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Follow-up to the report of the Commission of Inquiry established in accordance with article 26 of the ILO Constitution concerning the non-observance by Myanmar of Conventions Nos 87 and 29, and to the resolutions concerning Myanmar adopted by the International Labour Conference at its 102nd (2013) and 109th (2021) Sessions

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► I. Introduction

1. It may be recalled that the Commission of Inquiry established in March 2022 by the Governing Body, on its own motion, in accordance with article 26(4) of the ILO Constitution concerning the non-observance by Myanmar of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Forced Labour Convention, 1930 (No. 29), presented its report to the Governing Body at its 349th Session (October–November 2023).¹
2. At that session, the Governing Body adopted a decision in which it:
 - (a) took note of the report of the Commission of Inquiry established in accordance with article 26 of the Constitution concerning non-observance by Myanmar of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Forced Labour Convention, 1930 (No. 29), as well as of the reply from the military authorities;
 - (b) urged the military authorities to desist from any and all acts of retaliation against any individual or organization which provided information to the Commission of Inquiry;
 - (c) in preparation for a discussion at the upcoming 350th Session of the Governing Body (March 2024), invited the Director-General to prepare a report including options for possible further measures, including those foreseen in the ILO Constitution, to secure compliance by Myanmar with the recommendations of the Commission of Inquiry in the event the military authorities do not accept the recommendations of the Commission of Inquiry and do not commit to implement them fully and promptly.²
3. This document has been prepared in response to that decision. It examines the continued follow-up to the resolutions concerning Myanmar adopted by the International Labour Conference at its 102nd (2013) and 109th (2021) Sessions³ and the follow-up to the report of the Commission of Inquiry.⁴
4. It may be recalled that an item on the follow-up to the resolutions concerning Myanmar was last included on the agenda of the Governing Body at its 347th Session (March 2023).⁵ At that session, the Governing Body considered the developments in Myanmar and, recalling the resolution for a return to democracy and respect for fundamental rights in Myanmar adopted by the Conference at its 109th Session (2021), recalled the terms of the decision it had made at its 345th Session (June 2022), which remained valid and relevant in their entirety.⁶
5. It may also be recalled that, in its June 2022 decision, having considered the developments in Myanmar and recalling the resolution for a return to democracy and respect for fundamental rights in Myanmar adopted by the Conference at its 109th Session (2021), the Governing Body had:

¹ GB/349/INS/14.

² GB.349/Decisions.

³ ILO, [Resolution concerning remaining measures on the subject of Myanmar adopted under article 33 of the ILO Constitution](#), International Labour Conference, 102nd Session, 2013; and ILO, [Resolution for a return to democracy and respect for fundamental rights in Myanmar](#), International Labour Conference, 109th Session, 2021.

⁴ ILO, *Towards Freedom and Dignity in Myanmar: Report of the Commission of Inquiry*, 2023.

⁵ GB.347/INS/12.

⁶ GB.347/PV(Rev.), para. 575.

- (a) deplored once again the lack of progress towards respecting the will of the people, democratic institutions and processes, and the fact that the democratically elected government has not been restored;
- (b) called on the military authorities to end immediately the large-scale lethal violence against civilians, including children, and the arrest and torture of trade unionists;
- (c) called on the military authorities to end immediately the harassment, intimidation and arbitrary arrests and detentions of labour activists, trade unionists and others, including the Rohingya, in the exercise of their human rights;
- (d) repeated its call for Myanmar to restore immediately the citizenship of prominent democracy activists, including trade unionists;
- (e) repeated its call for Myanmar to uphold immediately its obligations under the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and to ensure that workers' and employers' organizations are able to exercise their rights in a climate of freedom and security, free from violence, arbitrary arrest and detention, and again called for the immediate release of the General Secretary of the Myanmar Industry, Crafts and Services Trade Union Federation (MICS-TUF) and other trade unionists and activists who have been detained;
- (f) repeated its profound concern over reports of increased use of forced labour by the military authorities and the fact that progress towards the elimination of forced labour has reversed since the military takeover, and called for the military authorities to end forced labour practices immediately;
- (g) repeated its call for the Civil Services Personnel Law, the Settlement of Labour Disputes Law and the Labour Organization Law to be amended without delay, in line with Convention No. 87, once the country returns to democracy;
- (h) called on the military authorities, in accordance with the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947, to take immediate action to remove all restrictions on the operation of the ILO's bank account, approve international staff visa extensions and facilitate the ILO's continued operations to bring benefits to the people of Myanmar despite the expiry of the Memorandum of Understanding on the Decent Work Country Programme in September 2022; and
- (i) called upon Myanmar to fully cooperate with the Commission of Inquiry and facilitate its work, including as regards a possible country visit.⁷

► II. Follow-up to the resolutions concerning Myanmar adopted by the Conference at its 102nd (2013) and 109th (2021) Sessions

A. General developments

6. This section provides an overview of developments in Myanmar since March 2023 in respect of the follow-up to the resolutions adopted by the Conference. The Office will provide information on any further developments orally to the Governing Body.
7. There has been no progress towards restoring the democratically elected government of Myanmar or towards respecting the will of the people, despite the calls made in that regard by the Governing Body and the Conference. The state of emergency declared by the military

⁷ GB.345/PV, para. 140.

authorities has been extended until the end of January 2024. President Win Myint and State Counsellor Aung San Suu Kyi are serving sentences of 8 and 27 years, respectively, after having been convicted of numerous charges that have been widely condemned as fabricated.⁸

8. Over the past year, the humanitarian and human rights crisis has further deteriorated. The United Nations estimates that, at the end of 2023, more than 2.6 million people were internally displaced within Myanmar, 628,000 of those since an escalation in fighting in late October 2023.⁹ It reports that systematic military violence against civilians has resulted in more than 4,000 deaths and that tens of thousands of people have been arbitrarily arrested since the 2021 military takeover. It also notes that nearly 82,000 civilian structures, including homes, clinics, schools and places of worship, were burned during that period, mostly in Sagaing Region, with a dramatic increase between mid-2022 and mid-2023 compared with the prior 12-month period.¹⁰ In its humanitarian needs overview for 2024, it estimated that 18.6 million people were in humanitarian need, representing one third of the population of the country, including 6 million children who, it noted, were bearing the brunt of the crisis.¹¹ The latest report of the United Nations (UN) Special Rapporteur on the situation of human rights in Myanmar provides a detailed account of the deteriorating situation.¹²
9. In one incident, on 11 April 2023 and in the days that followed, the Myanmar military targeted the village of Pazigyí in Sagaing Region, where hundreds of people had gathered to attend a ceremony to open an administrative office of the National Unity Government, leaving approximately 170 people dead, including some 40 children. According to eyewitness reports, a fighter jet bombed the event and, shortly thereafter, two attack helicopters arrived and began strafing the crowd as people fled for their lives.¹³
10. The deteriorating situation in Myanmar continues to impact the region. In August 2023, the International Organization for Migration estimated that some 40,000 Myanmar nationals were leaving the country each month for conflict-related but also economic and other reasons, through regular and irregular pathways.¹⁴ According to the Office of the United Nations High Commissioner for Refugees, more than 1 million Rohingya refugees remain in Bangladesh and elsewhere in the region, with little prospect of a safe and dignified return given the security situation.¹⁵
11. On 14 May 2023, Cyclone Mocha, a top category storm, made landfall near Sittwe, Rakhine State, and then swept inland. Official figures indicate that at least 145 people were killed and more than 186,000 buildings were damaged; non-governmental and media sources suggest the death toll may have been higher. On 19 May, the UN Security Council held an informal (Arria-formula) meeting on Myanmar to discuss the deteriorating humanitarian situation following the cyclone, including the significant access restrictions on the United Nations and

⁸ On 1 August 2023, the military authorities dropped two charges against Win Myint and five charges against Aung San Suu Kyi, reducing their overall sentences from 12 to 8 years and 33 to 27 years, respectively.

⁹ UN Office for the Coordination of Humanitarian Affairs (OCHA), *Myanmar Humanitarian Update No. 35: 2023 Year in Review*, December 2023.

¹⁰ UN General Assembly, *Situation of human rights of Rohingya Muslims and other minorities in Myanmar*, Report of the Secretary-General, A/78/278, August 2023.

¹¹ OCHA, *Global Humanitarian Overview 2024*, 2024.

¹² UN General Assembly, *Situation of human rights in Myanmar*, Note by the Secretary-General, A/78/527 (October 2023).

¹³ A/78/527, para. 30.

¹⁴ International Organization for Migration, *Myanmar Crisis Response Plan 2023*, August 2023.

¹⁵ A/78/278, para. 64.

its partners. In June, the military authorities completely suspended humanitarian access to Rakhine State, a decision that the acting UN Resident and Humanitarian Coordinator described as a “devastating setback” and “unfathomable”.¹⁶ On 15 August 2023, in the highest-profile UN visit to Myanmar since the military takeover, the Emergency Relief Coordinator travelled to Nay Pyi Taw to meet military leader Min Aung Hlaing and push for expanded humanitarian access. On 23 August, he briefed the UN Security Council in closed session on his visit.

12. Civic space continues to be heavily restricted. On 28 March 2023, the military administration’s election commission announced the dissolution of 40 political parties for failure to re-register by the deadline set in the new Political Parties Registration Law, issued in January 2023. Among these parties was the National League for Democracy, which had won a landslide victory in the 2020 elections, and several prominent ethnic minority parties, including the Shan Nationalities League for Democracy, which had won 15 national and 27 regional seats in 2020.
13. Following a major corruption investigation in mid-2023, the military authorities arrested and sacked several generals, including Moe Myint Tun, a member of the State Administration Council and head of the Myanmar Investment Commission, who was reportedly close to military leader Min Aung Hlaing. On 10 October 2023, he and another sacked general were sentenced to life imprisonment by a court martial for a range of offences, including high treason.
14. On 27 October 2023, the Three Brotherhood Alliance of opposition armed groups launched Operation 1027, the most significant offensive in several years. By January 2024, the Alliance had seized key military bases and towns across northern Shan State, including the whole of the Kokang Self-Administered Zone and its capital, Laukkaing, and had handed over to Chinese authorities a large number of people wanted for running scam centres. In December 2023 and January 2024, China facilitated three rounds of ceasefire talks between the military and the Alliance, which reportedly led to separate truce agreements. According to media articles, the 11 January truce has mostly halted offensive operations by the Alliance in northern Shan State (other groups not covered by the truce have continued fighting). The Alliance has claimed that the Myanmar military has violated the truce on numerous occasions, by conducting strikes with aircraft and artillery.¹⁷
15. The rapid success of Operation 1027 galvanized armed groups in other parts of the country to go on the offensive. The Arakan Army ended its year-old ceasefire in Rakhine State in November 2023 and has since seized numerous strategic military bases and at least one town. Clashes have also intensified in Sagaing Region, Chin State, Kayah State and Kayin State.
16. Following Operation 1027, on 12 November 2023, the military authorities placed eight townships in northern Shan State, including the two townships that make up the Kokang Self-Administered Zone, under martial law.¹⁸ This brought to 56 the total number of townships placed under martial law since the 2021 military takeover (out of 330 townships in the country).
17. In a joint statement issued on 1 January 2024, the National Unity Government and National Unity Consultative Council called on military officers and soldiers to “oppose ... orders to

¹⁶ OCHA, “Humanitarian access suspended in cyclone-ravaged Rakhine State”, 12 June 2023.

¹⁷ Radio Free Asia, “Kachin army launches attack on junta infantry base in Myanmar’s north”, 16 January 2024, and *The Irrawaddy*, “Myanmar Junta Repeatedly Breaking China-Brokered Ceasefire: Brotherhood Alliance”, 16 January 2024.

¹⁸ State Administration Council, Martial Law Orders 10/2023 and 11/2023, 12 November 2023.

commit war crimes” and to “stand at the side of the people”, and firmly pledged that 2024 “will be the year to secure the victory of the people”.¹⁹

18. The World Bank anticipates a broad-based slowdown in 2024 across productive sectors in Myanmar, which it attributes to the escalation of conflict combined with disruptions to trade and logistics, local currency volatility and high inflation, which are negatively impacting businesses and households, along with persistent power shortages.²⁰ According to the World Bank, several of these factors have reduced the international competitiveness of the garment industry and incentives for investment in the sector, which has had to focus on survival rather than longer-term expansion. Household median real incomes fell by over 10 per cent between the June quarter 2023 and a year earlier. Food prices rose further from already high levels (by 28.6 per cent as at June 2023), outpacing the wage increases of most workers, including a rise in the de facto minimum wage by 21 per cent in October 2023 – the first increase since May 2018, but one that only applies to the relatively small formal sector. The baseline forecast implies that gross domestic product in 2024 will still be around 10 per cent lower than in 2019.
19. There has been significant global concern over the last year concerning the proliferation of scam centres in Myanmar, run by criminal syndicates and reportedly involving the trafficking and forced labour of workers on a massive scale. On 7 June 2023, INTERPOL issued a global warning on scam centres in Myanmar and other countries in South-East Asia, noting that their rapid spread represented a “serious and imminent threat” to global public safety.²¹ The United Nations has cited estimates that at least 120,000 people across Myanmar are being forced to work in scam centres,²² which, it stated, would constitute one of the largest coordinated trafficking in persons operations in history.²³ On 7 December 2023, the UN Secretary-General told the Security Council at a meeting on transnational organized crime that, in Myanmar, human trafficking and online scams were “flourishing in an environment of violence, repression and the erosion of the rule of law following the military takeover in 2021”.²⁴ Myanmar became the largest global producer of opium and heroin in 2023 as a result of a significant growth in production following the military takeover, combined with an opium ban in Afghanistan.²⁵
20. The ILO continues to collaborate with the country task force on monitoring and reporting mandated by Security Council resolution 1612 of 2005 on children in armed conflict and Security Council resolution 2467 of 2019 on sexual violence in armed conflict. A recent verified report highlights forced recruitment in East and West Bago Region, where Myanmar armed forces have compelled villagers to provide men for the Pyi Thu Sit militia under the threat of village blacklisting and destruction.
21. The ILO database notes unresolved forced labour cases, some attributed to the Ministry of Labour declaring that victims of underage recruitment have been discharged, without sharing

¹⁹ National Unity Consultative Council and National Unity Government, *New Year Joint Statement*, 1 January 2024.

²⁰ World Bank, *Myanmar Economic Monitor: Challenges Amid Conflict*, December 2023.

²¹ INTERPOL, “INTERPOL issues global warning on human trafficking-fueled fraud”, 7 June 2023.

²² Office of the United Nations High Commissioner for Human Rights, *Online Scam Operations and Trafficking into Forced Criminality in Southeast Asia: Recommendations for a Human Rights Response*, 2023, 7.

²³ United Nations Office on Drugs and Crime (UNODC), *Casinos, cyber fraud, and trafficking in persons for forced criminality in Southeast Asia*, September 2023, 2.

²⁴ United Nations, “Secretary-General’s remarks to the Security Council – on Transnational Organized Crime, Growing Challenges and New Threats”, 7 December 2023.

²⁵ UNODC, *Southeast Asia Opium Survey 2023: Cultivation, Production, and Implications*, December 2023.

paperwork. In traditional forced labour cases involving land confiscation, victims claim unjust confiscation due to their refusal to provide labour.

22. The ILO has identified cases of forced labour of children under 18 years old in formal sectors such as garment factories, where workers under 18 years old are not given seniority compensation or social security cards and contracts. In addition, reports and media articles are highlighting that workers are being pressured, intimidated and humiliated for absenteeism and are being forced to resign.

B. United Nations and international response

23. On 19 December 2023, the UN General Assembly adopted without a vote a resolution on the situation of human rights of Rohingya Muslims and other minorities in Myanmar. In it, the General Assembly inter alia urgently calls on the Myanmar military to “end immediately all violence and all violations of international law in Myanmar, to ensure the protection of the human rights of all persons in Myanmar, including of Rohingya and persons belonging to other minorities” and to “fulfil its human rights obligations and commitments to protect the right to freedom of expression, including online, and the rights to freedom of association and peaceful assembly, to create and maintain a safe and enabling environment for civil society and independent media”.²⁶ Earlier, on 4 April 2023, the UN Human Rights Council adopted a resolution on the situation of human rights in Myanmar, inter alia “expressing deep concern at the restrictions on medical and humanitarian personnel, civil society, labour union members, journalists and media workers” and recalling “the recommendation made by the independent international fact-finding mission that no business enterprise active in Myanmar or trading with or investing in businesses in Myanmar should enter into or remain in a business relationship of any kind with the security forces of Myanmar ... until and unless they are restructured”.²⁷ As mentioned above, the latest report of the UN Special Rapporteur on the situation of human rights in Myanmar provides a comprehensive assessment of the situation.²⁸
24. The Special Envoy of the UN Secretary-General on Myanmar concluded her assignment on 12 June 2023. The Secretary-General has not, to date, appointed a new envoy.
25. In his 2023 annual report on children and armed conflict, the UN Secretary-General reported that hostilities spreading into new areas had contributed to an increase in grave violations of 140 per cent in Myanmar. These included the recruitment and use of 235 children in hostilities; the detention of 129 children and the abduction of a further 286; the killing or maiming of 521 children and the rape of two girls; 105 attacks on schools or hospitals; and 122 cases of the military use of such facilities. The United Nations also confirmed 77 incidents of denial of humanitarian access. These violations were attributed primarily to the Myanmar armed forces and allied militias, but also to some of the military’s armed opponents.²⁹
26. On 18 December 2023, the UN General Assembly considered the report of its Credentials Committee and adopted without a vote a resolution that, inter alia, postponed a decision on

²⁶ UN General Assembly, resolution 78/219, [Situation of human rights of Rohingya Muslims and other minorities in Myanmar](#), A/RES/78/219 (2023), para. 16(a) and (f).

²⁷ UN Human Rights Council, resolution 52/31, [Situation of human rights in Myanmar](#), A/HRC/RES/52/31 (2023).

²⁸ A/78/527.

²⁹ UN General Assembly, [Children and armed conflict: Report of the Secretary-General](#), A/77/895-S/2023/363, 2023.

the representation of Myanmar, as it had done since 2021.³⁰ Earlier, in June 2023, the Credentials Committee of the International Labour Conference, in its first report to the Conference at its 111th Session (2023), noted that “the question of recognition of governments and their representation in the ILO is considered a political matter in relation to which the Organization should be guided by any position adopted by the United Nations General Assembly”.³¹ Accordingly, it decided that no delegates representing Myanmar would be accredited at the 111th Session of the Conference. The Committee nevertheless noted with concern that the continued ambiguity on the question of representation of Myanmar affects not only the representation of the Government of Myanmar at the Conference but also precludes the participation of the employers and workers of Myanmar in the Conference and other tripartite meetings. In view of this situation, which is specific to the ILO because of its unique tripartite structure, the Committee took the view that “in the continued absence of guidance from the United Nations General Assembly, it may in due course consider making a determination which would enable the tripartite constituents of Myanmar to resume active participation in the work of the Organization”.³²

27. The International Court of Justice continued its proceedings in the case concerning the application of the Convention on the Prevention and Punishment of the Crime of Genocide, which was lodged by the Gambia against Myanmar in 2019. Myanmar filed its counter-memorial in the case within the extended time limit of 24 August 2023 set by the Court. On 16 October 2023, at the request of the parties, the Court authorized the Gambia to file a reply by 16 May 2024 and Myanmar to file a rejoinder by 16 December 2024, rejecting that latter’s request for an additional month. On 15 November 2023, Canada, Denmark, France, Germany, the Netherlands, the United Kingdom of Great Britain and Northern Ireland and Maldives filed declarations of intervention in the proceedings under Article 63 of the Court’s Statute.
28. The Office of the Prosecutor of the International Criminal Court continues its investigation into the Situation in Bangladesh/Myanmar, following authorization by the Court’s Pre-Trial Chamber III on 14 November 2019. On 10 July 2023, at the end of a four-day visit to Bangladesh, the Prosecutor expressed his commitment to delivering meaningful accountability for the suffering endured by the Rohingya community.
29. The Independent Investigative Mechanism for Myanmar, established by the UN Human Rights Council pursuant to resolution 39/2 of 27 September 2018, continued to gather and analyse evidence of the most serious international crimes and violations of international law committed in Myanmar since 2011, to facilitate justice in national and international courts and tribunals. In its June 2023 report to the Human Rights Council, the Mechanism noted that armed conflicts had substantially intensified over the previous year and reiterated its previous assessment that there is strong evidence indicating that serious international crimes are being inflicted against the people in Myanmar. It also noted that the military authorities continue to disregard the Mechanism’s requests for information and for access to the territory of Myanmar.³³

³⁰ UN General Assembly, Resolution 78/124, [Credentials of representatives to the seventy-eighth session of the General Assembly](#), A/RES/78/124, 2023.

³¹ ILO, [Reports on Credentials: First report of the Credentials Committee](#), Record of Proceedings No. 2A, International Labour Conference, 111th Session, 2023, ILC.111/Record No. 2A(Rev.1), para. 25.

³² ILC.111/Record No. 2A(Rev.1), para. 29.

³³ UN General Assembly, [Report of the Independent Investigative Mechanism for Myanmar](#), A/HRC/54/19, 2023.

30. The United States of America, the European Union and other Western countries have imposed additional sanctions on the military authorities over the last year. These include the United States (US) sanctions (as well as earlier Canadian sanctions) imposed on 21 June 2023 against two state-owned banks, the Myanma Foreign Trade Bank and Myanma Investment and Commercial Bank, on the grounds that they facilitated much of the foreign currency trade and “enable transactions between the military regime and foreign markets”, including for weapons and other supplies.³⁴ In October 2023, the United States announced a prohibition on certain financial services by US persons to or for the benefit of Myanma Oil and Gas Enterprise, the largest source of recorded income for the military authorities.³⁵ The Enterprise has also been under European Union sanctions since 2022.
31. In July 2023, the Foreign Minister of Thailand announced ahead of a meeting of the Association of South-East Asian Nations (ASEAN) that he had met Aung San Suu Kyi earlier that month in a prison in Nay Pyi Taw – the first foreign visitor allowed by the military authorities to meet her.
32. The 43rd ASEAN Summit was held in Jakarta on 5 September 2023, without representation of Myanmar. In a statement, the ASEAN leaders strongly condemned the continued escalation of violence in Myanmar causing prolonged suffering for the people and expressed grave concern at the lack of substantial progress by the military authorities in implementing the ASEAN Five-Point Consensus.³⁶ Separately, ASEAN also announced the formation of a troika to manage its response to the crisis. The three-country informal consultation mechanism will comprise the current, former and upcoming chairs of ASEAN – currently the Lao People’s Democratic Republic, Indonesia and Malaysia. ASEAN decided to continue blocking the military authorities from sending officials to high-level meetings and announced that the Philippines would chair the Association in 2026, in Myanmar’s place.
33. The Lao People’s Democratic Republic took over as Chair of ASEAN following the September summit. In January 2024, it appointed a Special Envoy for Myanmar. The ASEAN Special Envoy made his first visit to Nay Pyi Taw for discussions with the military authorities on 10 January 2024.

C. Situation of the ILO social partners

34. The situation of the ILO social partners in Myanmar remains dire post-military takeover, with trade unionists continuing to be the target of arrests and detentions. Union leaders are being forced into hiding, which is hindering effective trade union activities. There are reports of escalating threats and oppression against workers negotiating wage increases, including threats that have resulted in the arrest of eight workers and two Action Labour Rights staff members who were released after a three-month incarceration subject to the requirement that they sign a good behaviour bond undertaking that they will not stage any strike or demonstration again. It is further reported that issues persist in a large factory producing for international brands, involving forced labour, overtime disputes, non-payment for Saturday overtime and denied leave requests.
35. The Confederation of Trade Unions Myanmar (CTUM) states that its executive members are being targeted, which is impeding their day-to-day work and efforts to protect members. The

³⁴ US Department of the Treasury, “Treasury Sanctions Burma’s Ministry of Defense and Regime-Controlled Financial Institutions”, 21 June 2023.

³⁵ US Department of the Treasury, “Treasury Prohibits Financial Services with Myanma Oil and Gas Enterprise and Imposes Additional Sanctions on Burma Military Regime Officials and Supporters”, 31 October 2023.

³⁶ ASEAN, *Chairman’s statement at the 43rd ASEAN Summit*, 2023.

absence of an independent remedial mechanism further hampers their ability to organize workers at the factory and workplace levels. Moe Gyi, an executive of the Agriculture and Farmers Federation of Myanmar, was imprisoned and subjected to physical abuse. The CTUM states that its current focus is on supporting migrant centres to ensure safe migration and on combating human trafficking, including the monitoring, reporting and repatriation of trafficking and forced labour victims in the context of organized crime IT scammers. It is educating its members both in and outside the country on basic workers' rights, including the right to freedom of association and collective bargaining, and is continuing its global campaign on economic sanctions with the global unions.

36. The General Secretary of the Myanmar Industry, Crafts and Services Trade Union Federation (MICS-TUsF), Thet Hnin Aung, who was arrested and charged with violating the Unlawful Association Act for his participation in the Civil Disobedience Movement in June 2021, was released on 26 June 2023 after having served his full two-year sentence in Insein prison, Yangon. Shortly after his release, he was arrested again and charged with violating the Counter Terrorism Law. In November 2023, he was sentenced, without the benefit of legal representation, to seven years in prison with hard labour by the South Dagon Military Tribunal and was subsequently transferred to Insein prison, where only his family members have visiting rights. The MICS-TUsF has reported that, although it is providing legal assistance to workers who have been arrested, it was not able to represent Thet Hnin Aung during his second trial, as he was brought before the military tribunal. On 1 February 2024, the Director-General issued a statement renewing the call for the release of Thet Hnin Aung and all trade unions activists who are unjustly imprisoned.³⁷
37. The MICS-TUsF has reported that it continues to engage directly with international brands in an attempt to resolve workers' grievances where possible and to ensure the protection of their rights. In addition, the MICS-TUsF continues to provide training aimed at improving the ability of workers to exercise their workplace rights and has provided welfare assistance in the form of cash and in-kind supplies of food and medicines to 386 pregnant workers. The MICS-TUsF reported that five additional basic labour organizations have joined the Federation, none of which have registered with the Ministry of Labour.
38. The Agriculture and Farmers Federation of Myanmar-Food Allied Workers (AFFM-FAW) reported that, although it maintains regular communication with and provides limited assistance to workers, due to the various constraints created by the present situation, it continues to face great challenges in providing sustained advocacy and support on behalf of workers. At present, its activity primarily consists of providing training to build the capacity of workers on such subjects as fundamental labour rights, dispute resolution and the development of women and youth leadership in trade unions. The AFFM-FAW has also provided food assistance to a number of individuals displaced by Cyclone Mocha in May 2023.
39. The Republic of the Union of Myanmar Federation of Chambers of Commerce and Industry (UMFCCI) reported that, in 2023, it continued to provide services on behalf of its members, while carrying out several activities across a number of economic sectors. The Ministry of Labour, which has not permitted any fund transfers from the Office to support the activities of the UMFCCI since 2021, lifted the bank restriction related to these transfers in May 2023. The ILO has communicated this news to the UMFCCI. During a courtesy meeting with the President of the UMFCCI, the ILO Liaison Officer gave assurances of continued cooperation.

³⁷ ILO, "ILO marks third anniversary of Myanmar military takeover with call for the release of trade union leaders and all those unjustly detained", 1 February 2024.

D. ILO operations in Myanmar

40. On 20 June 2023, the ILO submitted a request to the Ministry of Labour for the extension of one staff member's visa. No response to this request has ever been received; the said staff member has, as a result, been based at the Regional Office for Asia and the Pacific in Bangkok since August 2023. On 29 August 2023, the Ministry of Labour cleared a visa request for the new ILO Liaison Officer, valid for a period of three months. On 23 November 2023, it approved an extension of that visa for a period of 12 months. The restrictions on the Office's main bank account remain in place. Replenishments to the Office's bank account from headquarters for programming activities require the signing of a memorandum of understanding and a work plan, as well as a recommendation from the Ministry of Labour.
41. Since the military takeover, the ILO's operations in Myanmar, focusing on forced labour, child labour, labour migration, support for small and medium-sized enterprises (SMEs) and occupational safety and health (OSH), have been aligned with the UNCT programmatic engagement guidelines and all work supporting the military authorities has stopped. Key achievements in 2023 are described below.
 - (a) Three projects on child labour continued their joint and coherent efforts to support the social partners and civil society stakeholders by enhancing knowledge, raising awareness and building capacity, particularly on child labour monitoring and referral systems, in addition to providing direct support to communities. Findings from recent studies highlighted an increase of child labour as a result of both the COVID-19 pandemic and the current crisis. A key action has been the development of a crisis-related strategy to engage, inform and empower Myanmar stakeholders in the fight against child labour, especially in its worst forms. Tailor-made information, education and communication materials are being used to convey child labour messaging to the public through awareness-raising campaigns. For example, nationwide and community-level activities reached out to more than 1,800 participants for the World Day Against Child Labour in different states and regions. Direct services have been provided in the areas of education, safe work for young people (in cooperation with the OSH project) and livelihoods, reaching more than 1,500 children and 960 adults in 2023.
 - (b) Three ILO projects on labour migration provided support to community-based and labour organizations in operating eight migrant centres. The ILO supports eight partners through services aimed at ensuring that workers seeking jobs overseas have access to up-to-date information, legal assistance services, counselling and, in the case of return migrants, access to support to promote sustainable integration. A total of 44,160 people (54 per cent women) have benefited from these projects. In addition, training activities to build the capacity of civil society, community-based and labour organizations and public awareness-raising campaigns were strengthened to reach out to as many migrants as possible. A Facebook page with infographics and videos was established and has so far reached almost 70 million people, with about 1.6 million followers across ten countries.
 - (c) A project to promote SMEs continued its capacity-building support to enterprises with a focus on tourism and the green economy and conducted a refresher training course on gender equality.
 - (d) An ILO project to promote safety and health for all workers in Myanmar partnered with a private technical and vocational education and training (TVET) provider to integrate OSH modules into curricula followed by students training to be business administration professionals, metal technicians, electricians, furniture technicians and hospitality professionals. The OSH modules in the skills training package were developed under the

project both in English and in the Myanmar language and were rolled out in collaboration with private TVET institutions.

► III. Follow-up to the Commission of Inquiry's recommendations

A. The Commission's recommendations

42. As mentioned above, the Commission of Inquiry presented its report to the Governing Body at its 349th Session (October–November 2023). In its report, while observing that the UN General Assembly and the International Labour Conference have not recognized the military authorities as representing the Government of Myanmar, it concludes that the military remains answerable for its actions and made a number of recommendations concerning the action to be taken by the military authorities, pending the country's return to a situation characterized by governance through democratic institutions and processes. These recommendations are outlined below.
43. With regard to Convention No. 87, the Commission urges the military authorities to take the following action immediately and no later than 1 October 2023:
 - (a) immediately cease all forms of violence, including gender-based violence, torture and other inhumane treatment against trade union leaders and members and other persons in relation to the exercise of legitimate workers' or employers' activities, including ethnic, religious and other minorities; this includes, in particular, violence perpetrated in the context of the suppression of peaceful public protests and demonstrations, at the time of arrests, during detention, as well as military attacks against civilian infrastructure, which all together create a climate of violence and terror that undermines the effective exercise of freedom of association;
 - (b) unconditionally and without delay release all trade unionists arrested, sentenced and detained in relation to the exercise of their civil liberties and legitimate trade union activities, including those that have been arrested, sentenced and detained for having expressed opinions critical of the military authorities, or for having participated in, or organized, peaceful protests or otherwise peacefully demonstrated opposition to the military authorities following the coup d'état;
 - (c) withdraw all criminal charges pending against trade unionists and others peacefully exercising their civil liberties in relation to legitimate trade union activities; and immediately stop all forms of intimidation, threats, stigmatization, harassment and surveillance of trade unionists and their families, as well as attacks against and destruction of trade union premises and property;
 - (d) revoke any military orders or other measures, including those of a legislative nature, decreed since February 2021 and identified as restricting freedom of association and the basic civil liberties of trade unionists; and fully restore the protection of the basic civil liberties necessary for the exercise of freedom of association that have been suspended or restricted, including freedom from arbitrary arrest and detention, the right to a fair trial by an independent and impartial tribunal, freedom of assembly, opinion and expression and the protection of private property;
 - (e) cease all disproportionate or arbitrary punitive measures against those peacefully exercising their civil liberties in calling for the return to democratic rule in which their freedom of association rights could be fully exercised;
 - (f) revoke the withdrawal of citizenship and return travel documents to the trade union leaders and members concerned without delay;

- (g) stop any form of interference in the establishment, administration and functioning of trade unions at all levels, including interference in the election of trade union leadership, labour dispute resolution, conduct of collective action and administrative dissolution or suspension of trade unions; and
 - (h) refrain from taking any action and measures or issuing statements that condone, facilitate or encourage union-busting, interference and other abuses of trade union rights by private and public employers.
- 44.** With regard to Convention No. 29, the Commission urges the military authorities to take the following action immediately and no later than 1 October 2023:
- (a) act to end the exaction of all forms of forced or compulsory labour, as defined by the Convention, by the army and its associated armed forces and groups, including any forced labour exacted from ethnic, religious or other minorities; and to end any forced recruitment into the military, including the forced recruitment of children;
 - (b) cease any action interfering with the freedom of businesses to open and close their establishments, contrary to the Convention; and
 - (c) cease with immediate effect the exaction of prison labour as a consequence of a criminal conviction imposed since 1 February 2021 through proceedings manifestly lacking independence, impartiality and due process guarantees.
- 45.** In response to the Commission of Inquiry's report, a press conference was held by the National Unity Government, the CTUM and an organization of employers established under the Labour Organization Law, endorsing the Commission's findings and accepting its recommendations.

B. Reply from the military authorities

- 46.** The military authorities provided a reply to the Commission of Inquiry's report on 18 December 2023 (a copy of that communication is contained in Appendix I).
- 47.** In a note verbale transmitted to the military authorities on 11 January 2024, the Office acknowledged receipt of the communication and, in view of the lack of a clear indication of acceptance of the Commission's recommendations, stated that it would be important for the Governing Body, in advance of its 350th Session, to receive a clear statement of the position of the military authorities in respect of the two specific points referred to in article 29(2) of the Constitution, namely: whether all of the recommendations set out in paragraphs 643 and 644 of the report of the Commission are accepted; and, if not, whether it is intended to refer the complaint to the International Court of Justice for decision (a copy of the note verbale is contained in Appendix II).
- 48.** It can be observed that the military authorities, in their reply, contest at the outset the politicized manner in which the Commission was established; the fact that the military authorities were not invited to take part in the Governing Body discussions; and the fact that the decision to establish the Commission was based on reports, which in their view were inaccurate and distorted, from opposition groups and which the authorities were not given meaningful opportunity to refute.³⁸

³⁸ See, however, the executive summary of the report of the Commission of Inquiry, which states: "Despite the Commission's efforts to seek cooperation from the Myanmar military authorities through communications on 7 September 2022, 12 January 2023 and 23 May 2023, such cooperation was not forthcoming. However, on 7 July 2023, the military authorities submitted a Note Verbale to the ILO containing information on some of the issues raised by the Commission which has been noted in the report. The Commission was not allowed to conduct an onsite visit to Myanmar."

49. As regards the recommendations concerning Convention No. 87, the military authorities maintain that labour organizations are allowed to organize freely in practice and contest the conclusions drawn by the Commission of Inquiry. They note that the Township Conciliation Body settled over 600 cases from February 2021 to October 2023 and that numerous awareness-raising activities were conducted on the Settlement of Labour Dispute Law (2012) from February 2021 to October 2023.
50. As regards the recommendations related to Convention No. 29, the military authorities recall the many steps taken since the last Commission of Inquiry in 1997 until the ILO's decision to unilaterally cease its cooperation in February 2021 and contend that they have taken "all the measures for preventing and eradicating forced labour including enacting necessary legislation, policy and action plans along with setting up the mechanisms". They report that, from January 2021 to October 2023, action was taken on a number of cases under the Prevention and Suppression of Trafficking in Persons Law.
51. The military authorities state that they consider positively "the constructive recommendations which aim for the benefits of the workers in Myanmar". According to the military authorities, such recommendations are found to be acceptable in principle since they have already been implemented in law and in practice. The military authorities conclude that there are no violations of Convention No. 29 in law or in practice while expressing openness to continue cooperating with the ILO. They state that they "reserve the right to continue to respond to the report" and that they will continue to assess the recommendations and will "leave open the possibility of making efforts regarding the recommendations that aim for the welfare of the workers and the employers, and inform developments to the ILO in a timely manner".
52. On 1 March 2024, the Office received the reply from the military authorities to the ILO's note verbale of 11 January 2024 reiterating the position mentioned in their earlier communication (see Appendix III).

C. Progress in the implementation of the recommendations

53. It may be recalled that the Governing Body is not called upon to reassess the conclusions and recommendations of the Commission of Inquiry.
54. As demonstrated above, there have not been any positive developments in the climate conducive to the exercise of freedom of association and the effective elimination of forced labour, especially as regards those acts carried out by the army and its associated armed forces and groups. Indeed, the military authorities have not responded at all to the conclusions and recommendations related to the exaction of forced labour by the army. Furthermore, the military authorities have not provided any information relating to the steps taken to release all trade unionists arrested, sentenced and detained in relation to the exercise of their civil liberties and legitimate trade union activities unconditionally and without delay; on the contrary, the General Secretary of the MICS-TUF, Thet Hnin Aung, was sentenced once again in November 2023, this time to seven years' imprisonment, following the completion of an earlier sentence in June 2023.

D. Options for further measures

55. While the military authorities have not, as yet, clearly stated that they reject the Commission's recommendations or replied to the subsequent note verbale sent to them, it can be observed that no specific indication has been provided of action to implement the recommendations despite the Commission's call for immediate steps and no later than 1 October 2023. In these

circumstances, and should it be premature to invoke a process under article 33 of the ILO Constitution, there are a number of steps that the Office can take to focus efforts on the implementation of the Commission's recommendations.

56. In its final observations, the Commission notes that achieving a peaceful transition to fully democratic institutions and processes will require the support and engagement of the international community, including ILO Member States, the United Nations and relevant regional intergovernmental organizations.³⁹
57. The ILO can bolster its engagement with the various bodies and mandates within the UN system, including the Human Rights Council, the Special Envoy of the UN Secretary-General on Myanmar and the Independent Investigative Mechanism for Myanmar, to ensure that the Commission's recommendations are widely known and acted upon within each respective mandate and that developments are reported back to the Director-General. The steps taken in this regard could be reported to the Governing Body at its 351st Session (June 2024).

► Draft decision

58. **In light of the resolution for a return to democracy and respect for fundamental rights in Myanmar adopted by the International Labour Conference at its 109th Session (2021), the recommendations of the Commission of Inquiry in its 2023 report and the urgency of the national situation, the Governing Body:**
 - (a) **deplored once again the continued absence of progress towards respecting the will of the people, democratic institutions and processes, and the fact that, over three years since the military coup, the democratically elected government had yet to be restored;**
 - (b) **once again called on the military authorities to end immediately all acts of violence, and the arbitrary arrest, detention and torture of trade unionists, labour activists and others, including the Rohingya, in the exercise of their human rights;**
 - (c) **deplored the sentencing once again of the General Secretary of the Myanmar Industry, Crafts and Services Trade Union Federation (MICS-TUF) to seven years' imprisonment in November 2023, and found itself obliged to call once again for his immediate release and that of all other trade unionists and activists who have been detained;**
 - (d) **repeated its call for Myanmar to ensure that workers' and employers' organizations are able to exercise their rights in a climate of freedom and security, free from violence, arbitrary arrest and detention, by means of the full implementation of the recommendations of the Commission of Inquiry, which include the revocation of any military orders, legislative or other measures, decreed since February 2021 and identified as restricting freedom of association and the basic civil liberties of trade unionists;**
 - (e) **repeated its profound concern over the conclusions of the Commission's report concerning the exaction of forced labour by the military authorities and called for the immediate implementation of its recommendations, in particular to end, in law**

³⁹ ILO, *Report of the Commission of Inquiry*, para. 654.

and in practice, any forced recruitment into the military contrary to Convention No. 29, including the forced recruitment of children;

- (f) called on the military authorities, in accordance with the provisions of the Convention on the Privileges and Immunities of the Specialized Agencies of 21 November 1947, to take immediate action to remove all restrictions on the operation of the ILO's bank account, approve international staff visa extensions and facilitate the ILO's continued operations to bring benefits to the people of Myanmar despite the expiry of the Memorandum of Understanding on the Decent Work Country Programme in September 2022;
- (g) requested the Director-General to take action within the framework of the UN system to ensure that the Commission's recommendations are widely known, acted upon within each body's respective mandates and to report all developments to the Governing Body;
- (h) in the event the military authorities do not demonstrate their commitment to the recommendations through their full implementation, requested the Director-General to submit to the Governing Body at its 351st and 352nd Sessions (June and October–November 2024) a document assessing developments and considering further steps to secure compliance by Myanmar with the recommendations of the Commission of Inquiry, including article 33 of the ILO Constitution, taking account of the views expressed.

► Appendix I

Communication from the military authorities of Myanmar (18 December 2023)

The Government of the Republic
of the Union of Myanmar
Ministry of Labour
Ref: 116/ Ala/Div (5) 2023 (ICfb6)

Mr Gilbert F. HOUNGBO
Director-General
International Labour Organization (ILO)

18 December 2023

Dear Director-General,

I wish to refer to the Report of the Commission of Inquiry (CoI) on Myanmar published in September 2023 and Myanmar would like to provide its feedback as follows:

1. The Government of Myanmar acknowledges the receipt of the Report of the Commission of Inquiry (CoI) concerning Myanmar with the communication dated 22 September 2023, and the Government has conveyed its initial reply with the communication dated 29 September 2023.
2. Myanmar voluntarily ratified the Freedom of Association and Protection of the Right to organize Convention, 1948 (No. 87) and the Forced Labour Convention, 1930 (No. 29) on 4 March 1955. Myanmar always attaches great importance to the welfare of the workers along with the compliance with these ILO conventions. It is with the priority of the interest of workers that the Government of Myanmar, a legitimate Government and a responsible Member of the ILO, makes the following responses on the Report of the CoI regardless of its objection against the creation of the Commission of Inquiry.
3. The Commission of Inquiry against Myanmar was established with the own motive of the ILO Governing Body (GB) without receiving any complaint from the tripartite constituents of the ILO. In the history of the ILO, Myanmar is the only country against which the Commission of Inquiry was established for the second time and among a few of those whose CoIs were formed by the own motive of ILO Governing Body. As in the past, the labour-related matters have been highly politicized in the case of Myanmar at ILO front.
4. The decision of the 344th Session of the Governing Body to establish the CoI was reached by the identical group of countries which put political pressure on Myanmar under the pretext of noncompliance of Convention No. 29 and Convention No. 87. The same pattern has been applied in other chapters of the United Nations by devising different politically motivated resolutions and mandates against Myanmar.
5. Moreover, although the article 26 of the ILO Constitution mentions that the Government in question shall be entitled to send a representative to take part in the proceedings of the Governing Body in connection with complaints of non-observance, the participation of

Myanmar to the ILO's meetings has been denied since the 109th Session of the International Labour Conference in June 2021. Whereas the matter relating to Myanmar has been raised and discussed in the 343rd Session of the ILO Governing Body held in November 2021, Myanmar was prevented from sending its representatives to the Governing Body's meetings. While allegations of non-observance of Myanmar were being considered, the Governing Body ignored its own non-observance of the ILO Constitution and set a harmful precedent affecting the integrity of the Governing Body.

6. With regard to the communications and proposal of the CoI to visit Myanmar, the Government responded to the ILO since the CoI fails to properly address and uses inappropriate languages in its communication. In connection with the invitation of the CoI to appear Myanmar at its third session, Myanmar replied its position that if Myanmar's participation at the ILO meetings including the International Labour Conference is granted, Myanmar would respond whether it will accept the invitation of CoI or not.
7. The ILO Governing Body takes the ground that the complaints against Myanmar on non-observance of the Convention No. 87 and Convention No. 29 have been received and discussed at the outset of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the Committee on the Application of Standards (CAS). Conversely, there are several other cases of different countries also being discussed at the CEACR and the CAS. None of them has ever led to the immediate establishment of the Commission of Inquiry like the case of Myanmar.
8. The 344th Session of Governing Body made the decision to establish the CoI against Myanmar in rush solely based on inaccurate and distorted reports originated from the opposition groups. For instance, the draft decision incorporated the false information which stated that an individual was tortured to death. In fact, the person has been detained for funding illegal activities and is in good health. Although some points were reviewed and amended later, the decision to establish a Commission of Inquiry based on such incorrect information remains unchanged.
9. The CoI mentions the limitations in gathering and assessing information and evidence in its Report. The important thing missing from the process of the CoI is that there is no mean to cross-examine the so-called testimonies of the witnesses and it inevitably questions the findings and conclusions of the CoI. Furthermore, the CoI does not verify the statements made by the so-called witnesses with the Government as the questionnaires sent by the CoI are generalized accusations rather than facts. Therefore, the credibility of the CoI Report which is written based on such unreliable facts is questionable.
10. As per the Report, the sources used by the CoI include those of the terrorist organizations like the so-called NUG and their affiliates AAPP along with some media and organizations backed by certain foreign countries to reach their desired conclusions. The CoI Report makes its conclusions based on the information provided by these opposition groups. Thus, its Report is imbalanced lacking impartiality.
11. It is observed that the CoI criticized the legislative measures taken by Myanmar to justify the country's non-observance with the Convention No. 87 and Convention No. 29 after February 2021. However, it should be noted that the Government of Myanmar has not introduced any legislative amendments or new legislations in connection with the matters related to labour affairs. When Myanmar has enacted the Ward or Village Tract Administration Law in 2012 which outlaws forced labour and the Labour Organization Law in 2011 in compliance with Convention No. 29 and Convention No. 87, inputs and recommendations from social partners and ILO were duly incorporated. The relevant mechanisms to enforce the Laws

have been functioning and there is no ground to assume that Myanmar is not complied with the Conventions from the legislative point of view.

12. With regard to the accusation of non-observance of the Convention No. 87, the labour organizations are allowed to organize freely in practice. The registration of the organizations can be made voluntarily since registration is not compulsory as per the Labour Organization Law. Although the sections 33(a) and (b) prescribes the suspension and dissolution of registered organizations or surrendering their registration certificates, the Ministry of Labour has never asked any organization to return their Form 7 (Certificate Recognizing as a Labour Organization) or dissolve the organizations as accused in the CoI Report.

In connection with the allegations of mistreatment against labour organizations, complaints can be filed with Department of Labour while the Government cannot validate the information contained in the Report at the absence of verifiable facts.

13. As of 1 December 2023, there is a total of 2,852 Basic Labour organizations, 157 Township Labour Organizations, 25 Region/State Labour Organizations, 10 Labour Federations and 1 Labour Confederation in Myanmar. During the period from 2021 to 2023 36 Basic Labour Organizations, 1 Township Labour Organizations, 2 Region/State Labour Organizations are newly formed. And in 2023 alone, there are 6 newly-formed Basic Labour Organizations.). The most recent registration of Basic Labour Organization is Y.F.A (Garment) which registered at the Ministry of Labour on 10 October 2023.
14. From 2021 to 2023, there is a total of 96 labour organizations which have been dissolved due to the insufficient number of workers, or the resignation of some workers in accordance with the Labour Organization Law. It is observed that some of the labour organizations like BWFM and its affiliates which are mentioned in the Report as being dissolved, have not even been registered. The Ministry of Labour has never taken any action to dissolve the labour unions including the CTUM and MICS-TUsF, whereas the two organizations themselves released statements declaring that they withdrew from the tripartite mechanism.
15. While the Government provided facts of destructive activities carried out by certain individuals under the pretext of trade union activities, the CoI concludes that none of the actions taken by trade unionists went beyond legitimate trade union activities. However, the Report itself contradicts with its findings as it mentions that CTUM and MLA representatives founded the General Strike Coordination Body to perform workplace strikes and campaigns throughout the country at different levels for the restoration of democracy. It clearly indicates the so-called labour unions are politically motivated and incite workers including the civil servants to take part in political activities which are not related to labour rights.
16. The Report further glorified the so-called Civil Disobedience Movement (CDM) by mentioning that civil and public service workers nationwide including doctors, nurses and teachers withdrew their services and joined the Movement. The Labour Organization Law stipulates that strikes shall be illegal if they involve essential services and those whose interruption are liable to endanger the life, health and security of the people. It is internationally accepted that the right to strike is not absolute and it may be subject to certain legal conditions or restrictions in essential services. The length of the strike is also taken into account and some countries choose to prohibit a strike in a service when its length has created a situation that is akin to an emergency for the whole part of the population.
17. It is questionable whether any other country in the world will allow such general strike or so-called CDM which calls all workers including public servants to stop their services including essential public services like health care services to the population for unlimited period of time.

Nonetheless, the CoI argues that none of the actions taken by the trade unionists went beyond legitimate trade union activities.

18. All civil servants, including healthcare workers and educational staff, are required to abide by the existing laws particularly the Civil Service Personnel Law and Rules in Myanmar. The negative consequences of CDM could be seen clearly in health sector particularly when the third wave of COVID-19 seriously hit Myanmar between June and August 2021. The responsible medical professionals including the retired overstretched themselves and joined the fight against COVID-19 pandemic in place of those who abandoned patients on political ground in contrary to the Hippocratic Oath. The CoI Report intentionally neglects this fact. In accordance with Civil Service Personnel Law and Rules, some of the civil services personnel were taken action due to being absent without leave from their workplace and their responsibilities. For some of those who were absent from their duties and abandoned the patients, the licenses were revoked in accordance with the laws enacted by the Myanmar Medical Council, the Myanmar Dental Council, and the Myanmar Nurse and Midwife Council. Later, several hundreds of healthcare workers voluntarily returned to their workplaces.
19. Myanmar reaffirms that no one has been arrested for exercising labour rights peacefully. There are certain individuals who have been facing charges for their unlawful acts but not for being a member of trade union. Regarding 29 members of Confederation of Trade Union Myanmar (CTUM), legal actions have been taken against those who have committed and supported terrorist activities, incited the civil servants to join the so-called Civil Disobedience Movement (CDM), and issued statements calling for riots in support of the so-called CRPH and NUG which have been officially declared as the terrorist groups. Some members of the CTUM who have been involved in such activities are facing respective charges of their unlawful acts while 1,600,132 (hundreds of thousands of) workers have been exercising their rights peacefully. It is irrational for the CoI to conclude that there is a widespread practice of targeted arbitrary arrest of trade union leaders and members due to legal measures against a handful of individuals.
20. It is learned from the Report that the ITUC and the CTUM has submitted a list of over 100 trade union members and workers who had died as of 19 December 2022. Nonetheless, the CoI mentions only 10 cases in its Report while factual information remains unavailable for further verification. Myanmar has made its observations on verifiable incidents of the individuals named Chan Myae Kyaw and Zaw Htwe, and replied accordingly to the ILO.
21. Since the establishment of CoI itself is on political ground, it is not surprised to see the Report portrays the protests in 2021 as if non-violent ones and incorporates numerous hearsays alleging excessive use of force. Due to riots, violent acts and arson attacks of certain individuals, more than 300 factories were closed and 25 factories were burned down in early 2021. A total of 6 police including 4 police officers were killed by violent mobs. In one incident occurred in Mandalay on 29 March 2021, a police officer from Mahar Aungmyay police station was burned alive and killed on the street by so-called protestors.
22. The CoI seems to cover such protests intentionally by referring them as non-violent protests and turning a blind eye to the incidents opposite to the narratives of its selective witnesses and sources say. The CoI formulates a two-hundred-paged report, nonetheless, it does not drop a single line of killings, violence, threats and public shaming against civil servants who refuse to join the so-called CDM.
23. Even in the Report of the United Nations High Commissioner for Human Rights entitled "Situation of Human Rights in Myanmar since 1 February 2022" submitted to the Fifty-second Session of the Human Rights Council on 2 March 2023, there is a Chapter namely "Violence by

anti-military armed groups". In the said Chapter, the incidents of killing the civil servants for not joining the CDM are stated. The said Report also concludes that the forces opposing the military have committed human rights abuses, in particular in the targeting of non-combatant officials, their family members and others whom they believe to be assisting the military in some way. It further indicates that the CoI fails to exhaust its work which essentially misleads the readers and more importantly, its conclusions become one-sided.

24. As of October 2023, due to atrocities committed by so-called NUG and PDF, 1,174 civil servants including 893 administrators have lost their lives for performing their professions. Furthermore, a total of 19 healthcare workers including Dr Wint Wint Myaing, Head of Kutkai People's Hospital, who was shot dead on her return from vaccine related functions in Monesi Village on 14 December 2021, have been killed.
25. Additionally, the CoI reversely highlights the fact of public shaming while it is too obvious to ignore that the victims of online bullying are the civil servants who choose not to join the so-called CDM. The NUG terrorists and their affiliates incite killings, threatening and shaming against public servants for simply continuing their work under the campaign namely "social punishment".
26. The first Commission of Inquiry on Myanmar was established in 1997 in connection with alleged noncompliance of Convention No. 29. Myanmar has gone through progressive measures over a decade in fulfilling its obligations and recommendations made by the then CoI in cooperating closely with the ILO. With the aim of receiving support measures in eliminating forced labour, the Government accepted the establishment of ILO Liaison Office in Myanmar and the appointment of a Liaison Officer on 19 March 2002, following the visit of High-Level Team of ILO in 2001. The Supplementary Understanding (SU) was signed in 2007 and extended each year until 2018.
27. As implementation measures on the recommendations of the previous CoI Report, the Ward and Village Tract Administration Law of Myanmar was amended and enacted in 2012 in compliance with the Convention No. 29, and it prescribes the offences and punishments regarding forced labour. On 1 May 2012, the President of Myanmar delivered a public speech, which highlighted the commitments regarding the elimination of forced labour in Myanmar. The Commander-in-Chief also issued several notifications and orders prohibiting the use of forced labour in Tamattaw (the Military) in the same year.
28. As suggested by the ILO, the Decent Work Country Program (DWCP) was signed in September 2018 with the tripartite constituents and the ILO. Accordingly, the National Complaint Mechanism (NCM) was established in 2020 with 29 representatives from 16 Ministries and Employers' as well as Workers' Federations. The complaints regarding the use of forced labour are being received and addressed until now. The National Committee on the implementation of NCM was also set up in December 2019 with the lead of the Union Minister for Labour.
29. While Myanmar was working with the ILO in receiving complaints and addressing the cases brought by the ILO, the ILO unilaterally ceased cooperation with the Government in February 2021. However, Myanmar does not fail to cooperate with the ILO and the appointment of new Liaison Officer, Mr Yutong Liu, and his entry-visa were facilitated by the Government. Myanmar has taken all the measures for preventing and eradicating forced labour including enacting necessary legislation, policy and action plans along with setting up the mechanisms.

30. It is undeniable that Myanmar has made significant progress in eliminating forced labour. And in light of the achievements Myanmar had made, the ILO lifted all restrictions on Myanmar at the 102nd Session of the International Labour Conference. The report of 340th Session of the Governing Body held in November 2020 also acknowledged the progress made by the Government on eradicating forced labour.
31. Despite Myanmar's continued progress in eliminating forced labour, the ILO Governing Body at its 344th Session decided to establish the Commission of Inquiry without having any evidence or information regarding the use of forced labour in Myanmar. Consequently, the ILO Governing Body's decision to establish a Commission of Inquiry in respect of the non-observance of the Forced Labour Convention (No. 29) is irrelevant.
32. The Report of the CoI which accuses Myanmar of the non-observance of the Convention No. 29 lacks any evidence of violating the Convention. The CoI further mentions that it is not in a position to assess the precise extent to which forced labour is being extracted as the information gathered by the CoI lack actual facts to verify. The CoI nonetheless argues that widespread and systematic use of forced labour that has been found to exist by the IFFMM continues to persist. Myanmar stresses that it never recognizes the IFFMM which has been established by certain countries against the principles of non-selectivity and universality. It is noteworthy that the CoI does not include any existing cooperative measures between Myanmar and the ILO in prevention of forced labour. While the issue on the discussion is forced labour related matters, it is irrelevant to refer to the IFFMM by ignoring the facts provided by competent labour organizations.
33. Observations of CEACR adopted in 2020 clearly stated that "It noted that in 2019 the ILO received 108 forced labour complaints, 48 of which have been assessed as being within the definition of forced labour while there were no complaints received of forced labour related to the involuntary use of civilians as guides and porters from conflict areas."
34. The awareness trainings for the Tamataw personnel on the prevention of forced labour has been conducting. Accordingly, as of October 2023, a total of 6,286 Tamattaw personnel of different ranks has been educated on the prevention of forced labour and forced recruitment.
35. Moreover, forced labour is one of the forms of trafficking in persons in Myanmar and most of the legal actions have been taken under the Prevention and Suppression of Trafficking in Persons Law since the Law carries severe punishment. In 2021, there were 13 cases of forced labour which took 14.47% of the total cases of trafficking in persons. Likewise in 2022, there were 3 cases of forced labour which took 14.9% of the total cases of trafficking in persons. From January to October 2023, there were 7 cases of forced labour. From January 2021 to 24 October 2023, there is a total of 24 cases of forced labour out of which 65 offenders including 34 male and 31 female were prosecuted and taken action under the Prevention and Suppression of Trafficking in Persons Law, and a total of 68 victims including 45 male and 23 female were rescued.
36. There is no restriction to the business contrary to the convention. Moreover, Myanmar Government respects and protects the rights and freedom of businesses and abides by the provisions of domestic laws as well as the ILO Conventions in particular Convention No. 29 (Forced Labour).
37. The Inspection Officers from the Factories and General Labour Laws Inspection Department under the Ministry of Labour have been developing monthly action plans for making sure that the employees are provided with the full wages, extra wages for overtime, holidays and leaves, and that the workers understand their basic rights. The Department conducted

awareness-raising workshops for 14,656 workers from 318 factories in 2021, 94,615 workers from 4,022 factories in 2022 and 85,047 workers from 5,066 factories from January to October 2023 respectively.

38. In case of requiring overtime at factories, the consents of workers are requested and it is permitted in accordance with the laws, rules, orders and instructions. From 2021 until October 2023, legal actions were taken against 12 cases on asking for overtime work without any pay, not giving a break before overtime, and 4 cases on not permitting to enjoy holidays and leaves.
39. All the updated information on implementation of the responsibilities of Factories and General Labour Laws Department are being posted timely on the Department's website. Besides, the capacity building measures for the officers and other ranks of the Ministry of Labour are being publicized on the Ministry of Labour's website and social media in a timely manner.
40. Regarding the labour disputes occurred at the workplaces, Workplace Coordination Committees (WCC) are founded for facilitating the negotiations between the workers and employers. The cases which could not be settled by WCCs are being addressed by the Township Conciliation Body, Arbitration Body and Arbitration, which are organized with tripartite representatives in accordance with the Settlement of Labour Dispute Law (2012).
41. The Township Conciliation Body received 784 cases of which 662 cases were settled from February 2021 to October 2023. The awareness-raising trainings on the Settlement of Labour Dispute Law (2012) were conducted for 1,332 times with 40,322 workers from 1,580 factories from February 2021 to October 2023. The capacity building measures for the officials and other ranks who are responsible for the settlement of labour disputes were conducted for 5 times in 2021; 3 times in 2022 and 2 times in 2023 with a total of 384 staff. Such capacity building measures will be carried out in 2024 as well.
42. With regard to the position of Myanmar on the recommendations of the CoI in its Report, Myanmar considers positively on the constructive recommendations which aim for the benefits of the workers in Myanmar. Thus such recommendations are found to be acceptable in principle since the Government has already been implementing them in law and in practice.
43. With respect to the recommendations on observance of the Convention No. 87, it is stressed that there is no action taken against the trade unionists, members or employers for peacefully exercising their legitimate trade union activities. Myanmar further assures that no workers and employers are subject to any violence, arrest, criminal charges and disproportionate or arbitrary punitive measures so long as they exercise the rights to freedom of association and organise in conformity with the Freedom of Association and Protection of the Right to Organise Convention, 1948 as well as the law of the land. Additionally, Myanmar ensures that it makes no interference in lawful exercise of the rights of workers' organizations to elect their representatives and to organise their administration and activities in line with the Convention No. 87, the Labour Organization Law and the Labour Organization Rules of Myanmar.
44. Concerning the recommendations of Commission of Inquiry on the observance of the Convention No. 29, Myanmar has enacted necessary laws, rules, regulations and orders to prevent and punish the use of forced labour and all citizens of Myanmar including the military personnel are required to abide by them. In case of violation, the national mechanisms have been put in place to take punitive measures and Myanmar welcomes the ILO to report such cases to the Government through the National Complaint Mechanism. In connection with alleged interfering with the freedom of businesses to open and close their establishments, Myanmar confirms that it does not take measures prohibited by Convention No. 29.

45. It is expected that the ILO could continue its cooperation with the Government in providing technical assistance to Myanmar in the areas such as workplace safety and health and implementation of the Worst Forms of Child Labour Convention (Convention No. 182). Myanmar is one of the countries of origin where many migrant workers are emerging and they are at risks of being exploited in other countries. From February 2021 to November 2023, there is a total of 384,100 migrant workers who went abroad through Government to Government channel while it is estimated that millions of migrant workers are in several destination countries. For those migrant workers, Myanmar needs support as well as technical assistance from the ILO, especially from the ILO Liaison Office in Myanmar.
46. Likewise, in order to explore the working situations in the factories on the ground, the Ministry of labour has already invited the ILO Liaison Officer that it could facilitate on-site visits to the factories within a day as per his request.
47. Nowadays, all kinds of workers in Myanmar including the civil servants are facing new challenges. They have to work in the working environment where they are under threats from the terrorist groups, risking their lives. The ILO is encouraged to cooperate with the tripartite constituents including the Government-concerned in finding ways for ensuring the safe working environment for all workers and employers in Myanmar.
48. For the interests of all workers in Myanmar, the Government has recently increased the daily minimum wage rate after a five-year hiatus to 5,800 Myanmar Kyats for an 8-hour day, from 4,800 Myanmar Kyats on 9 October 2023. The new rate impacts both public and private sector workers in the country and means employees will see a 20 per cent increase from the previous salary.
49. In light of all these considerations, the Government of Myanmar would like to reserve the right to continue to respond to the Report and would continue to assess the recommendations contained in the Report. Myanmar would like to leave open the possibility of making efforts regarding the recommendations that aim for the welfare of the workers and the employers, and inform the developments to the ILO accordingly in a timely manner.
50. Myanmar makes its best efforts for the welfare of all workers and employers in accordance with the relevant existing laws and the abovementioned ratified Conventions of the ILO although its cooperation with the ILO is being ignored. The Government of Myanmar is committed to continue its endeavours for securing the interests of all workers and employers.

(Signed) Win Shein
Deputy Minister
Ministry of Labour
Republic of the Union of Myanmar

► Appendix II

Note verbale transmitted to the military authorities (11 January 2024)



► International Labour Office

Ministry of Labour
Building No. 51
NAY PYI TAW
RÉPUBLIQUE DE L'UNION DU MYANMAR

NOTE VERBALE

The International Labour Office has the honour to acknowledge receipt of your communication dated 18 December 2023 containing the reply to the report of the Commission of Inquiry set up to examine the complaint lodged against Myanmar for non-compliance with Conventions Nos 87 and 29.

The contents of this communication will be brought to the attention of the Governing Body at its 350th Session (March 2024) which, according to the applicable rules and procedures, will consider the Commission's report and your reply. To this end, I wish to draw your attention to the fact that under article 29, paragraph 2, of the ILO Constitution, it is expected at this stage that the Director-General be informed whether the authorities accept the recommendations of the Commission of Inquiry, and if not, whether it is the intention to refer the complaint to the International Court of Justice.

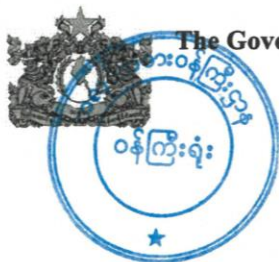
After careful examination of your communication of 18 December 2023, I believe that it would be important for the Governing Body, before its 350th Session in March, to be able to benefit from a clear statement of the position in respect of the two specific points referred to in article 29, paragraph 2, of the Constitution, namely whether all of the recommendations of the Commission of Inquiry set out in paragraphs 643 and 644 of its report are accepted, and if not, whether it is intended to refer the complaint to the International Court of Justice for decision.

I would, therefore, be grateful if the Office could be informed as soon as possible, and in accordance with the clear terms of the applicable constitutional provisions, whether the recommendations of the Commission of Inquiry are accepted, and if not, whether it is intended to refer the complaint to the International Court of Justice.

Geneva, 11 January 2024



► Appendix III

Communication from the military authorities of Myanmar
(received on 1 March 2024)

The Government of the Republic of the Union of Myanmar
Ministry of Labour
Nay Pyi Taw

Ref: 116/ Ala /Div (5) 2024 (3978)

Date: 29 February 2024

Dear Director General,

I wish to reiterate our position mentioned in my letter addressed to you dated 18 December 2023 that Myanmar considers positively on the constructive recommendations of the Col in its Report which aim for the benefits of the workers in Myanmar. Such recommendations are found to be acceptable in principle since the Government has already been implementing them in law and in practice.

Some recommendations of legislative nature will be reviewed in accordance with the internal procedures of Myanmar.

Taking this opportunity, it is my pleasure to update you on the progress made by Myanmar on Convention No. 29 and Convention No.87 is attached herewith for your kind perusal.

(Win Shein)

Deputy Minister

Ministry of Labour

Republic of the Union of Myanmar

Mr. Gilbert F. Hougbo
Director General
International Labour Organization (ILO)

Progress made by Myanmar on Convention No.29 and No. 87

Convention No.29

With a view to prevent Forced Labour, Myanmar has been striving its best efforts by enacting laws, policies and work plans and establishing mechanisms as necessary. The Government of Myanmar has been cooperating with the ILO Liaison Office in Yangon since its establishment in 2002.

Regarding the Convention 29, Myanmar has been implementing the recommendations contained in COI report and the most recent updates are as follows:

- a. The awareness-raising trainings for labour rights and prevention of forced labour were carried out in December 2023 for 7,090 members from 82 factories/workplaces as well as in January 2024 for 6,955 from 94 factories/workplaces. Likewise, the awareness trainings and meetings for the Tamataw personnel on the prevention of forced labour has been conducting monthly. From January 2023 to December 2023, a total of 40,048 Tamattaw personnel of different ranks has been educated on the prevention of forced labour and forced recruitment. In January 2024 alone, Ministry of Defense educated a total of 3,542 Tamattaw personnel.
- b. On 24 February 2024, the Spokesperson of the Information Team of the Government announced that anyone who has the knowledge of forced recruitment can file the complaint with the Central Body for summoning People's Military Servants and the contact details to do so have been made known to the public.
- c. ~~With the aim to prevent and eradicate forced labour, Myanmar enacted the Ward or Village Tract Administration Law which outlaws forced labour since 2012 and the Labour Organization Law in 2011 in compliance with Convention No. 29 and Convention No. 87 incorporating inputs and recommendations from social partners and ILO.~~
- d. Myanmar National Action Plan on Elimination of Child Labour 2019–2033 has been set out and the first 5-year plan (2019–2023) was implemented with the technical assistance of ILO till 2020. Currently, Myanmar is implementing the second phase of action plan for the period of 2024–2028.

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- e. Since 1 February 2021, the State Administration Council (SAC) granted amnesties to a total of 47,880 prisoners (42,428 male and 5,452 female) in 2021, 8,277 prisoners (7,332 male and 945 female) in 2022, 20,921 prisoners (17,965 male and 2,956 female) in 2023 and 9,766 prisoners (8,319 male and 1,447 female) in January 2024 respectively. With regard to Moe Gyi @ Arhtaw, so-called member of a labour organization who was sentenced two-year imprisonment due to penal code 124 (a) by Dagon district court, the SAC has granted him amnesty with order No. (51/ 2023) dated 1 August 2023 and he was released from Insein prison on the same day.
- f. From January 2023 to January 2024, there are two cases which are subject to prosecution in connection with overtime work exceeding maximum working hour set by the Law and overtime without half an hour rest.
- g. Forced labour is one of the alternate forms of trafficking in persons in Myanmar and most of the legal actions have been taken under the Prevention and Suppression of Trafficking in Persons Law carries severe punishment. From January 2023 to December 2023, a total of 133 traffickers (55 male and 78 female) who had involved in 36 cases of human trafficking were taken actions and prosecuted. A total of 82 individuals/ victims (18 male and 64 female) were rescued by Myanmar Police Force.
- h. From 1 January 2024 to 15 February 2024, the Anti-Trafficking in Persons Division organized public awareness sessions for 15,247 people and distributed 35,988 pamphlets.
- i. There is no restriction to the business contrary to the Convention No. 29. Moreover, Myanmar Government respects and protects the rights and freedom of businesses in accordance with the provisions of domestic laws as well as the ILO Conventions.

Convention No.87

With regard to the Convention No.87, it is found that freedom of association, full implementation of freedom of expression and release of trade unionists are mentioned in the recommendations of Col.

The efforts made by the Government of the Republic of the Union of Myanmar in implementing the Convention No.87 are as follows:

- a. In view of public order and security, some townships are placed under curfew in accordance with Section 144 of the Criminal Procedure. While considering the concerns expressed by the Col, the Ministry of Labour consulted with the Ministry of Home Affairs to facilitate the activities of labour unions. Therefore, the labour unions can organize activities after seeking permission from the respective Township Administration Department by providing information on scheduled date, time, place and number of attendees along with programs.
- b. Labour Unionist can exercise freedom of association and activities so long as they are not involved in terrorism and crimes. Legal actions are taken against those who have committed and supported terrorist related activities.
- c. According to the 2011 Labour Organization Law, the labour organizations can be formed freely in practice. A total of 3,045 Labour organizations have registered as of 31st January 2024. Any complaint on registration can be filed with the Ministry of Labour.
- d. As of 1 February 2024, a total of 2,852 Basic Employer/Labour organizations, 157 Township Employer/Labour Organizations, 25 Region/State Employer/Labour Organizations, 10 Employer/Labour Federations and 1 Employer/Labour Confederation in Myanmar were formed respectively.
- e. From 2022 until January 2024, the coordinating team for labour affairs established under Ministry of Labour visited factories and settled the collective demand made by 14 factories of Yangon Region.
- f. All the updated information on implementation of the responsibilities of Factories and General Worker Laws Department of the Ministry of Labour is being posted timely on the Department's website. Besides, the capacity building measures for the officers and other ranks of the Ministry of Labour are being publicized on the Ministry's website and social media in a timely manner.
- g. Regarding the labour disputes occurred at the workplaces, a total of 3,173 Workplace Coordination Committees (WCC) have been formed in order to

facilitate the negotiations between the workers and employers. The cases which could not be settled by WCCs are being addressed by the Township Conciliation Body, Arbitration Body and Arbitration, which are organized with tripartite representatives in accordance with the Settlement of Labour Dispute Law (2012).

- h. From 2021 to 2023, the Township Conciliation Body received 952 cases of which 776 cases were settled. In January 2024, 23 out of 31 cases received were settled at township level, 3 out of 4 cases were resolved at the regional/ state level.
- i. The capacity building measures for the officials and other ranks who are responsible for the settlement of labour disputes were taken for 3 times in 2022 and 2 times in 2023 developing the capacity of 384 staff.
- j. From 2021 to 2023, the Factories and General Labour Laws Inspection Department under the Ministry of Labour has received 491 complaints of which 488 cases were resolved through tripartite mechanism that comprises of Government, Employers and Employees. The remaining 3 cases are still in the process.
- k. To ensure the full rights of labour to be achieved in accordance with the occupational health and safety law in Myanmar, the Government granted 15760.278 million kyats for total number of 405,752 workers from 1,300 workplaces/ factories. Moreover, the Government provided 34,443.885 million kyats as an overtime allowance for a total number of 526,785 workers from 1,054 workplaces/ factories. Series of training on capacity building for officers and staff are being conducted to ensure the workers do not work overtime without their consent.