts to address and eliminate the use of forced labour and the progress made on labour law reform to date.

However, it is clear that much more work remains to be done to effectively end the use of forced labour in the country. In particular, Canada remains deeply concerned about the persistence of forced labour, under violent and inhumane conditions, imposed by the Tatmadaw in Kachin, Shan and Rakhine States in Myanmar. We also observe with disappointment that military personnel who extract forced labour largely receive only disciplinary sanctions instead of criminal penalties under the Penal Code.

We note that no action has yet been taken to amend article 359 of the Myanmar Constitution, potentially allowing for an arbitrary or generalized exaction of forced labour from the population. Canada also reiterates its concerns about the absence of a formal and independent mechanism to address complaints of forced labour and provide support for victims.

We therefore urge the Government of Myanmar to take immediate action to: first, strengthen its efforts to ensure the elimination of forced labour in all its forms, in both law and practice and in line with international standards, including forced labour imposed by military, public sector or civilian authorities; second, strengthen efforts to ensure the prosecution of perpetrators and end impunities, and ensure that penalties imposed by law for the extraction of forced labour are adequate and strictly and uniformly enforced against perpetrators; third, amend article 359 of the Constitution to clarify that forced labour may not be extracted from the population under any circumstances; and finally, ensure, in coordination with the ILO, timely establishment of an independent complaint mechanism, with nation-wide reach, timely and effective follow-up, and protection for victims.

We urge the Government of Myanmar to ensure that all reforms are consistent with international labour standards and the result of genuine and effective tripartite dialogue. In

that regard, we note the extension of the national tripartite process and the holding of the National Tripartite Dialogue Forum in May 2019, and encourage the Government to take the concerns and comments of stakeholders into account during the legislative and policy development processes.

Finally, we encourage the Government of Myanmar to continue its close cooperation with the ILO towards achieving these objectives.

Observer, International Transport Federation (ITF) (Mr SUBASINGHE) – I will speak on the issue of human trafficking and forced labour in fisheries in the context of both internal and external migration. The fisheries sector is one of the major components of Myanmar’s economy, employing a total of 3.3 million people. A 2015 ILO report on internal labour migration in Myanmar found that working conditions in the local fishing industry involved physical violence, debt bondage, salaries that fall short of original terms and lack of food. Some 39 per cent of respondents to the ILO survey in the fishing industry were in a situation of forced labour, compared with 26 per cent overall and 26 per cent of respondents in the fishing industry were in a situation of trafficking, compared with 14 per cent overall. Policymakers will do well to adopt a sectorial approach in formulating action plans to combat human trafficking and forced labour in the local fishing industry.

I will now turn to the situation of migrant Burmese fishers. Migrant workers from Myanmar make up a large proportion of the fisheries workforce in Thailand. The Fishers’ Rights Network which is an ITF initiative to build an independent union of fishers in Thailand mainly organizes migrant fishers. Now, more than 90 per cent of the Burmese fishers the FRN has interviewed in the past 12 months alone has said that they are in debt bondage for more than 20,000 bhats, which is roughly US\$600, which represents a debt large enough that they cannot pay it off quickly. Exploitation of Burmese fishers is rife.

It was also reported by *The Guardian* newspaper that Rohingya migrants trafficked through deadly jungle camps have been sold to Thai fishing vessels as slaves. Deceptive and

coercive recruitment, involving unscrupulous agents or brokers, including Myanmar itself, is a key element in the placing of fishers into exploited situations.

The Government of Myanmar has taken some positive steps to address the issue. Thailand and Myanmar signed a Memorandum of Understanding on cooperation in the employment of workers in 2018 which includes measures on trafficking. Myanmar is also a member of the ILO led South-east Asian Forum to end Trafficking and Forced Labour of Fishers and since February of this year, the ILO, together with the Ministry of Labour and the ITF, has helped lead pre-departure orientation for fishers going to work in Thailand. However, despite these initiatives, as our statistics suggest, much more needs to be done. The Government of Myanmar should, as a minimum, ratify and effectively implement ILO Convention No. 188 on Working Fishing and follow the ILO's General Principles and Operational Guidelines for Fair Recruitment to the letter. The Government should also continue to work with the ILO and the ITF on pre-departure training and related matters.

Government member, India (Mr AGRAWAL) – We thank the delegation of Myanmar for its submission on this agenda item, and the comprehensive update provided therein. We take positive note of the significant progress made by the Government of Myanmar in furthering the ILO Decent Work Agenda, strengthening tripartite social dialogue, and undertaking labour reforms, inter alia, in accordance with this national context and priorities.

As a friendly neighbour, we are fully aware of this context of the ambitious political, economic and social agenda being pursued by the democratically elective civilian Government of Myanmar, and understand the challenges it faces in taking forward the peace process, building institutions and strengthening the role of law, including for the protection and promotion of labour to create a fair and just society for all its people.

We sincerely appreciate the sustained commitment of the Government of Myanmar to create decent jobs, promote responsible investment, strengthen the culture of tripartism, and

social partnership, including freedom of association undertaking labour reforms and eliminate forced labour under the auspices of the recently signed Decent Work Country Programme.

The development of an updated action plan including for the establishment of a national complaints mechanism, in close cooperation and consultation with the social partners, and greater efforts towards awareness-raising and capacity-building through training for eliminating forced labour, are other positive initiatives of the Government. The incidence of forced labour in Myanmar has significantly come down, and it is clearly on a declining trend due to the measures taken not only by the Government of Myanmar, but also its Parliament by means of appropriate amendment of the national constitution.

We support Myanmar's continued cooperation and constructive engagement with the ILO. The ILO and the international community should constructively engage with and fully assist and extend all technical assistance to the Government of Myanmar in its efforts to help realise its overall national economic and social policy objectives by promoting decent work and eliminating forced labour. We wish the Government of Myanmar all success in its endeavours.

Worker member, Malaysia (Ms ANANTHARASAM) – The Global Slavery Index (GSI) Report on Myanmar estimated 575,000 people to be living in modern day slavery. For every 1,000 persons, 11 persons were victims of slavery in Myanmar. GSI also reported that a key flash point for this was the mass displacement, abductions, sexual violence, and murders committed against the Rohingya population.

Four months ago, Myanmar's Ministry of Labour, Immigration and Population permanent secretary, Mr U Myo Aung, told the media that Myanmar workers working overseas hit 5 million. The actual figure, in my opinion however, is much larger than this because just in Malaysia, as at 2017 there were already more than 450,000 Myanmar workers. Many of these Myanmar workers fled the country to greener pastures in the nearby

countries such as Thailand and Malaysia only to face harassment and victimization even before they exit Myanmar.

It is reported that in Myanmar, there is a one-stop centre processing exit visas for workers. This one-stop centre that claims to be the exclusive service provider for running visas and consular services for Myanmar Embassies in China, France, Italy, Japan, Malaysia and Singapore. The costs of visas have escalated multiple times and on top of the visa fees, the workers have to pay service fees.

It is reported that prior to December 2015, Myanmar workers heading to Malaysia paid US\$6 for visas but since 2016, the workers are paying a whopping US\$83 for Service Fee, System Fee and Immigration Security Clearance fee over and above the visa fees. The visa fees have escalated ten times more and health checks have arisen from US\$10 to US\$56. These monies are excluding the hundreds of dollars paid to employment agencies that arrange the jobs. Very few workers can afford to pay these new additional fees so they take heavy interest loans or mortgage their property or sell them altogether to pay to travel abroad to seek better livelihood. This drives them into debt bondage and they live on borrowed income for the rest of their lives. Syndicate companies or workers future employers in some cases, create this drive to debt bondage. They are moneylenders or they facilitate the lending. Once aboard, the workers lose their freedom, they have to work long hours to support and pay back the debts.

Despite the efforts put in by the ILO through various programmes, the debt bondage keeps increasing. So Myanmar, being a country that has ratified the Convention, ought to negotiate a G2G Agreement with Malaysia as soon as possible to end the debt bondage and to protect migrant workers heading towards Malaysia for a better livelihood.

Employer member, Singapore (Mr YEE) – I think we have heard a lot about the comments made by the Committee and also cases presented, or past cases, but I think we see statistics coming down. It is a good sign and I will give credit to the Employers and even to

the trade unionists who work in very tight cooperation together with the Government. We need to put a fair statement here and I think what is more important is moving forward. What are the action plans that are going to be put in by the social partners with the help of the ILO as well? I think those are important. We need to emphasize on that, work on that, and I think we would be able to see some light at the end of the tunnel.

A few things that I would like to just re-emphasize is that the training to the employers about forced labour should continue. We should also within the country set standards and guidelines for employers to follow. I think this is important moving ahead. Likewise, the union leaders, you are on the ground, have to advise the employers. We need people to be on the ground to alert the employers as well.

Lastly, we should not forget that the Government of Myanmar plays an important role. We can see that tripartism is important even though the country has less than three years of democracy but I think that we are seeing tripartism in action and we need them to address these domestic issues with the help from the ILO.

Miembro gubernamental, Nicaragua (Sra. TORRES BRIONES) — Agradecemos los representantes gubernamentales por el informe presentado a esta Comisión, con relación al Convenio. Igualmente, agradecemos los esfuerzos del Gobierno en la aplicación del Convenio, lo que demuestra su compromiso decidido en cumplir con todas las obligaciones bajo el Convenio referido.

También celebramos el Memorando de Entendimiento para el Plan de Acción sobre la eliminación del trabajo forzoso (2018), firmado entre el Gobierno y la OIT, y alentamos a la Organización a seguir trabajando en conjunto con el Gobierno y brindar toda la cooperación y asistencia técnica necesarias para seguir logrando progresos palpables en el país. Felicitamos los esfuerzos del Gobierno de Myanmar por la implementación en curso del Plan de Desarrollo Sostenible de Myanmar (2018-2030) que está en línea con los Objetivos de Desarrollo Sostenible, incluso el ODS 8.

Aplaudimos que, en estrecha colaboración con la OIT, el Gobierno intensifica y alienta el proceso de reformas de la legislación laboral, fortalece la cultura del diálogo tripartito y capacita a las personas que participan principalmente en la protección y promoción de los derechos laborales. Alentamos al Gobierno a que se siga trabajando en aras de lograr más progresos significativos para la erradicación del trabajo forzoso y le auguramos todo lo mejor para la consecución de todos los objetivos a este respecto.

Interpretation from Russian: Government member, Belarus (Mr NIKOLAICHIK) – Belarus is in favour of a universal and equitable approach to all countries and we would like to thank the delegation of Myanmar for the report that it has presented. We welcome its efforts to improve the situation of workers and improve the legislative system. We note the openness of Myanmar to cooperation with the ILO including developing and applying a national action plan. We support the Government's activities to promote peace, pursue social dialogue, and meet its obligations under the principles of the ILO and we welcome the efforts of the Government and encourage the international community to further support Myanmar.

Membre gouvernemental, Suisse (M. BLESS) – La Suisse soutient la déclaration faite par l'Union européenne et souhaite ajouter quelques points. La Suisse salue les diverses mesures prises par le gouvernement en collaboration avec l'Organisation internationale du Travail, ainsi que les progrès significatifs accomplis ces dernières années en ce qui concerne l'élimination du travail forcé. Cependant, la Suisse regrette profondément que, malgré les efforts faits par le gouvernement, des cas de recours au travail forcé perdurent au Myanmar.

Le recours au travail forcé par les forces armées du Myanmar (Tatmadaw) à l'encontre de certaines ethnies minoritaires est très préoccupant et doit être fortement condamné. Les mesures prises par le gouvernement pour lutter contre toute forme de travail forcé sont positives, mais les efforts doivent continuer et être intensifiés afin d'éliminer le recours au travail forcé dans l'ensemble des Etats du Myanmar. En ce sens, la délégation suisse encourage le gouvernement à continuer ses actions de formation et de sensibilisation ainsi que la collaboration avec l'OIT.

Par ailleurs, l'efficacité de la mise en œuvre des lois et leur application stricte sont des éléments indispensables à une lutte pleine et entière contre le travail forcé. Des enquêtes approfondies doivent être menées, et les cas d'infractions pénales doivent faire l'objet de sanctions suffisamment dissuasives et strictement appliquées aux auteurs dans tous les cas. La Suisse invite donc le gouvernement du Myanmar à prendre les mesures nécessaires pour assurer la stricte application de la législation nationale.

Finalement, la Suisse invite le gouvernement du Myanmar à ratifier la convention (n° 105) sur l'abolition du travail forcé, 1957, ainsi que le protocole de 2014 relatif à la convention sur le travail forcé, 1930. La Suisse continuera de soutenir des programmes de l'OIT au Myanmar.

Interpretation from Russian: Government member, Russian Federation (Mr KALININ) – First of all, we would like to express our gratitude to the Government of Myanmar for the detailed explanations that it has provided today on measures that have been taken to meet the obligations under the Convention. We have seen from the report that the Government is doing considerable work in close cooperation with the ILO. In Myanmar efforts are being made to carry out democratic reforms. One of the important areas is ensuring the protection of workers' rights and despite the existing difficulties, there is consistent work taking place in order to provide guarantees against forced labour. We particularly note the steps that have been made in order to implement the country programme to further decent work which was signed in September 2018 and we also note the reforms that have been made to the labour legislation.

We welcome the contribution of the ILO and its close cooperation with the Government of Myanmar. We also welcome the development with the social partners of a new plan of action to create a national mechanism for complaints. All of these measures, taken together, have already had a positive effect in our view. The number of cases of forced labour have been reduced and are continuing to fall. We hope that this trend continues.

We call on the ILO and the national community as a whole to continue its cooperation with the Government of Myanmar to ensure full fulfilment of the obligations of the country under this Convention.

Government representative (Mr TUN) – We have listened to all interventions very carefully. The Myanmar delegation will be taking those views, advice and concerns back to Myanmar for due consideration, with a view to achieving better compliance with the Convention. I would like to state again that the establishment of the National Complaints Mechanism under the Decent Work Country Programme is at the final stage for approval. The consent of all ministries, including the Ministry of Defence, for the establishment has already been secured. We also have the interim procedures for continuously receiving complaints made by any individual and any organization. We will continue close cooperation with the ILO in this regard.

As we mentioned in our introductory remarks, we indeed need a Constitution which is in line with the democratic norms. The Joint Parliamentary Committee was formed in order to amend the Constitution. The Committee has met almost 20 times so far since its inception in February this year. As we mentioned earlier, constitutional constraints are among the challenges we are facing, therefore, the current Government set amending the Constitution as the highest priority for the country. We are making our effort to transform the country into a democratic federal union. As the State Counsellor has stressed, we will pursue in an evolutionary way, not a revolutionary way. Everyone in Myanmar agreed that we want to live in a democratic federal union, not under an authoritarian regime. The constructive cooperation from the international community is indeed needed for keeping Myanmar on the right track on its democratization. Therefore, we take all allegations of violations of forced labour seriously. We are willing and able to address such issues. The Government is fully committed to take legal action against perpetrators if there is credible evidence of any human rights violation, including forced labour.

Some speakers made reference to the report of the HRC fact-finding mission. With regard to the fact-finding mission, our position is clear. Myanmar has categorically objected to the fact-finding mission since its establishment. We also reject its narrative-based report. However, we take all allegations, including those contained in the fact-finding mission report seriously. The Government of Myanmar has repeatedly stated that it will not condone human rights violations and will take action against perpetrators according to the law if the allegations are supported by sufficient evidence. Therefore, the Government of Myanmar has established an independent commission of inquiry to investigate all allegations of human rights violations following the ARSA terrorist attack in August 2017 in northern Rakhine. The mandate of the commission is to seek accountability and reconciliation. The commission is carrying out its mandate with independence, impartiality and objectivity. The independent commission of inquiry will investigate allegations of human rights violations based on hard evidence. Therefore, it will gather all information and analyse evidence by setting up a subcommittee. It is seeking technical support of external experts in such areas as information and communication, legal, forensics and criminal investigation. Each member of the commission will also appoint their own supporting staff and experts. The commission has publicly invited submissions on the allegations of human rights violations. The commission has received over 40 submissions concerning allegations of human rights abuses. The commission is also requesting access to the refugee camps in Cox's Bazar in Bangladesh. We urge the Government of Bangladesh to facilitate the commission's visit to the camps to meet with the alleged victims of abuse. The commission's work will be evidence based. Therefore, the international community should support the work of the commission. Our doors are open for all constructive complaints. Complaints can be made in many channels, through existing ones, social media, the national human rights commission, the President's Office and Parliament, to name a few. We would like to reconfirm our commitment for the elimination of forced labour. In this regard, we will continue our cooperation with the ILO and partners. Therefore, we would like to request all our partners to extend assistance and constructive cooperation to the Government's efforts for the elimination of forced labour.

Worker members – Regrettably, it appears that the international community was too quick to claim a victory in the eradication of forced labour in Myanmar. While steps have been taken, the still pervasive nature of forced labour remains a serious cause for concern, especially given the involvement of state actors. This case merits rigorous follow-up by the ILO and the international community. We again express our deep concern regarding the lapse of the Supplementary Understanding while there is no other credible mechanism in its place. Now is not the time to lose all independent oversight over the exaction of forced labour in the country.

With regard to the situation of the Rohingya, this matter requires urgent attention and genuine leadership. Forced labour will continue so long as such a large population remains in a highly vulnerable situation – as undocumented citizens in their own country. Over 700,000 now live over the border in Bangladesh in squalid camps with no short-term prospects of a return home under conditions that guarantee their safety and security. Their forcible eviction from Myanmar has created a human rights crisis, including extreme vulnerability to human trafficking given their desperate situation. Those who are internally displaced also face a high risk of gross exploitation by the army and human traffickers, particularly in natural resource extraction.

Of course, our concerns with regard to forced labour do not end there. As we have heard, many others, including workers in other ethnic areas, face forced labour by the military or private individuals, including in agriculture, fishing and mining. Indeed, the reports of forced labour and other human rights violations in the mining of precious gems is particularly bleak, including addicting workers to powerful opiates in order to prevent them from leaving their exploitation.

The use of forced labour as punishment in prisons, in particular for private gain, is a serious concern and must be stopped immediately. Imprisoning of dissidents for the exercise of the basic freedoms must also end. I would also echo the concerns raised by the Workers' delegate from Myanmar about the poor situation with regard to freedom of association both

in law and in practice. As the Committee of Experts has explained, and this Committee has echoed, there is a direct link between the absence of freedom of association and the exaction of forced labour. We are deeply troubled at the direction of the Government with regard to freedom of association, as we explained in this Committee just last year, and worry that the Government's hostility to workers' organizations will expose workers to greater risk for forced labour. And we have also heard that land dispossession has created serious vulnerabilities of exposure to forced labour.

It is our fear that Myanmar may again be a regular case in this Committee if things continue as they are going. We therefore strongly urge the Government of Myanmar to respect the conclusions of this Committee and to implement them as soon as possible. We also believe that a direct contacts mission should be sent to Myanmar to follow up this Committee's conclusions and report back to this Committee next year. We also strongly encourage the ILO secretariat and the Liaison Office to continue to work intensively with the Government to address these very serious violations, and to continue reporting to the Governing Body.

Employer members – I think, and what we have heard also from many governments, is a recognition that Myanmar has come from, going back many, many years, a place of globally acknowledged repression and oppression and in recent years has emerged into what you call a sunlight of democracy, but it is still emerging. If you could use the analogy of a chrysalis turning into a butterfly, we are a long way yet from being the butterfly, but it is hitting in the direction that ultimately I think the world will recognize.

That said, and I do not think that anybody would say otherwise, there are still too many things that are not going right. The instances of, particularly as the Committee of Experts have noted, the instances of recruitment into the armed services, remain the core and most evidenced aspect of the concerns that this Committee has raised, and I note that the Government has said that it will act on matters with credible evidence. I think that at least in the case of the armed services, it is a well-documented set of processes and that pretty much

every individual has a set of documents. So that much we ask the Government to acknowledge their own accountability and to continue to do what they say they are already doing.

What remains though, is those areas outside of the military which either are not documented, and we have heard a number of anecdotal, in part, and partially evidently based issues around labour in other areas such as agriculture and the like. I would note that much of what has been there is outside the country, not outside the responsibility of the country but outside the physical boundaries of the country, and of course that has its own set of problems.

So one of the things I think that the Employers would say is that this is not just a problem for Myanmar, because when these issues occur outside, even though they are occurring to the citizens of Myanmar, they are occurring within, and within sight of or within the jurisdictions of others. Therefore I call on everybody, especially those in close proximity to Myanmar, to play their part too in identifying, suppressing or otherwise assisting in the elimination of these sorts of practices. Fishing in the seas outside Myanmar for instance is a lot of other people's responsibility. So everybody has a part to play here and we call upon everybody to play their part.

The other thing in relation to the scope of this exercise, and I mentioned just before that the military appears to be the main forces and certainly the most evidenced, but it comes back down to, as we move forward, is making sure that when these things are addressed and the penalties are being considered, that they are approached in a balanced and fair manner. And we heard little bits of evidence to suggest that, or concerns that the punishment for military members perpetrating the forced labour is at a pretty low level at a disciplinary rather than punitive or penalized level, whereas there is evidence that for instance, civilians involved in the same sorts of activities have suffered penalties including significant terms of imprisonment. There is an evidence based concern about a lack of balance in that, and the Employers would call upon the Government to ensure that whatever regime and institutes

for the dissuasive punishment of trafficking and forced labour is balanced and fair across the entire economy without restriction.

The one thing that we think and we have heard is that to address forced labour requires a means for it to be identified in that, the single most effective mechanism that we have heard about is the development of the national complaints mechanism, and I say here too that we talk about it in the singular, but we have heard from the Government that the proposed mechanism is in fact a multifaceted set of doors through which anyone can enter and lay their concerns out.

The creation and completion of that process is of the utmost priority, and we note that the Government has said that the action plan is going before cabinet, the action plan is the vehicle through which the rest of the complaints process will be put forward. That is in our view the highest possible priority. Aligned with that, is the need to ensure that the relevant legislation in the country is also aligned. We heard that the constitution is out of step with some of the other initiatives that are being taken. So that the alignment of internal legislation and the Constitution is part of that priority, but the headline if you like, the face of the priority, is the creation of that complaints mechanism.

To do that, we urge the Government of Myanmar to continue and strengthen its relationship with the likes of the ILO, who, as everyone has admitted, assisted in a very great way over the last few years. The existence of the Liaison Office both in the past and the present, are acknowledged as being hugely beneficial. Those mechanisms can still be further strengthened, as can the internal capacities of the Employers, Workers and Government and organs inside the Government that deal with these issues. So we urge that the cooperative process involved in the ILO and the social partners focus on that as their main issue.

So just with that, we would summarize I guess the sorts of things we would recommend. First, we praise the Government for its progress; we remain concerned at the issues that remain; we acknowledge that those issues are becoming more focused in certain areas, which

is evidence that other areas are being managed as time goes on. We urge them to continue that process. We recommend that the Government take immediate actions to reform the national legislative programs including the introduction of the action plan on the alignment with the constitution. We urge the Government to regularly report, not just to the ILO through any of their reporting mechanisms that exist, but to establish transparent reporting mechanisms within its own country, so that all citizens can see that these issues are being made, or complaints are being made, complaints are being dealt with, and then the entire country can see and trust the process, which I think is also an extremely important part of any democracy. And lately we recommend that the Government continues to work in close collaboration with its social partners to establish a permanent and effective national complaints mechanism for handling forced labour complaints in an effective and dissuasive penalty regime.