



## Governing Body

316th Session, Geneva, 1–16 November 2012

GB.316/INS/7

Institutional Section

INS

Date: 23 October 2012

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### SEVENTH ITEM ON THE AGENDA

## Complaint concerning non-observance by Myanmar of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by delegates to the 99th Session (2010) of the International Labour Conference under article 26 of the ILO Constitution

#### Purpose of the document

The Governing Body is invited to decide whether it wishes to institute the procedure provided for in article 26 of the Constitution and proceed to the appointment of a Commission of Inquiry to consider the allegations set out in the complaint or whether it wishes to take any other action (see the draft decision in paragraph 6).

**Relevant strategic objective:** Promote and realize standards and fundamental principles and rights at work.

**Policy implications:** None.

**Legal implications:** Yes.

**Financial implications:** These will depend on the decision taken by the Governing Body, but the contingency has already been provided for in March 2011 (see GB.310/PFA/9/1).

**Follow-up action required:** The International Labour Standards Department (NORMES) will follow-up on the decision made by the Governing Body.

**Author unit:** NORMES.

**Related documents:** GB.316/INS/5/5.



1. At its meeting in March 2012, the Governing Body, in its further consideration of the article 26 complaint submitted in June 2010 for the non-observance by the Government of Myanmar of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), welcomed the important developments that had occurred since its last consideration of the matter in November 2011 and:
  - (a) decided to defer to its 316th Session (November 2012) a decision on the appointment of a commission of inquiry;
  - (b) in the meantime, welcoming the Government's stated commitment, expressed its firm expectation that the Government will facilitate the strengthening and expanded capacity of the ILO Liaison Office, including through the approval of visa applications for new staff to foster and monitor the environment necessary for the effective implementation of the Labour Organization Law and its implementing Rules in a manner which is in full conformity with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). To this end, the Governing Body urged that intensive technical cooperation and a full-fledged awareness-raising campaign begin immediately on the new legislative framework and international standards and principles in the area of freedom of association for all relevant stakeholders, including workers, employers, their representatives, and public officials (such as registrar officials, judges, police and the armed forces).<sup>1</sup>
2. In the resolution concerning the measures on the subject of Myanmar adopted under article 33 of the ILO Constitution in relation to the observance of the Forced Labour Convention, 1930 (No. 29), the International Labour Conference requested the Director-General: to prepare for the November 2012 session of the Governing Body a report on ILO technical cooperation priorities for Myanmar, including the resources required. The report is to include progress made in the implementation of the Joint Strategy for the elimination of forced labour in Myanmar, the operation of new labour legislation, including freedom of association, and on the impact of foreign investment on decent working conditions in the country. Such report is before the Governing Body in document GB.316/INS/5/5.
3. Since the March session, there have been a number of important developments in Myanmar in relation to freedom of association and the technical cooperation provided by the ILO aimed at promoting improved implementation of Convention No. 87. In particular, the Government approved a visa application for new staff to foster and monitor the environment necessary for the effective implementation of the Labour Organization Law and its implementing Rules in a manner which is in full conformity with Convention No. 87. In this respect, the Chief Technical Adviser for the Freedom of Association Project, Mr Ross Wilson, joined the ILO Liaison Office in Yangon on 18 June 2012. One of his principal objectives is to support the development of strong and representative organizations of workers and employers to achieve sustainable labour market relationships, institutions and practices, and an efficiently and fairly functioning industrial relations system. His advice and assistance has been provided to all the tripartite constituents of the ILO in the country. A technical cooperation project on awareness raising and training in the area of freedom of association has begun and further donors have been contacted to support tripartite capacity building and to foster social dialogue.
4. Following the entry into force of the Labour Organization Law, the ILO Liaison Office has been informed of the registration of 263 workers' organizations and 12 employers' organizations.

<sup>1</sup> GB.313/PV, para. 146.

5. Another significant development, relevant to previous calls made by the Committee on Freedom of Association and the Committee of Experts on the Application of Conventions and Recommendations, has been the return to the country of the General Secretary of the Federation of Trade Unions of Burma and other of its officers.

***Draft decision***

6. *In the light of the information provided above, the Governing Body decides either:*
- (a) to proceed to the appointment of a commission of inquiry under article 26 of the Constitution to consider the allegations set out in the complaint; or*
  - (b) to defer the decision to its 317th Session (March 2013); or*
  - (c) to take no further action under article 26; or*
  - (d) to take any other action.*