



Governing Body

349th Session, Geneva, 30 October–9 November 2023

Institutional Section

INS

Date: 5 October 2023

Original: English

Fourteenth item on the agenda

Report of the Commission of Inquiry established in accordance with article 26 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)

1. At its 344th Session (March 2022) the Governing Body established, of its own motion, in accordance with article 26(4) of the Constitution a Commission of Inquiry 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).¹ It appointed the members of the Commission at its 345th Session (June 2022).²
2. The Commission of Inquiry adopted its report on 4 August 2023.
3. Article 29(1) of the Constitution provides that “[t]he Director-General of the International Labour Office shall communicate the report of the Commission of Inquiry to the Governing Body and to each of the governments concerned in the complaint and shall cause it to be published.” Under article 29(2) of the Constitution, the Director-General shall be informed within three months of whether or not the recommendations contained in the report of the

¹ GB.344/PV, para. 394(j).

² GB.345/PV, para. 141.

Commission are accepted and, if not, whether it is proposed to refer the matter to the International Court of Justice.

4. Copies of the report have been made available to the members of the Governing Body. The report was also published on the ILO website.³
5. On 22 September 2023, the Director-General transmitted the report of the Commission of Inquiry to the Permanent Mission of the Republic of the Union of Myanmar to the United Nations Office and other international organizations in Geneva with a view to bringing it to the attention of the Myanmar military authorities whom the Commission urged to take a set of specific actions (paragraphs 641–644 of the report).
6. On 29 September 2023, the Permanent Mission transmitted a letter from the military authorities, acknowledging the receipt of the report and informing that Myanmar's position regarding the Commission's recommendations would be communicated within three months (see appendix).
7. It may be recalled that the Government of Myanmar is not represented at the ILO, further to the decision taken by the Credentials Committee of the International Labour Conference at its 109th Session (2021), 110th Session (2022) and 111th Session (2023) not to accredit any delegates from Myanmar after having received conflicting credentials from entities claiming to represent the legitimate Government of Myanmar.⁴ However, the non-recognition of the military authorities has not impeded the continued supervision of the application of Conventions previously ratified by Myanmar.⁵

► Draft decision

8. **The Governing Body 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.**

³ Report of the Commission of Inquiry for Myanmar, 2023.

⁴ ILC.109/Record No. 3B, ILC.110/Record No. 2A, ILC.111/Record No. 2A(Rev.1).

⁵ GB.344/PV, para 382.

► Appendix

Reply from the military authorities dated 29 September 2023

To: Director-General

International Labour Organization (ILO)

Subject: **Report of the Commission of Inquiry on Myanmar**

Reference: ILO's Note dated 22 September 2023

1. Myanmar received the letter from the ILO dated 22 September 2023, forwarding the report of the Commission of Inquiry (COI) on Myanmar. Some recommendations urging Myanmar to take immediate actions not later than 1 October 2023, are not practical. It is surprised to learn that specifying such a short timeline for implementing the recommendations is unprecedented as it differs from the demands of previous Commissions of Inquiry established on Myanmar as well as on other countries.
2. Regarding the position of Myanmar on the recommendations of the COI in its report, Myanmar would respond within three months from the date on which the report was received i.e. 22 September 2023. It is observed that the report is politically motivated since it is based on the distorted information from the individuals or organizations which are opposing the Government in various forms. Myanmar would take serious consideration of the constructive recommendations which aim to bring benefits for the workers in Myanmar.
3. Myanmar has been complying with the provisions under Convention No. 87 and Convention No. 29 by enacting relevant domestic laws and exercising in practice. Constructive cooperation existed between Myanmar and the ILO. Taking into account the welfare of the workers, Myanmar maintains continued positive and mutual cooperation with the ILO.

(Signed)

Win Shein, Deputy Minister

Ministry of Labour

CC:

Ministry of Foreign Affairs, Myanmar

Permanent Mission of Myanmar, Geneva

Department of Labour, Myanmar