

RESPONSE FROM THE GOVERNMENT OF MALAYSIA TO THE GOVERNING BODY ON THE REQUEST OF THE WORKERS' GROUP AND 34 GOVERNMENTS TO URGENTLY REFER THE DISPUTE ON THE INTERPRETATION OF THE FREEDOM OF ASSOCIATION AND PROTECTION OF THE RIGHT TO ORGANISE CONVENTION, 1948 (NO. 87) IN RELATION TO THE RIGHT TO STRIKE TO THE INTERNATIONAL COURT OF JUSTICE FOR DECISION IN ACCORDANCE WITH ARTICLE 37(1) OF THE CONSTITUTION

The government of Malaysia acknowledges the request made by the Workers' group and 34 governments to urgently refer the dispute on the interpretation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) in relation to the right to strike to the International Court of Justice for decision in accordance with article 37(1) of the Constitution.

The Government of Malaysia's view is that while Article 37(1) of the ILO Constitution provides an avenue to resolve interpretation questions or disputes, the referral to the International Court of Justice on the dispute of interpretation of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) in relation to the right to strike should be a last resort when all efforts taken to resolve the disputes failed. It is preferable to seek internal solutions through the establishment of an internal, independent tribunal to provide for the expeditious determination of the dispute or question relating to the interpretation of Convention 87 as proposed by the Workers' Group in the Governing Body.

The Government of Malaysia shares the same position as the Asia and Pacific Group to establish an internal solution among the tripartite. The Government believes that if this dispute continues, it will eventually have an impact on the supervisory system and the credibility of the ILO as a body that sets international labour standards, as well as the efficacy of putting international standard instruments into practice.