

**Special sitting to examine developments
concerning the question of the observance
by the Government of Myanmar of the
Forced Labour Convention, 1930 (No. 29)**

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**A. Observation of the Committee of Experts
on the application of Conventions and
Recommendations on the observance
of the Forced Labour Convention, 1930
(No. 29), by Myanmar**

Myanmar (ratification: 1955)

Historical background

1. In its previous comments the Committee has discussed in detail the history of this extremely serious case, which has involved gross, methodical and pervasive breaches of the Convention enduring for many years, and which is also manifested by the long-standing failure of the Government to implement the recommendations of the Commission of Inquiry, appointed by the Governing Body in March 1997 under article 26 of the Constitution.

2. The Committee recalls that the Commission of Inquiry concluded that the obligation under the Convention to suppress the use of forced or compulsory labour was being violated in Myanmar in national law as well as in actual practice in a widespread and systematic manner. In its recommendations (paragraph 539(a) of the Commission's report of 2 July 1998), the Commission urged the Government to take the necessary steps to ensure:

- that the relevant legislative texts, in particular the Village Act and the Towns Act, be brought into line with the Convention;
- that in actual practice, no more forced or compulsory labour be imposed by the authorities, in particular the military, an outcome which required concrete action to be taken immediately for each and every of the many fields of forced labour and to be accomplished through public acts of the Executive, promulgated and made known to all levels of the military and to the whole population; and
- that the penalties which may be imposed under section 374 of the Penal Code for the exaction of forced or compulsory labour be strictly enforced, which required thorough investigation, prosecution and adequate punishment of those found guilty.

Developments since the Committee's previous observation

3. There have been numerous discussions and conclusions reached by ILO bodies, as well as further documentation received by the ILO, which have been considered by the Committee. These include the following:

- the report of the ILO Liaison Officer (ILC, 98th Session, *Provisional Record* No. 16, Part Three, Doc. D.5.C) submitted to the Conference Committee on the Application of Standards during the 98th Session of the International Labour Conference in June 2009, as well as the discussions and conclusions of that Committee (ILC, 98th Session, *Provisional Record* No. 16, Part Three, A and Doc. D.5.B);
- the documents submitted to the Governing Body at its 304th and 306th Sessions (March and November 2009), as well as the discussions and conclusions of the Governing Body during those sessions;

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- the communication by the International Trade Union Confederation (ITUC) received in September 2009 which includes an appendix of 74 documents amounting to more than 1,000 pages, a copy of which was transmitted to the Government for comments on the matters raised therein;
 - the Agreement of 26 February 2009 to extend the trial period of the Supplementary Understanding of 26 February 2007; and
 - the reports of the Government of Myanmar received on 10 and 24 March, 1 and 4 June, 27 August, 6 and 21 October 2009.

4. *The Supplementary Understanding of 26 February 2007 – extension of the complaints mechanism.* The Committee notes that the trial period of the complaints mechanism under the Supplementary Understanding (SU) of 26 February 2007 between the Government and the ILO was extended on 26 February 2009 for one year, until 25 February 2010 (ILC, 98th Session, *Provisional Record* No. 16, Part Three, Doc. D.5.F., Appendix II). The SU supplements the Understanding of 19 March 2002 concerning the appointment of an ILO Liaison Officer in Myanmar and has as its object to “formally offer the possibility to victims of forced labour to channel their complaints of forced labour through the services of the Liaison Officer to the competent authorities with a view to seeking remedies available under the relevant legislation and in accordance with the Convention”. Information about the functioning of this important mechanism is discussed below in the sections on monitoring and enforcement.

5. *Discussion and conclusions of the Conference Committee on the Application of Standards.* The Committee on the Application of Standards once again discussed this case in a special sitting during the 98th Session of the Conference in June 2009. The Conference Committee, inter alia, acknowledged some limited steps on the part of the Government of Myanmar: the further extension of the SU for another year; certain activities concerning awareness raising of the complaints mechanism established by the SU; certain improvements in dealing with under-age recruitment by the military; and the distribution of publications relating to the SU. The Committee was however of the view that those steps were totally inadequate, and it strongly urged the Government to fully implement without delay the recommendations of the Commission of Inquiry.

6. *Discussions in the Governing Body.* The Governing Body also continued its discussions of this case during its 303rd and 306th Sessions in March and November of 2009 (GB.304/5(Rev.), GB.306/6). Following the discussion in November 2009 the Governing Body, inter alia, reconfirmed the continuing validity of its previous conclusions and those of the International Labour Conference. It noted the Government’s cooperation regarding complaints of forced labour submitted under the SU, as well as the joint Government–ILO awareness-raising activities. However, it called on the Government to strengthen the capacity of the ILO in the framework of the SU to deal with complaints throughout the country and, in particular, to facilitate adjustments to the staff capacity of the Office of the Liaison Officer, as provided for in article 8 of the SU, so that an increased workload could be met. It also called for the immediate release of all persons currently detained being complainants, facilitators and others associated with the SU complaints mechanism. It further called for particularly accessible material in local languages for awareness raising, and it reiterated the need for an authoritative statement by the senior leadership against the continued use of forced labour and the need to respect freedom of association.

7. *Communication received from the International Trade Union Confederation.* The information contained in the communication from the ITUC received in September 2009, referred to in paragraph 3, is discussed below in the section on current practice.

8. *The Government's reports.* The reports received from the Government, referred to in paragraph 3, include replies to the Committee's previous observation. They include information, inter alia, about joint ILO–Ministry of Labour (MOL) publicity, awareness-raising and training activities on forced labour; the Government's continued cooperation with the various functions of the ILO Liaison Officer including monitoring and investigating the forced labour situation, the operation of the SU complaints mechanism, and the implementation of technical projects; and ongoing efforts the Government is making to enforce the prohibitions of forced labour. The reports also include a reply to the ITUC communication of September 2008 by way of a categorical dismissal of the allegations of forced labour contained therein. The Government also indicates that no action was being contemplated to amend or repeal the Village Act and Towns Act or to amend section 359 of the New State Constitution. Further references to the Government's reports are made in the discussion below.

Assessment of the situation

9. Assessment of the information available on the situation of forced labour in Myanmar in 2009 and in relation to the implementation of the recommendations of the Commission of Inquiry and compliance with the Convention by the Government will be discussed in three parts, dealing with: (i) amendment of legislation; (ii) measures to stop the exaction of forced or compulsory labour in practice; and (iii) enforcement of penalties prescribed under the Penal Code and other relevant provisions of law.

I. Amendment of legislation

10. With regard to the Village Act and the Towns Act, referred to in paragraph 2, the Committee notes the statement of the Government in its report received on 27 August 2009 that these laws "have been put into dormant [sic] effectively and legally" by Order No. 1/99 (Order Directing Not to Exercise Powers Under Certain Provisions of the Town Act, 1907, and the Village Act, 1907) as supplemented by the Order of 27 October 2000. In its previous comments, the Committee has observed that the latter orders have yet to be given bona fide effect and do not dispense with the separate need to eliminate the legislative basis for the exaction of forced labour. ***Noting the indication of the Government representative, during the discussion in the Governing Body at its 306th Session in November 2009, that these Acts were under review by the Ministry of Home Affairs, the Committee urges the Government to take the long overdue steps to amend or repeal them and thereby to bring its law into conformity with the Convention. The Committee hopes that in its next report the Government will provide information confirming that such steps have been taken.***

11. In its previous observation the Committee noted that the Government has included in section 359 of the New State Constitution (Chapter VIII – Citizenship, Fundamental Rights and Duties of Citizens) a prohibition of forced labour containing an exception for "duties assigned by the Union in accordance with the law in the interest of the public". The Committee observed that the exception encompasses permissible forms of forced labour that exceed the scope of the specifically defined exceptions in Article 2(2) of the Convention and could be interpreted in such a way as to allow a generalized exaction of forced labour from the population. The Committee notes with regret the statement of the Government in its report received on 27 August 2009, that section 359 of the New State Constitution "adequately captures the spirit" of the Convention. ***The Committee once again urges the Government to take steps to amend section 359 of Chapter VIII of the new Constitution, in order to bring its law into conformity with the Convention.***

II. *Measures to stop the exaction of forced or compulsory labour in practice*

12. *Information available on current practice.* The Committee notes from the ITUC's communication referred to above, the well-documented allegations that forced and compulsory labour continued to be exacted from local villagers in 2009 by military and civil authorities and to have occurred in all but one of the country's states and divisions. The information in the appendices refers to specific dates, locations and circumstances of the occurrences, and to specific civil bodies, military units and individual officials responsible for them. According to these reports, forced labour has been requisitioned both by military personnel and civil authorities such as village heads, and has taken a wide variety of forms and involved a variety of tasks, including: construction of bridges and roads; forced portering for military personnel; prison labour, construction and maintenance of army camps; confiscation of food supplies and extortion of money; forced recruitment of child soldiers; forced sentry duty; and human minesweeping. The appendices also include translated copies of more than 100 Order documents and Order "letters" for the requisition of forced (and uncompensated) labour issued between December 2008 and June 2009 to villagers and village heads in Chin, Karen, Mon, and Rakhaing States and in Irrawaddy, Pegu, and Tenasserim Divisions. The tasks and services demanded by these call-up orders involved, inter alia, portering for the military; road repair and other infrastructure projects, and on paddy plantations; production and delivery of thatch shingles and bamboo poles; recruitment of children as soldiers; attendance at meetings; provision of money and alcohol; provision of information on individuals and households; registration of villagers in State-controlled NGOs; and restrictions on travel and use of muskets. ***Noting the conspicuous absence of any comment from the Government on such Order letters forwarded by the ITUC in previous years, the Committee requests that in its next report the Government respond in detail to the entirety of the September 2009 communication of the ITUC, and in particular to the Order letters referred to above which constitute conclusive evidence of the continued systematic imposition of forced labour by military and civil authorities throughout the country in 2009.***

13. The Committee notes the observations of the ILO Liaison Officer that the SU mechanism continues to function, yet "the overall forced labour situation remains serious in the country". (GB.304/5/1(Rev.), paragraph 2). Victims of under-age military recruitment with substantiated complaints are regularly discharged from the military, yet the "continued and repeated illegal recruitment of children by military personnel" is also confirmed (GB.306/6, paragraphs 5 and 7). In terms of the experience with the SU complaints mechanism, the Liaison Officer refers to action taken by the authorities "to ensure that the practice of forced labour does not continue and further complaints are not received from that area" from which they originate (GB.306/6, paragraph 10). However, he also refers to the behaviour of local authorities, both civil and military, as well as judicial, who refuse to accept the validity of settlement agreements reached under the SU process, continue traditional forced labour practices, and harass those who attempt to exercise their rights under the law (GB.306/6, paragraph 15).

14. In its previous observations the Committee, recalling the Commission's recommendation that concrete action needed to be taken immediately for each and every of the many fields of forced labour, identified four types of "concrete action" the Government needed to take, without which an end to imposition of forced labour in practice could not be achieved: issuing specific and concrete instructions on forced labour and on its prohibitions to civilian and military authorities; giving wide publicity to the prohibitions on forced labour; making adequate budgetary provisions for replacing forced labour with free wage labour; and monitoring the practice of forced labour and efforts to enforce its prohibitions.

15. *Issuing specific and concrete instructions.* In its previous observations the Committee has emphasized that specific, effectively conveyed instructions to civil and military authorities, and to the population at large, are required which identify each and every field of forced labour, and which explain concretely for each field the means and manner by which the tasks or services involved are to be carried out without recourse to forced labour. The Committee has noted that, with one exception (namely, the “Additional Instruction” issued by the Department of General Administration of the Ministry of Home Affairs, No. 200/108/Oo, dated 2 June 2005 and noted by the Committee in its 2005 observation), the series of instructions and letters issued by Government authorities in 2000, 2004 and 2005, which were intended to secure compliance with the prohibition of forced labour under Order No. 1/99 and its supplementing Order of 27 October 2000, were not shown to have met these criteria.

16. The Committee notes that in its report received on 1 June 2009 the Government states only that “the various levels of administrative authority are well aware of the orders and instructions related to forced labour prohibition issued by the higher levels”. The document submitted to the Governing Body in March 2009 (GB.304/5/1(Rev.)) includes an indication, without a date specified, that the General Administration Department had issued instructions through the state and divisional administrative structures reconfirming the prohibition of forced labour; and that this instruction had been transmitted to township and village tract levels (paragraph 6). The Government indicates in its report received on 27 August 2009 that all instructions and directives “contain the details [sic] necessary measures for the implementation of the Orders”. The Committee also notes the observation of the ILO Liaison Officer that a number of forced labour complaints, particularly involving confiscation of farmers’ croplands, result from the improper application of economic and agricultural policies not directly concerned with the practice of forced labour, yet the Government has not agreed to consider policy-application training designed to stop the application of such policies in a way that leads to the imposition of forced labour (Report to the Conference Committee, paragraph 14; GB.304/5/1(Rev.), paragraph 9). The Committee notes that once again the information provided by the Government is grossly deficient. It reiterates the need for concrete instructions to be issued to all levels of the military and to the whole population, which identify all fields and practices of forced labour and provide concrete guidance as to the means and manner by which tasks or services in each field are to be carried out, and by which any other relevant government policies are to be implemented, without recourse to forced labour or forced contributions from the population, and for steps taken to ensure that such instructions are fully publicized and effectively supervised. ***The Committee requests the Government to provide in its next report information about the measures of this nature it is taking, including a translated and dated copy of the text of the instructions it states have been issued reconfirming the prohibition of forced labour and of the “necessary details” it states are contained in its directives and instructions.***

17. *Making adequate budgetary provisions for the replacement of forced and unpaid labour.* The Committee recalls that in its recommendations the Commission of Inquiry drew attention to the need to make adequate budgetary provisions to hire free wage labour for the public activities which are today based on forced and unpaid labour. In its report received on 27 August 2009, the Government has reiterated previous indications in stating that it “provides the budget allotment including labour costs for all Ministries to implement their respective projects”. In previous observations the Committee, noting the information available on actual practice which shows that forced labour continues to be imposed in many parts of the country, particularly in those areas with a heavy military presence, has considered it obvious that any budgetary allocations that are specifically designated for the recruitment of free wage labour have not been adequate or adequately utilized. ***The Committee once again urges the Government to use state budget allotments to provide civil and military authorities at all levels the financial means for utilizing voluntary paid labour for needed tasks and services, and which are adequate enough to eliminate the***

material incentives for recourse to forced and unpaid labour, and that it report in detail on the steps taken to that end and on the effect of such measures in actual practice.

18. *Giving publicity to and raising awareness about forced labour and its prohibitions.* The Committee notes from the Government's reports and the documents submitted to the Governing Body and to the Conference Committee, the indications that a number of activities to give publicity to and raise awareness about the forced labour situation, the legal prohibitions of forced labour and existing avenues of recourse for victims were carried out in 2009. These included, inter alia, a joint ILO–MOL awareness-raising seminar for civil and military personnel held in Karen State and Northern Shan State in April and May of 2009; a joint seminar held in Rhakine State with participants representing both the civil and military authorities; and a joint presentation to a refresher training programme for senior township judges. A booklet comprised of the texts of the SU and related documents and translated into the Myanmar language, was prepared (GB.304/5/1(Rev.), paragraph 4) and distributed to civilian and military authorities nationwide, to civil society groups, and the general public for awareness-raising purposes (Report to the Conference Committee, paragraph 18). Some 16,000 copies had been circulated as of November 2009; however, the Government had yet to agree to the production of a simply-worded brochure, translated into local languages, which outlined the law against forced labour and the procedures available to victims to exercise rights under the law (GB.306/6, paragraph 10). The Government, in its reports received on 6 and 21 October 2009, refers to a number of activities carried out in May and August of 2009 by the Committee for the Prevention of Military Recruitment of Under-Age Children, including law lectures for officer trainees at military camps; supervision of training on recruitment procedures at military training schools and basic training units; and informational visits to numerous regiments and recruitment centres. A rural infrastructure project in the cyclone-affected area of the Irrawaddy Delta implemented by the Office of the ILO Liaison Officer with cooperation from the MOL, a second phase of which was carried out through September of 2009 but with a further extension declined by the Government, included awareness-raising seminars (GB.306/6, paragraph 22) and was reported to have played a valuable role in raising awareness in the cyclone-affected area as to the rights and responsibilities in employment, in particular those relating to the prohibition of forced labour (GB.304/5/1(Rev.), paragraph 23). The Committee notes the indication of the Liaison Officer in November 2009 of an increase in new complaints filed under the SU complaints mechanism during the five-and-a-half-month period from mid-May through 28 October 2009, which he considered to be due to heightened awareness generally of citizens' rights, the maturing and expansion of the facilitators' network, and an increased readiness to present complaints. The Liaison Officer further observed, however, that awareness levels, particularly in rural areas, remained low (GB.306/6, paragraph 4). The Government had also yet to issue an authoritative public statement at the highest level, as called for by ILO supervisory organs, to clearly reconfirm its policy prohibiting all forms of forced labour throughout the country and its intention to prosecute perpetrators, both civilian and military (Report to the Conference Committee, paragraph 24, GB.306/6, Conclusions).

19. The Committee considers the publicity and awareness-raising activities noted above to represent a step forward, and the recent increase in new complaints received under the SU and partly attributed to such activities to be a positive sign; however, these measures continue to be largely ad hoc, partial and piecemeal in nature. The Committee reiterates the need for the Government to commit itself more fully to publicity and awareness-raising activities, to conceive and undertake them in a more coherent and systematic way, and with a view to the tangible effect they have on the observance in practice by civil and military authorities and personnel at all levels, and in all areas of the country, of their legal obligation not to exact forced labour, and on the efforts of victims of forced labour throughout the country to seek legal recourse. ***The Committee hopes that in its next report the Government will supply information on measures of this nature being***

taken or contemplated, including information about their practical effect, observed or anticipated.

20. *Monitoring the situation of forced labour including efforts to enforce its prohibitions.* The Committee notes the important role in assisting the Government with monitoring and investigating the situation of forced labour in Myanmar, including enforcement of rights and obligations arising out of the prohibitions of forced labour, which has been accorded to the ILO Liaison Officer, both under the broad mandate of the Understanding of 2002 and in the framework of the SU complaints mechanism. The Committee notes that several ad hoc investigation missions and inspection tours were carried out by the Liaison Officer and the Ministry of Labour in late 2008 and early 2009, and that presentations were made to NGOs and civil society groupings, in part, to seek their support in forced labour observation and reporting (GB.304/5/1(Rev.), paragraphs 5 and 6). A small sub-unit of the Office of the Liaison Officer has been established for dealing with under-age recruitment complaints and for monitoring and reporting on the child soldier situation nationwide (GB.306/6, paragraph 21). The Committee considers these to be positive steps. At the same time, however, the reach of the SU mechanism in a country the size of Myanmar is still very limited (GB.304/5/1(Rev.), paragraph 10); the ILO Liaison Officer is based in Yangon and is provided meagre facilities and a small staff (paragraph 12); he does not have the authority to initiate complaints on the basis of his own observation or information (GB.306/6, paragraph 6) or his own investigations of under-age military recruitment (GB.304/5/1(Rev.), paragraph 7); and there are continuing practical impediments to the physical ability of victims of forced labour or their families to complain, such that a network of complaints facilitators remains a necessity (Report to the Conference Committee, paragraph 12). The complaints mechanism of the SU is being undermined (GB.306/6, paragraph 4) by the continued imprisonment of labour activists with a record of support in the facilitation of complaints under the SU (GB.306/6, paragraphs 14 and 16), by serious cases of apparent harassment and judicial retaliation against complaining victims, facilitators and other persons associated with complaints filed with the ILO (GB.306/6, paragraphs 11–14; Report to Conference Committee, paragraph 10), and by the refusal of local civil and military authorities, as well as local courts, to respect the terms of formal complaint settlements, notably the agreements in several land-confiscation cases that resulted from joint ILO–MOL investigative missions carried out in Magwe Division in December 2008 and March 2009 (GB.306/6, paragraphs 13 and 15). In this regard notations in the Register of cases under the SU mechanism indicate a number of cases, including Cases Nos 149, 150, 151, 204, 205 and 206, in which complainants chose not to pursue their claims out of fear of reprisals (GB.306/6, Appendix IV). A formal proposal of the ILO Liaison Officer to the Working Group for joint action to address these issues with a view to achieving lasting solutions has not been accepted by the Government (GB.306/6, paragraph 15). *Noting the obligation of the Government under the 2002 Understanding and the 2007 SU to take appropriate steps to enable the ILO Liaison Officer to effectively discharge the work and responsibilities arising therein, including extending to his Office the requisite facilities and support, the Committee strongly urges the Government to take immediate steps to address the serious problems noted above, and it requests information from the Government in its next report on the progress of those steps. More generally, the Committee urges the Government to take necessary measures to ensure that a climate exists for a monitoring and investigation process that is effective, national in its reach and scope, and fully respected by all elements and all levels of society. It requests that in its next report the Government supply information on the progress of measures so taken or contemplated.*

III. Enforcement of penalties

21. The Committee recalls that section 374 of the Penal Code provides for the punishment, by a term of imprisonment of up to one year, of anyone who unlawfully

compels any person to labour against his or her will, and that Order No. 1/99 and its supplementing Order of 27 October 2000, as well as the series of instructions and letters, issued by Government authorities in 2000, 2004 and 2005 with a view to securing the enforcement of those orders, provide for persons “responsible” for forced labour, including members of the armed forces, to be referred for prosecution under section 374 of the Penal Code or other applicable provisions of law. The Committee notes that none of the complaints under the SU mechanism assessed and forwarded by the ILO Liaison Officer to the Working Group for investigation and appropriate action resulted, in 2009, in a decision to prosecute perpetrators of forced labour. The notations in the Register of cases under the SU mechanism (as of 23 October 2009) indicate that in at least 14 of the closed cases, the Liaison Officer considered the penalties or punishment imposed or disciplinary actions taken to be inadequate, and that the Working Group has routinely rejected recommendations made for more serious sanctions to be applied (GB.306/6, Appendix IV). Recent cases involving complaints of under-age military recruitment have resulted in the discharge of the child victims but with only administrative sanctions, if any, imposed on the perpetrators; there have been no prosecutions under criminal law (GB.304/5/1, paragraph 7). In Case No. 127 an explicit recommendation by the Liaison Officer for criminal prosecution was rejected. The Committee notes the observation of the Liaison Officer that the need for the imposition of meaningful penalties on perpetrators “continues to be a concern, particularly in respect of cases involving military personnel” (GB.306/6, paragraph 7), and that in the most serious cases of under-age military recruitment the penalties remained inadequate (Report to the Conference Committee, paragraph 15). ***The Committee urges the Government once again to take measures to ensure that the penalties imposed by law for the illegal exaction of forced or compulsory labour are adequate and strictly enforced, as required by Article 25 of the Convention, and it requests the Government to supply information in its next report on the progress of measures taken to that end. The Committee hopes that fulfilment of the Government’s commitments as a party to the SU will be better reflected in the processing of cases forwarded to the Working Group by the ILO Liaison Officer, in terms of greater weight being accorded to the preliminary assessments of the Liaison Officer and a greater number of investigations leading to prosecutions, convictions and the imposition of criminal penalties rather than to case closures, and it requests information on progress being made in that vein.***

Concluding comments

22. In summary, the Committee observes that the Government has yet to implement the recommendations of the Commission of Inquiry; to wit: it has failed to amend or repeal the Towns Act and the Village Act; it has taken no concrete actions shown to have brought about in any significant and lasting way an end to the exaction of forced labour in practice; and it has failed to ensure that penalties for the exaction of forced labour under the Penal Code or other relevant provisions of law have been strictly enforced against civil and military authorities and personnel who are responsible for it. While the Office of the ILO Liaison Officer, by virtue of the broad mandate set forth under the Understanding of 19 March 2002, and the procedures and mechanisms provided for under the SU, has been accorded a critical role in assisting the Government in its efforts to bring about the elimination of forced labour, the robust and fully fledged cooperation of the Government that is vital to the fulfilment of that role, including the cooperation needed in extending the requisite facilities and support and in engendering full respect for, and trust in, these special organs by the society at large, leaves much room for improvement. ***The Committee once again urges the Government to give credence to its expressed commitment to eliminate the use of forced labour in Myanmar and take the long overdue steps that are required to implement the recommendations of the Commission of Inquiry and achieve compliance with the Convention in law and in practice.***

B. Report of the Liaison Officer to the Special sitting on Myanmar (Convention No. 29) of the Committee on the Application of Standards

I. Introduction

1. The ILO Liaison Officer in Myanmar operates under the authority of a 2002 Understanding between the Government of the Union of Myanmar and the ILO. The Liaison Officer undertakes various activities aimed at supporting the Government in its implementation of the recommendations of the Commission of Inquiry on Forced Labour in Myanmar concerning the Forced Labour Convention, 1930 (No. 29).
2. A Supplementary Understanding signed on 26 February 2007 sets out a complaints mechanism under which residents of Myanmar can forward to the Liaison Officer complaints on alleged cases of forced labour. The definition of forced labour under Convention No. 29 also includes the recruitment of minors into the military. The trial period of the Supplementary Understanding was extended for a third time in January 2010 for a further 12 months.¹
3. The Governing Body has reviewed developments, including any progress made, at each of its March and November meetings under a specific agenda item on the subject. The reports of the Liaison Officer to the Governing Body in November 2009 and March 2010, together with the conclusions reached following each of those discussions, are attached. The register of cases as at 17 May 2010 is attached as appendix.
4. This report provides a summary of activities over the past year without, however, repeating the information that is contained in the abovementioned reports to the Governing Body. The report takes into account the conclusions of the special sitting on Myanmar of the Committee on the Application of Standards held at the 98th Session of the International Labour Conference in 2009 (see Part C), and highlights developments that can be considered steps forward as well as areas where further progress is required in order to achieve the objective of the elimination of forced labour in Myanmar.

II. The operational environment

5. Through its Government Working Group for the Elimination of Forced Labour, chaired by the Deputy Minister of Labour and consisting of senior representatives from a range of relevant ministries, the Supreme Court and the Office of the Attorney-General, the Government of Myanmar continues to respond in a reasonably timely manner to complaints that have been lodged under the Supplementary Understanding and, after assessment by the Liaison Officer, transmitted to the Government. The Working Group has responded positively to proposals for training and awareness-raising activities under the 2002 Understanding. The Ministry of Defence has been involved in the delivery of training to military personnel in respect of the law concerning under-age recruitment.
6. While these activities continue to take place and expand, complaints continue to be received alleging the use of forced labour by both military and civilian authorities. There is

¹ See GB.307/6, paras 15–19.

little evidence of the use of forced labour in the private sector, although working conditions may often leave much to be desired.

7. Non-verifiable available evidence does suggest that the use of forced labour by the civilian authorities has been reduced at least in some locations and parts of the country. This is most likely due to the extensive awareness-raising activities undertaken and the heightened awareness of local authority personnel to the issue itself, including the risk attached to being the subject of a complaint and its follow-up action. A fair conclusion would also be that a significant part of the use of forced labour reflects the weakness of macroeconomic governance and policy application, particularly in respect of budgeting and the corresponding financial allocations.
8. It is difficult to reach satisfactory conclusions to complaints that allege the use of forced labour by the military, either in respect of their operational activities (use of porters, sentry guards, and so on) or their commercial activity in various industries. Where a complaint of under-age recruitment is submitted, and the Liaison Officer can prove the age and the fact of recruitment, the child concerned is in most instances discharged to his family. There are recent indications that, in addition to undertaking an assessment of the case, the Government expects the Liaison Officer to undertake a more extensive inquiry and to obtain at least two official forms of proof of age before the case is accepted for government investigation. Notwithstanding numerous requests to the authorities to release identified under-age recruits close to their homes, parents are still required to fetch their sons from their regiments, which often entails lengthy travel at considerable expense. Some families, for example, have to sell their harvest in advance, borrow money, or sell assets, in order to undertake the journey.
9. The publication of a simply worded brochure to explain the law, the Supplementary Understanding and the procedure for filing a complaint was agreed in principle by the Working Group in January 2010. On 30 April 2010, the wording and its translation were agreed. The Liaison Officer received government approval of the document layout on 24 May 2010 and arrangements are currently being made for its publication and subsequent distribution.
10. The full-time professional staff in Yangon consists of the Liaison Officer, his deputy and one national programme officer. The workload has grown considerably as awareness of the law and the right to submit complaints has spread. The increased caseload must be managed in parallel with other demands, such as undertaking assessment missions, awareness-raising seminars, facilitators' network training, and working with other United Nations (UN) agencies, international non-governmental organizations (INGOs) and non-governmental organizations (NGOs) on various aspects of the forced labour agenda. The Government of Germany generously provided one year's funding for, among other things, an additional international professional to further support Supplementary Understanding activities, particularly in respect of child soldiers. Some valuable additional activities have been undertaken using these funds. However, as the Government of Myanmar has not approved the visa application for an additional international staff member, a considerable sum had to be returned to the donor in December 2009. The donor has generously agreed to extend the project execution date to 31 December 2010 on condition that the visa is accorded or an appropriate in-country candidate is located before 31 July 2010. The number of complaints requiring preliminary assessment is growing, and there is a backlog of follow-up work on earlier cases.
11. A number of complaints of human trafficking for forced labour have been received. The Government Working Group has expressed its view regarding a more effective way of taking action, advising that such cases are not receivable by the Working Group and that the complainants should be referred to the proper authorities within the Ministry of Home

Affairs without further action being taken by the ILO Liaison Officer. Three such cases have been referred to the ILO anti-human trafficking projects based outside the country this year and they have resulted in the release of 56 persons from a forced labour situation in neighbouring countries. The Liaison Officer has renewed his recommendation that such cases be referred through the Government Working Group to the Myanmar police anti-human trafficking unit for appropriate action.

12. The work related to under-age recruitment under the Supplementary Understanding supports the activity of the UN Country Task Force on Monitoring and Reporting on Children and Armed Conflict under Security Council Resolution 1612 on the protection of children affected by armed conflict. As a member of the Task Force, the Liaison Officer and his deputy have been involved in the negotiation of a joint action plan with the Government with a view to stopping the recruitment of children into the military and the release of those already in service.

III. Action under the Understanding and the Supplementary Understanding

13. Since the 2009 meeting of the Committee on the Application of Standards, the following activities have been undertaken.

(a) Training and awareness raising

- Three joint ILO/Ministry of Labour awareness-raising seminars at State/Division level for state/division/district/township/village local authority personnel and representatives of military units in Rhakine State, Magway Division and Bago Division.
- Five training workshops/presentations held for UN and INGO field staff on the law pertaining to forced labour, including under-age recruitment and the practical operation of the Supplementary Understanding complaints mechanism.
- Two joint ILO/Ministry of Labour presentations on the law and practice on forced labour to township judge and deputy judge refresher training courses.
- Three training seminars/presentations for members of the armed forces (operational, training and recruitment personnel), the police and the prison service on the law and practice concerning under-age recruitment into the military.

(b) Operational field missions

- Four in-country field missions for case assessment or follow-up.
- Two orientation/information gathering missions.
- One mission accompanying the UN Special Rapporteur on the situation of human rights in Myanmar on his inspection visit to Rhakine State.

(c) Government consultations

- Four meetings with the full Government Working Group for the Elimination of Forced Labour on the operation of the Supplementary Understanding and one meeting to discuss the principles and application of the Freedom of Association Convention,

1948 (No. 87), with the participation of the International Labour Standards Department, and the Government's concept for proposed trade union legislation.

- Two meetings with the Government Human Rights Body regarding the Universal Periodic Review process and the promotion of UN/Government of Myanmar cooperation on human rights matters.
- Three meetings with the Committee for the Prevention of the Recruitment of Minors as part of the UN Country Task Force on Monitoring and Reporting on Children and Armed Conflict under Security Council Resolution 1612 on the protection of children affected by armed conflict.

IV. Statistics on complaints

14. Since the entry into force of the Supplementary Understanding in February 2007, a total of 331 complaints have been received by the Liaison Officer. Of those, 45 were outside the ILO mandate in Myanmar, including five relating to freedom of association issues that could not be pursued under the Supplementary Understanding.
15. Of the 286 cases accepted as being within the ILO mandate, 144 have been assessed, submitted to the Government Working Group for the Elimination of Forced Labour, investigated by the Government and subsequently concluded to varying degrees of satisfaction. Another 68 cases remain open, either awaiting information on the results of government investigations or still the subject of follow-up negotiations. Some 52 cases are currently either under assessment or require further information prior to submission. Twenty-two cases that fall within the mandate set out in the Supplementary Understanding have not been submitted, either because there is insufficient information to substantiate the allegations or because of reluctance on the part of the complainant to proceed owing to their own fear of possible reprisals.
16. Since the last report to the Committee on the Application of Standards, seven cases of alleged harassment of complainants, facilitators or legal counsel have been received. Fourteen persons deemed to have been the subject of judicial harassment for their association with the complaints mechanism have been released from prison after their sentences were reduced. Six people who had either been imprisoned owing to their association with the complaints mechanism, or sentenced for unrelated alleged breaches of the law in a situation where they had clearly had an association with the Supplementary Understanding mechanism, remain in prison. Two lawyers who are active supporters of the Supplementary Understanding procedures have lost their licences to practise after their release from prison. The Government continues to maintain that these persons have all been arrested and appropriately sentenced for breaches of the law unrelated to their association with the Supplementary Understanding complaints procedure and that the cancellation of the lawyers' practising licences reflects their breach of the legal practitioners' code of conduct. A total of 99 persons who had been recruited as children have been discharged from the military and returned to their families.

Appendix

Register of cases

Case	Date received	Accepted	Intervention date	Status	Comments
001	28 Feb. 07	Yes	9 Mar. 07	Closed	Prosecution – 2 x imprisonment, 1x acquitted, land use remains in dispute [case 129].
002	28 Feb. 07	Yes	29 May 07	Closed	Child released, disciplinary action – formal reprimand.
003	5 Mar. 07	No		Closed	Not related to mandate – worker welfare issue.
004	13 Mar. 07	Yes	20 Mar. 07	Closed	Not forced recruitment – under age – discharged to parents.
005	29 Mar. 07	No		Closed	Not related to mandate – land issue.
006	6 Apr. 07	No		Closed	Not related to mandate – pension issue.
007	6 Apr. 07	No		Closed	Not related to mandate – pension issue.
008	6 Apr. 07	Yes	16 May 07	Closed	Compensation paid. Instigator dismissed.
009	9 Apr. 07	Yes	10 Apr. 07	Closed	Civil sanctions and reprimands.
010	9 Apr. 07	No		Closed	Insufficient basis to proceed at this stage.
011	19 Apr. 07	No		Closed	Insufficient information at this stage.
012	19 Apr. 07	No		Closed	Not related to mandate – employment dispute.
013	23 Apr. 07	No		Closed	Complaints unwilling to be identified.
014	23 Apr. 07	No		Closed	Complaints unwilling to be identified.
015	23 Apr. 07	Yes	16 May 07	Closed	Government denied portering and alleged victim to be an insurgent who was captured but subsequently escaped. Any connection between the facilitator's subsequent imprisonment and this case was denied.
016	25 Apr. 07	No		Closed	Not related to mandate – employment dispute.
017	26 Apr. 07	Yes	22 Aug. 07	Closed	Administrative instructions issued and educative activity undertaken.
018	9 May 07	Yes	22 May 07	Closed	Military officer disciplined – joint training seminar undertaken.
019	9 May 07	No		Closed	Not related to mandate – property dispute.
020	9 May 07	No		Closed	Insufficient basis to proceed.
021	9 May 07	Yes	10 May 07	Closed	Victim discharged to parents – disciplinary action as the result of military inquiry considered inadequate.
022	18 May 07	No		Closed	No evidence that the work constituted forced labour.
023	18 May 07	Yes	23 May 07	Closed	Field visit, education activity undertaken.
024	25 May 07	No		Closed	Insufficient information to proceed.
025	22 June 07	Yes	14 Aug. 07	Closed	Four officials dismissed, administrative instructions re-issued.
026	26 June 07	Yes	13 Aug. 07	Closed	Local authorities instructional activity undertaken.

Case	Date received	Accepted	Intervention date	Status	Comments
027	28 June 07	No		Closed	Not related to mandate – pension/gratuity matter.
028	7 June 07	No		Closed	Not related to mandate – pensions matter.
029	14 June 07	Yes	2 Aug. 07	Closed	Village chairman dismissed.
030	31 July 07	Yes	31 July 07	Closed	Child released – summary military trial – recruiting officer disciplined.
031	25 June 07	No		Closed	Not related to mandate – mass termination.
032	29 June 07	No		Closed	Not related to mandate – land confiscation.
033	6 July 07	Yes	9 Aug. 07	Closed	Child released, training seminar undertaken.
034	12 July 07	No		Closed	Not related to mandate – hours of work/overtime issue.
035	23 July 07	Yes	17 Aug. 07	Closed	Government instructions issued, retrospective remuneration paid, joint field trip for awareness education undertaken.
036	24 July 07	No		Closed	Insufficient basis to proceed.
037	29 June 07	No		Closed	Not related to mandate – migrant worker/payment of wages.
038	25 July 07	No		Closed	Not related to mandate – termination of employment issue.
039	12 June 07	No		Closed	Insufficient basis on which to proceed.
040	31 July 07	No		Closed	Insufficient information to proceed.
041	6 Aug. 07	No		Closed	Not related to mandate – termination grievance.
042	7 Aug. 07	Yes	8 Aug. 07	Closed	Not within Supplementary Understanding mandate – issue of freedom of association remains. Six labour activists remain imprisoned. Request for ILO visiting rights rejected. The mission of the UN Special Rapporteur on the situation of human rights in Myanmar to Northern Rhakine State visited U Kyaw Min in February 2010.
043	15 Aug. 07	Yes	16 Aug. 07	Closed	Child released, disciplinary action as the result of military inquiry considered inadequate.
044	16 Aug. 07	No		Closed	Not related to mandate – wages/fees payment issue.
045	20 Aug. 07	Yes	10 Sep. 07	Closed	New instructions issued.
046	24 Aug. 07	No		Closed	Not related to mandate – commercial dispute.
047	27 Aug. 07	Yes	12 Sep. 07	Closed	Joint mission undertaken, village chairman dismissed, military officer reprimanded, practice stopped.
048	7 Sep. 07	No		Closed	Insufficient evidence to proceed.
049	7 Sep. 07	Yes	19 Dec. 07	Closed	Compensation package. One perpetrator demoted. Recommendation on prison labour policy review made.

Case	Date received	Accepted	Intervention date	Status	Comments
050	14 Sep. 07	Yes	20 Sep. 07	Closed	Victim released – military inquiry resulted in disciplinary reprimand.
051	20 Sep. 07	Yes	25 Feb. 08	Closed	Practice of forced labour ceased, awareness raising undertaken.
052	20 Sep. 07	Yes	22 Feb. 08	Closed	Forced labour stopped, travel restriction removed.
053	10 Oct. 07	Yes	9 Nov. 07	Closed	Responsible officer disciplined, practice stopped, joint awareness-raising mission undertaken.
054	17 Oct. 07	Yes	18 Oct. 07	Open	Clause 9 breach – negotiations continue, Su Su Nway, Min Aung remain in prison. Request for ILO visiting rights rejected.
055	19 Oct. 07	Yes	31 Oct. 07	Closed	Child released – military inquiry resulted in disciplinary reprimand.
056	25 Oct. 07	Yes	9 Nov. 07	Closed	Child released – military inquiry resulted in disciplinary reprimand.
057	7 Nov. 07	No		Closed	Not related to mandate – cross-border trafficking and HIV and AIDS.
058	15 Nov. 07	Yes	23 Nov. 07	Closed	Child released – summary military trial – recruiting officer disciplined.
059	15 Nov. 07	Yes	30 Nov. 07	Closed	Official translation approved.
060	19 Nov. 07	No		Closed	Not related to mandate – wages claim issue.
061	17 Dec. 07	Yes	19 Dec. 07	Closed	Government agreed to issue discharge in absentia, however victim cannot be located.
062	20 Dec. 07	Yes	28 Dec. 07	Closed	Victim discharged to custody of parents. Responsible recruiting officer officially reprimanded.
063	7 Jan. 08	Yes	14 Jan. 08	Closed	Victim discharged, recruiting officer reprimanded, instruction on humane treatment of trainees issued. Ongoing procedure recommendation made.
064	7 Jan. 08	Yes	11 Feb. 08	Closed	Sentence remitted, victim discharged from military to care of family.
065	8 Jan. 08	No		Closed	Not related to mandate – corruption allegation.
066	14 Jan. 08	Yes	22 Feb. 08	Open	Forced labour ceased, 12 complainants and associated persons released from prison. One complainant remains in prison. Related land issues remain unresolved. Negotiation continues.
067	16 Jan. 08	No		Closed	Not within mandate of forced labour, land confiscation.
068	16 Jan. 08	Yes	25 Feb. 08	Closed	Official dismissed, education activity undertaken, ongoing situation to be monitored.
069	31 Jan. 08	Yes	25 Feb. 08	Closed	Closed in association with case 051 following assessment mission.
070	6 Feb. 08	Yes	12 Feb. 08	Closed	Victim discharged, recommendation on proof of age documentation procedure made.

Case	Date received	Accepted	Intervention date	Status	Comments
071	29 Jan. 08	No		Closed	Not related to mandate – compensation for damaged crop issue.
072	30 Jan. 08	Yes	11 Mar. 08	Closed	Awareness-raising activity undertaken.
073	20 Feb. 08	Yes	3 Mar. 08	Closed	Portering allegation denied, disciplinary action re: serious assault on complainant considered inadequate.
074	21 Feb. 08	No		Closed	Insufficient basis to proceed.
075	3 Mar. 08	Yes	11 Mar. 08	Closed	Victim discharged, responsible officer reprimanded, Government investigation to locate broker continues.
076	3 Mar. 08	Yes	10 Mar. 08	Closed	Child discharged – recruitment officer reprimanded.
077	5 Mar. 08	No		Closed	Not within Supplementary Understanding mandate – freedom of association issue subject to separate consideration.
078	5 Mar. 08	No		Closed	Not within Supplementary Understanding mandate – freedom of association issue subject to separate consideration.
079	14 Mar. 08	No		Closed	Not within Supplementary Understanding mandate – freedom of association issue subject to separate consideration.
080	14 Mar. 08	Yes	8 Apr. 08	Closed	Associate with case 068, ongoing situation to be monitored.
081	17 Mar. 08	No		Closed	Not related to mandate – labour market dispute.
082	17 Mar. 08	No		Closed	Complainants unwilling to be identified.
083	20 Mar. 08	Yes	8 Apr. 08	Closed	Victim discharged. Recruiting officer seriously reprimanded, disciplinary response considered inadequate.
084	26 Mar. 08	No		Closed	Being dealt with in context of case 015.
085	28 Mar. 08	No	2 Aug. 08	Closed	Being dealt with in context of case 066.
086	28 Mar. 08	Yes	7 Apr. 08	Closed	Victim discharged to care of parents. Responsible senior officer reprimanded. Disciplinary action considered inadequate.
087	11 Apr. 08	Yes	11 Apr. 08	Closed	Child discharged – recruitment officer reprimanded.
088	22 Apr. 08	Yes	16 June 08	Closed	Child discharged.
089	19 May 08	Yes	20 June 08	Closed	Victim discharged, desertion charge dropped, responsible officer reprimanded.
090	20 May 08	Yes	17 July 08	Closed	Victim discharged, responsible officer seriously reprimanded. No response in respect of other reported minors in same unit.
091	23 May 08	No		Closed	Complaint withdrawn.
092	27 May 08	No		Closed	Not related to mandate – labour dispute.
093	28 May 08	Yes	16 June 08	Closed	Victim discharged, responsible officer reprimanded.

Case	Date received	Accepted	Intervention date	Status	Comments
094	28 May 08	Yes	2 Sep. 08	Closed	Division-wide joint training seminar for civilian, judicial, police and army authorities undertaken.
095	11 June 08	No		Closed	Not related to mandate – land confiscation.
096	11 June 08	Yes	14 July 08	Closed	Victim discharged, two officers responsible disciplined. One with 28 days' salary deduction and one with 14 days' salary deduction and a serious reprimand.
097	14 June 08	Yes	20 June 08	Closed	Child discharged – recruitment officer reprimanded.
098	15 June 08	Yes	17 June 08	Open	Negotiation for reinstatement of facilitator's law practicing license continues.
099	18 June 08	Yes	24 June 08	Closed	Victim released from prison, discharged from military, desertion sentence remitted – first perpetrator dead, second perpetrator resigned with no disciplinary action applied. Victim seriously ill on release, subsequently deceased.
100	23 June 08	Yes	9 Oct. 08	Open	Government response received, full denial of forced labour, claiming sentry duty to be community work. Communication continues.
101	2 July 08	Yes	9 Oct. 08	Closed	Allegation denied, Ministry of Defence instruction on recruiting process issued.
102	11 July 08	No		Closed	Insufficient evidence to proceed.
103	16 July 08	Yes	18 July 08	Closed	Victim discharged to care of parents.
104	17 July 08	Yes	21 July 08	Closed	Victim located, allegedly now of age and wishing to remain in army. ILO independent verification request denied.
105	21 July 08	Yes	24 July 08	Closed	Child discharged – recruitment officer disciplined by the loss of 28 days' salary.
106	31 July 08	Yes	31 July 08	Closed	Community work related. Government guidance distributed through General Administration Department as to appropriate approach to be adopted.
107	28 July 08	Yes	4 Aug. 08	Closed	Victim discharged, perpetrator fined 28 days' salary.
108	29 July 08	Yes	28 Aug. 08	Closed	Autistic boy of disputed age recruited. Government advises that victim deserted in 2005. Person responsible for his delivery to recruitment centre has himself deserted. No action taken against any perpetrator. Current whereabouts and status of victim unknown.
109	11 Aug. 08	Yes	23 Oct. 08	Open	Joint mission undertaken, negotiated settlement re: forced labour and land confiscation reached, agreements not yet fully applied by local authorities, negotiations continue. Facilitator and lawyer imprisoned, alleged harassment of facilitator's family denied. Lawyer released on judicial review of sentence, March 2010 with legal licence revoked. Negotiations continue.

Case	Date received	Accepted	Intervention date	Status	Comments
110	13 Aug. 08	Yes	10 Oct. 08	Closed	Victim not located, prison labour policy review proposed.
111	14 Aug. 08	Yes	21 Aug. 08	Closed	Victim initially not located. Government advised that victim rejected at recruitment centre. No action taken against identified broker or military personnel. Subsequently established that he was discharged on health grounds after 11 months of service.
112	19 Sep. 08	Yes	29 Sep. 08	Closed	Victim discharged, three military personnel seriously reprimanded.
113	24 Sep. 08	Yes	–	Closed	Parents decided not to pursue the case.
114	25 Sep. 08	Yes	29 Oct. 08	Closed	Victim located, is now of age, decided to remain in the army, ILO not granted private meeting for verification.
115	26 Sep. 08	Yes	29 Oct. 08	Closed	Victim discharged, two military personnel seriously reprimanded.
116	1 Oct. 08	No		Closed	Insufficient information to proceed.
117	1 Oct. 08	Yes	10 Nov. 08	Closed	Victim released, compensation paid, ongoing medical treatment provided, prison labour policy review proposed and agreed in principle, awaiting outcome.
118	1 Oct. 08	No		Closed	Not within Supplementary Understanding mandate – industrial dispute issue.
119	22 Oct. 08	Yes	22 Oct. 08	Closed	Awareness-raising activity undertaken, practice ceased.
120	30 Oct. 08	Yes	6 Nov. 08	Closed	Victim discharged, non-commission officer seriously reprimanded with loss of 28 days' salary and allowances. Disciplinary action considered inadequate.
121	4 Nov. 08	Yes	10 Nov. 08	Closed	Victim discharged, senior officer responsible reprimanded.
122	10 Nov. 08	Yes	20 Feb. 09	Closed	ILO offer of support for the production of guidelines for agricultural policy application to avoid forced labour complaints stands.
123	14 Nov. 08	Yes	14 Nov. 08	Closed	Victim discharged, perpetrator seriously reprimanded with loss 14 days' salary, disciplinary action considered inadequate.
124	14 Nov. 08	No		Closed	Not within Supplementary Understanding mandate – land confiscation.
125	5 Dec. 08	Yes	15 Dec. 08	Closed	Victim discharged. Captain dismissed and sentenced to one year civilian imprisonment with hard labour. Two privates sentenced to three months and one month military imprisonment with hard labour. Warrant Officer and Sergeant both reduced one year pensionable service rights.
126	11 Dec. 08	Yes	11 Dec. 08	Closed	State-wide awareness raising held in Karen State and Northern Shan State, ongoing situation being monitored.

Case	Date received	Accepted	Intervention date	Status	Comments
127	15 Dec. 08	Yes	22 Dec. 08	Closed	Victim discharged, perpetrator had retired, recommendation for criminal prosecution not accepted.
128	14 Jan. 09	Yes	30 Jan. 09	Closed	Victim discharged, junior officer disciplined. Recommendation on policy procedure concerning allocation of responsibility made.
129	30 Jan. 09	Yes	26 Oct. 09	Open	Related to case 01, ILO assessment mission undertaken. Two complainants imprisoned on damage to government property charges, negotiations continue.
130	4 Feb. 09	Yes		Closed	Settlement incorporated within case 66 solutions.
131	13 Feb. 09	Yes	9 Mar. 09	Open	Victim dismissed/ discharged. Communication re: perpetrator continues (related to cases 132 and 133).
132	13 Feb. 09	Yes	22 May 09	Open	Discussion on process for potential discharge continues.
133	13 Feb. 09	Yes	22 May 09	Open	Age on and circumstances of recruitment disputed. Communications continue.
134	16 Feb. 09	No		Closed	Insufficient information to proceed.
135	16 Feb. 09	Yes	9 Mar. 09	Open	Government agreed to victim being discharged – victim ran away from army between date of filing complaint and date that parents arrived at his unit to collect him. As yet not located – communication continues.
136	17 Feb. 09	No		Closed	Not related to mandate – alleged political harassment issue.
137	5 Mar. 09	Yes	13 July 09	Open	Two persons died whilst undertaking alleged forced labour. Government investigation determined it to be community work. Joint awareness-raising seminar involving township local authorities undertaken.
138	6 Mar. 09	Yes	10 Mar. 09	Closed	Victim released from prison, desertion sentence remitted, discharged from the military, perpetrator seriously reprimanded. Punishment considered insufficient.
139	9 Mar. 09	Yes	8 Apr. 09	Closed	Victim released from army, recommendation made re: issuance of instruction and discipline.
140	30 Mar. 09	Yes	8 Apr. 09	Closed	Victim discharged. Responsible Private disciplined with unspecified salary deduction. No action taken against identified broker who denies involvement.
141	30 Mar. 09	Yes	27 Apr. 09	Closed	Victim discharged, recruiting officer seriously reprimanded, penalty deemed inadequate.
142	31 Mar. 09	Yes	18 May 09	Closed	Use of forced labour denied. Summary of north-west command instruction against use of forced labour received. Full text awaited.
143	1 Apr. 09	No		Closed	Forced labour criteria met, victim does not wish to pursue the matter.

Case	Date received	Accepted	Intervention date	Status	Comments
144	22 Apr. 09	Yes	27 Apr. 09	Closed	Victim discharged, recruiting officers (two) seriously reprimanded.
145	22 Apr. 09	Yes	22 Apr. 09	Closed	Rhakine State/Northern Rhakine State awareness-raising session held in Sittway on 7 September 2009, ongoing situation being monitored (see case 225).
146	30 Apr. 09	Yes	30 Apr. 09	Closed	Victim discharged, recruiting officer seriously reprimanded.
147	8 Apr. 09	Yes	8 Apr. 09	Closed	Not within Supplementary Understanding mandate, four labour activists released. Issue of freedom of association remains.
148	15 May 09	Yes	25 May 09	Closed	Victim discharged, recruiting officer seriously reprimanded, disciplinary action considered inadequate.
149	15 May 09	Pending		Pending	Multiple complainants, reluctant to formalize complaint in fear of reprisal. ILO assessment mission in consideration (Kayin State).
150	15 May 09	Pending		Pending	Multiple complainants, reluctant to formalize complaint in fear of reprisal. ILO assessment mission in consideration (East Bago).
151	15 May 09	Pending		Pending	Multiple complainants, reluctant to formalize complaint in fear of reprisal. ILO assessment mission in consideration (Tanintharyi Division).
152	15 May 09	No		Closed	Insufficient information to proceed on alleged forced labour – complaint centred on alleged corruption and land confiscation.
153	21 May 09	Yes	25 May 09	Closed	Victim discharged. No reported action has been taken against two identified military personnel allegedly responsible for the recruitment of 13-year-old boy and one named military officer accused of harassing the victim's family.
154	21 May 09	No		Closed	Not related to mandate – labour dispute issue.
155	22 May 09	Yes	25 May 09	Closed	Victim discharged. Facts on recruitment remain in dispute. No disciplinary action taken against military personnel involved. Recommendation on discharge location policy made.
156	29 May 09	Yes	26 June 09	Closed	Victim released from prison, desertion sentence remitted, discharged from the military.
157	3 June 09	Yes	31 Aug. 09	Closed	Victim discharged. Responsible officer seriously reprimanded.
158	10 June 09	Yes	9 July 09	Closed	Victim discharged. Responsible officer seriously reprimanded with loss of seven days' pay. Recommendation for action re: second perpetrator made. Two further possible victims alleged to be volunteer adults, verification not possible.
159	11 June 09	Yes		Closed	Victim discharged whilst ILO assessment under way.

Case	Date received	Accepted	Intervention date	Status	Comments
160	17 June 09	Yes	6 Oct. 09	Closed	Magway Division awareness-raising seminar undertaken.
161	17 June 09	Yes	10 July 09	Closed	Victim discharged, ILO recommendation re: disciplinary action against perpetrators not accepted.
162	24 June 09	Yes	20 Oct. 09	Open	Awaiting Government response.
163	25 June 09	No		Closed	Forced labour criteria met, victim does not wish to pursue the matter.
164	29 June 09	Yes	16 July 09	Closed	Victim released from prison, discharged from army. Facts on recruitment circumstances disputed. No disciplinary action taken.
165	30 June 09	Yes	9 July 09	Open	Victim located, not under-age recruitment. Alleged abduction for forced labour – 100 more other children allegedly involved. Government questioned veracity of victim's story and indicated that its investigation could not locate the alleged forced labour site. Information on detailed investigation process and findings awaited.
166	13 July 09	Yes	5 Aug. 09	Closed	Victim (14 years old) released from army. Facts of recruitment disputed. Not reported if action taken against medical doctor and military officer as alleged perpetrators.
167	15 July 09	Yes	30 July 09	Closed	Victim discharged, one perpetrator seriously reprimanded with loss of 14 days' salary, second perpetrator identified by victim. National registration card returned to father of victim.
168	15 July 09	Yes	5 Aug. 09	Open	Victim discharged, perpetrator seriously reprimanded. Communication concerning other follow-up recommendations continues.
169	17 July 09	Yes	3 Aug. 09	Open	Qualified agreement for discharge received. Communication on process continues.
170	17 July 09	Yes		Closed	Evidence indicates forced labour. However, complainants not prepared to proceed owing to fear of reprisal.
171	6 Aug. 09	Yes	31 Aug. 09	Closed	Victim discharged from the army, recruiting officer was seriously reprimanded. ILO considered disciplinary response inadequate.
172	6 Aug. 09	Yes	8 Sep. 09	Closed	Victim discharged. Warrant Officer seriously reprimanded. Awareness-raising activity undertaken in victim's operational unit.
173	10 Aug. 09	Yes	8 Sep. 09	Closed	Victim discharged suffering from malaria, second Lieutenant reprimanded.
174	10 Aug. 09	Yes	8 Sep. 09	Closed	Victim released from prison, desertion charge remitted, discharged from the army.
175	11 Aug. 09	No	11 Aug. 09	Closed	Note related to mandate – land issue.
176	13 Aug. 09	Yes	8 Sep. 09	Closed	Victim discharged. Responsible officer seriously reprimanded with loss of 28 days' salary.

Case	Date received	Accepted	Intervention date	Status	Comments
177	13 Aug. 09	Yes	11 Sep. 09	Open	Government rejected complaint arguing there was no factual reference to victim's age. Victim currently in prison for desertion. Documentation shows him to be a minor. Negotiations continue.
178	17 Aug. 09	Yes	20 Oct. 09	Closed	Victim discharged. Recruiting Sergeant seriously reprovved. ILO considers punishment inadequate under the circumstances of case.
179	21 Aug. 09	Yes	15 Sep. 09	Closed	Victim discharged. Responsible Sergeant seriously reprimanded.
180	24 Aug. 09	Yes		Closed	Victim discharged during assessment process.
181	24 Aug. 09	Yes		Closed	Victim discharged during assessment process.
182	24 Aug. 09	Yes	18 Oct. 09	Closed	Victim discharge notified. Responsible Sergeant seriously reprovved, recommendation made that discharges take place close to the victim's home.
183	25 Aug. 09	Yes	15 Sep. 09	Closed	Victim discharged. Responsible Sergeant seriously reprimanded.
184	25 Aug. 09	Yes	20 Oct. 09	Closed	Victim discharged. Recruiting Sergeant clerk seriously reprimanded.
185	25 Aug. 09	Yes	7 Oct. 09	Closed	Victim discharged. Recruiting Sergeant received seven days' salary deduction penalty.
186	25 Aug. 09	Yes	20 Oct. 09	Open	Age at recruitment disputed, victim dismissed from military and sentenced to two years' hard labour for desertion. Communications on proof of age and circumstances of forced recruitment continue.
187	2 Sep. 09	Yes	22 Sep. 09	Open	Government advised victim cannot be located owing to insufficient information. Further inquiries being made.
188	2 Sep. 09	Yes	27 Oct. 09	Closed	Victim discharged, perpetrator seriously reprimanded. Recommendation on awareness raising for known brokers made.
189	2 Sep. 09	Yes	27 Oct. 09	Open	Victim discharged. Corporal reprovved on summary trial, communication on disciplinary response continues.
190	3 Sep. 09	Yes	10 Sep. 09	Closed	Victim discharged from the army. No charges for alleged desertion. One perpetrator deserted and one retired. Recommendations made as regards training of recruiting staff and police.
191	3 Sep. 09	Yes	14 Sep. 09	Closed	Victim discharged, recruitment took place in 1997. No punishment against perpetrator. Recommendations made concerning arrest warrant and desertion charge procedures in case of under-age recruits.
192	4 Sep. 09	No		Closed	Not related to mandate – civil dispute.
193	4 Sep. 09	Yes	15 Sep. 09	Closed	Victim released. Absence of any disciplinary response considered inappropriate, recommendation made.

Case	Date received	Accepted	Intervention date	Status	Comments
194	8 Sep. 09	Yes	27 Oct. 09	Closed	Victim discharged, Sergeant punished with loss of 14 days' salary, further information sought on investigations' findings.
195	8 Sep. 09	Yes	27 Oct. 09	Closed	Victim discharged, recruiting Corporal seriously reprimanded. Recommendation on release location made.
196	8 Sep. 09	Yes		Closed	Victim discharged and released from convict labour camp during assessment process.
197	10 Sep. 09	Yes	28 Oct. 09	Closed	Victim released from prison and discharged from army during assessment. On associated forced labour complaint, recommendation made for counselling local authorities on community work procedures.
198	16 Sep. 09	Yes	28 Oct. 09	Open	Government disputes age, negotiation continues.
199	16 Sep. 09	Pending		Pending	Awaiting further information.
200	22 Sep. 09	Yes	26 Oct. 09	Closed	Victim discharged, perpetrator seriously reprimanded. Recommendation on police training made.
201	24 Sep. 09	Yes	26 Oct. 09	Open	Victim court-martialled and sentenced to seven years' imprisonment for desertion whilst case still with Government for investigation. Request made for his release and for full investigation on under-age recruitment allegation to be completed.
202	24 Sep. 09	Yes		Closed	Insufficient evidence to proceed.
203	24 Sep. 09	Yes		Closed	Insufficient evidence to proceed.
204	28 Sep. 09	Yes		Closed	Evidence indicates forced labour, however, complainants not prepared to proceed owing to fear of reprisal.
205	28 Sep. 09	Yes		Closed	Evidence indicates forced labour, however, complainants not prepared to proceed owing to fear of reprisal.
206	28 Sep. 09	Yes		Closed	Complainants unwilling to pursue.
207	1 Oct. 09	Yes	28 Oct. 09	Closed	Victim discharged, desertion charge dropped, responsible officer seriously reprovved.
208	2 Oct. 09	Yes	28 Oct. 09	Open	Government disputes age and recruitment facts. Negotiation continues.
209	2 Oct. 09	Yes	28 Oct. 09	Open	Victim discharged, further communications taking place covering three other alleged under-age recruits and policy for entry to the military academy.
210	2 Oct. 09	Pending		Pending	Assessment in process.
211	5 Oct. 09	Yes	6 Oct. 09	Closed	Victim discharged, perpetrator deceased.
212	6 Oct. 09	Yes	9 Nov. 09	Open	Government disputes both age on recruitment and the facts of the case. Negotiation continues.

Case	Date received	Accepted	Intervention date	Status	Comments
213	6 Oct. 09	Yes	2 Nov. 09	Closed	Victim discharged. Corporal reprovved after summary trial.
214	12 Oct. 09	Yes	13 Oct. 09	Closed	Victim discharged. Responsible Sergeant reprovved. Recommendation on process made.
215	13 Oct. 09	Yes	9 Nov. 09	Open	Discharge agreed, arrangement for physical discharge being made.
216	15 Oct. 09	Pending		Pending	Assessment in process.
217	16 Oct. 09	Yes	26 Oct. 09	Closed	Victim discharged, perpetrator seriously reprimanded.
218	16 Oct. 09	Yes	4 Nov. 09	Open	Government alleged victim rejected on health grounds at recruitment centre. Victim cannot, as yet, be located. Inquiries continue.
219	19 Oct. 09	Yes	27 Oct. 09	Closed	Victim discharged, Corporal seriously reprimanded. No action taken on Officer and Sergeant who ignored mother's advice that victim is under age.
220	20 Oct. 09	Yes	9 Nov. 09	Open	Awaiting government response.
221	20 Oct. 09	Pending		Pending	Assessment in process.
222	23 Oct. 09	Yes	6 Jan. 10	Closed	Victim discharged, perpetrator seriously reprimanded.
223	23 Oct. 09	Yes	23 Oct. 09	Open	Awaiting government response.
224	29 Oct. 09	Yes	3 Nov. 09	Open	Under-age recruit convicted with death penalty in military court. Recommendation made that as a minor he should have been discharged from the military and prosecuted under the appropriate jurisdiction. Awaiting government response.
225	2 Nov. 09	Yes	2 Nov. 09	Open	Awaiting government response on proposed specific Northern Rhakine State awareness raising following continuing reports of use of forced labour.
226	2 Nov. 09	Yes	2 Nov. 09	Closed	Government investigation found that it was community work but acknowledged that inappropriate procedure adopted. Use of village labour discontinued.
227	3 Nov. 09	Yes	22 Dec. 09	Open	Victim currently serving seven years' prison sentence for desertion. Negotiation continues.
228	11 Nov. 09	Yes	24 Dec. 09	Closed	Victim discharged. Perpetrator seriously reprimanded.
229	12 Nov. 09	Yes	24 Dec. 09	Closed	Victim discharged, training centre corporal seriously reprimanded. Recommendation on review of process and punishment made.
230	16 Nov. 09	Yes	23 Dec. 09	Closed	Victim discharged, regiment Captain reprovved.
231	16 Nov. 09	Yes	23 Dec. 09	Open	Government disputes age on recruitment, negotiation continues.
232	17 Nov. 09	Yes	23 Dec. 09	Closed	Victim rejected on ground of age. Released from informal attachment to military regiment to care of parents.

Case	Date received	Accepted	Intervention date	Status	Comments
233	17 Nov. 09	Yes	23 Dec. 09	Open	Victim discharged, awaiting official advice.
234	24 Nov. 09	Yes	23 Dec. 09	Open	Government disputes age on recruitment, negotiation continues.
235	30 Nov. 09	No		Closed	Not related to mandate – employment dismissal.
236	1 Dec. 09	Yes	23 Dec. 09	Open	Government disputes age on recruitment, negotiation continues.
237	30 Nov. 09	Yes	22 Dec. 09	Closed	Victim discharged, responsible officer reprimanded.
238	1 Dec. 09	Yes	22 Dec. 09	Closed	Victim discharged. Recruitment Centre corporal seriously reprimanded.
239	10 Dec. 09	Yes	23 Dec. 09	Open	Government disputes age on recruitment, negotiation continues.
240	15 Dec. 09	Yes	22 Dec. 09	Open	Government disputes age on recruitment, negotiation continues.
241	16 Dec. 09	Yes	23 Dec. 09	Open	Government advised unable to locate the victim. Further identification and location information provided. Awaiting government response.
242	21 Dec. 09	Yes	22 Dec. 09	Open	Government disputes age on recruitment, negotiation continues.
243	23 Dec. 09	Yes	24 Dec. 09	Open	Victim imprisoned for desertion. Government disputes age on recruitment. Negotiation continues.
244	5 Jan. 10	Yes	7 Jan. 10	Open	Awaiting government response.
245	5 Jan. 10	Yes	8 Jan. 10	Closed	Victim discharged, perpetrator seriously reprimanded.
246	6 Jan. 10	Yes	8 Jan. 10	Closed	Victim discharged, perpetrator given monetary fine on summary trial.
247	8 Jan. 10	Yes	12 Jan. 10	Open	Government rejected complaint, does not accept proof of age documentation submitted, communication continues.
248	8 Jan. 10	Pending		Pending	Further information being obtained.
249	12 Jan. 10	Pending		Pending	Further information being obtained.
250	12 Jan. 10	Yes	26 Feb. 10	Open	Victim discharged, awaiting Government official confirmation.
251	14 Jan. 10	Yes	12 Feb. 10	Closed	Victim discharged.
252	21 Jan. 10	Pending		Pending	Further information being obtained for assessment purposes.
253	21 Jan. 10	Yes	22 Apr. 10	Open	Awaiting government response.
254	25 Jan. 10	Yes		Closed	Victim discharged whilst ILO assessment under way.
255	26 Jan. 10	Yes		Closed	Victim discharged whilst ILO assessment under way.
256	27 Jan. 10	Yes	25 Feb. 10	Open	Awaiting government response.
257	27 Jan. 10	Yes	12 Feb. 10	Open	Awaiting government response.

Case	Date received	Accepted	Intervention date	Status	Comments
258	27 Jan. 10	Yes	25 Feb. 10	Open	Victim discharged, communication on punishment continues.
259	1 Feb. 10	Yes	2 Mar. 10	Open	Awaiting government response.
260	2 Feb. 10	Yes	1 Mar. 10	Open	Awaiting government response.
261	2 Feb. 10	Yes	23 Apr. 10	Open	Awaiting government response.
262	2 Feb. 10	No		Closed	Not related to mandate – commercial dispute and alleged corruption.
263	5 Feb. 10	No		Closed	Not related to mandate – migrant worker, occupational safety and health compensation.
264	5 Feb. 10	No		Closed	No causal link between alleged harassment and ILO activity.
265	8 Feb. 10	Yes	4 Mar. 10	Open	Human trafficking for forced labour case. Rejected by Government's Forced Labour Working Group. Referred to ILO anti-human trafficking project in neighbouring country and Myanmar Government anti-trafficking unit. One victim returned. Investigation continued.
266	8 Feb. 10	No		Closed	Not related to mandate – employment dismissal.
267	9 Feb. 10	Yes	26 Feb. 10	Open	Awaiting government response.
268	9 Feb. 10	Yes	9 Mar. 10	Open	Awaiting government response.
269	9 Feb. 10	Yes	25 Mar. 10	Open	Awaiting government response.
270	9 Feb. 10	Pending		Pending	Further information being sought for assessment process.
271	10 Feb. 10	Yes	5 Mar. 10	Open	Awaiting government response.
272	10 Feb. 10	Yes	5 Mar. 10	Open	Awaiting government response.
273	15 Feb. 10	Yes	22 Apr. 10	Open	Awaiting government response.
274	15 Feb. 10	Pending		Pending	Assessment in process.
275	16 Feb. 10	Yes	5 Mar. 10	Open	Awaiting government response.
276	17 Feb. 10	Pending		Pending	Further information being sought for assessment process.
277	18 Feb. 10	Pending		Pending	Assessment in process.
278	19 Feb. 10	Yes	15 Mar. 10	Open	Awaiting government response.
279	19 Feb. 10	Yes	23 Apr. 10	Open	Awaiting government response.
280	19 Feb. 10	No		Closed	Not related to mandate – land eviction.
281	22 Mar. 10	Yes	22 Apr. 10	Open	Awaiting government response.
282	25 Feb. 10	Pending		Pending	Assessment in process.
283	25 Feb. 10	Pending		Pending	Assessment in process.
284	26 Feb. 10	Yes	19 Apr. 10	Open	Awaiting government response.
285	26 Feb. 10	No		Closed	No causal link between alleged harassment and ILO activity.
286	3 Mar. 10	Pending		Pending	Assessment in process.

Case	Date received	Accepted	Intervention date	Status	Comments
287	3 Mar. 10	Pending		Pending	Assessment in process.
288	3 Mar. 10	Pending		Pending	Assessment in process.
289	5 Mar. 10	Yes	25 Mar. 10	Open	Awaiting government response.
290	5 Mar. 10	Yes	23 Apr. 10	Open	Awaiting government response.
291	5 Mar. 10	Pending		Pending	Assessment in process.
292	15 Mar. 10	Pending		Pending	Assessment in process.
293	15 Mar. 10	Pending		Pending	Assessment in process.
294	16 Mar. 10	Pending		Pending	Assessment in process.
295	16 Mar. 10	Pending		Pending	Assessment in process.
296	16 Mar. 10	Pending		Pending	Assessment in process.
297	17 Mar. 10	Pending		Pending	Assessment in process.
298	17 Mar. 10	Pending		Pending	Assessment in process.
299	17 Mar. 10	Pending		Pending	Assessment in process.
300	22 Mar. 10	Yes	23 Apr. 10	Open	Awaiting government response.
301	23 Mar. 10	Yes	26 Apr. 10	Open	Awaiting government response.
302	30 Mar. 10	Pending		Pending	Assessment in process.
303	31 Mar. 10	Yes	22 Apr. 10	Open	Awaiting government response.
304	1 Apr. 10	Yes	09 Apr. 10	Open	Referred to anti-trafficking unit, awaiting further contact.
305	1 Apr. 10	Yes	09 Apr. 10	Open	Awaiting government response.
306	5 Apr. 10	Yes	23 Apr. 10	Open	Awaiting government response.
307	5 Apr. 10	Pending		Pending	Assessment in process
308	6 Apr. 10	No		Closed	Not within mandate, freedom of the press
309	6 Apr. 10	Pending		Pending	Assessment in process
310	6 Apr. 10	Pending		Pending	Assessment in process
311	6 Apr. 10	Pending		Pending	Assessment in process
312	11 Nov. 09	Yes		Closed	External trafficking for forced labour – referred to ILO Thailand – 51 victims rescued
313	8 Apr. 10	Pending		Pending	Assessment in process
314	8 Apr. 10	Pending		Pending	Assessment in process
315	8 Apr. 10	Pending		Pending	Assessment in process
316	9 Apr. 10	Pending		Pending	Assessment in process
317	21 Apr. 10	Pending		Pending	Assessment in process
318	21 Apr. 10	Pending		Pending	Assessment in process
319	23 Apr. 10	Pending		Pending	Assessment in process
320	29 Apr. 10	Pending		Pending	Assessment in process
321	3 May 10	Pending		Pending	Assessment in process

Case	Date received	Accepted	Intervention date	Status	Comments
322	4 May 10	Pending		Pending	Assessment in process
323	5 May 10	Pending		Pending	Assessment in process
324	6 May 10	Pending		Pending	Assessment in process
325	7 May 10	Pending		Pending	Assessment in process
326	7 May 10	Pending		Pending	Assessment in process
327	7 May 10	Pending		Pending	Assessment in process
328	7 May 10	Pending		Pending	Assessment in process
329	7 May 10	Pending		Pending	Assessment in process
330	7 May 10	Pending		Pending	Assessment in process
331	7 May 10	Pending		Pending	Assessment in process

C. Conclusions adopted by the Committee on the Application of Standards in its Special sitting to examine developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29) (International Labour Conference – 98th Session – June 2009)

The Committee noted the observations of the Committee of Experts and the report of the ILO Liaison Officer in Yangon that included the latest developments in the implementation of the complaints mechanism on forced labour established on 26 February 2007 with its trial period extended on 26 February 2009 for a further 12 months. The Committee also noted the discussions and decisions of the Governing Body of November 2008 and March 2009. It also took due note of the statement of the Government representative and the discussion that followed.

Since its last session, the Committee acknowledged some limited steps on the part of the Government of Myanmar: the further extension of the Supplementary Understanding for another year; certain activities concerning awareness raising of the complaints mechanism established by the Supplementary Understanding; certain improvements in dealing with under-age recruitment by the military; and the distribution of publications relating to the Supplementary Understanding.

The Committee was however of the view that these steps are totally inadequate. The Committee, recalling the conclusions reached in its special sitting at the 97th Session of the Conference (June 2008), again placed emphasis on the need for the Government of Myanmar to work proactively towards the full implementation of the recommendations of the Commission of Inquiry appointed by the Governing Body in March 1997 under article 26 of the Constitution. It also recalled the continued relevance of the decisions concerning compliance by Myanmar with Convention No. 29 adopted by the Conference in 2000 and 2006 and all the elements contained therein.

The Committee fully supported all of the observations of the Committee of Experts and the decisions of the Governing Body referred to above, and had the expectation that the Government of Myanmar would move with urgency to implement all the actions requested.

The Committee strongly urged the Government to fully implement without delay the recommendations of the Commission of Inquiry and the comments and observations of the Committee of Experts, and in particular to:

- (1) take necessary steps without any further delay to bring the relevant legislative texts, in particular the Village Act and the Towns Act, into line with Convention No. 29;
- (2) amend paragraph 15 of Chapter VIII of the new Constitution in order to bring it into conformity with Convention No. 29;
- (3) ensure the total elimination of forced labour practices that were still persistent and widespread;
- (4) ensure that perpetrators of forced labour, whether civil or military, were prosecuted and punished under the Penal Code;

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- (5) issue an authoritative statement at the highest level clearly confirming to the people of Myanmar the Government's policy for the elimination of forced labour and its intention to prosecute perpetrators;
 - (6) approve a simply-worded brochure in accessible languages on the functioning of the Supplementary Understanding; and
 - (7) eliminate the continuing problems in the physical ability of victims of forced labour or their families to complain and immediately cease harassment, retaliation and imprisonment of individuals who used or facilitated the use of the complaints mechanism.

The Committee specifically called on the Government of Myanmar to take every opportunity, including through the use of all of the various media channels available, to increase the awareness of the people as to the law against the use of forced labour, their rights under that law and of the availability of the complaints mechanism as a means of exercising those rights.

The Committee, whilst acknowledging the continued use of joint awareness-raising seminars/symposia, called on the Government and the ILO Liaison Officer to redouble these efforts towards ensuring a full understanding on the part of all officials (military and civil), as to their responsibilities under the law.

The Committee noted with serious concern the continued human rights violations in Myanmar including the detention of Daw Aung San Suu Kyi. The Committee called for her release and that of other political prisoners, as well as labour activists. It further called for the immediate release of those persons who were associated with the operation of the complaints mechanism and who were currently incarcerated.

The Committee called for the strengthening of the capacity available to the ILO Liaison Officer to assist the Government in addressing all of the recommendations of the Commission of Inquiry and to ensure the effectiveness of the complaints mechanism, and expected the Government to cooperate fully in that regard.

D. Documents before the Governing Body at its 306th Session



INTERNATIONAL LABOUR OFFICE

GB.306/6
306th Session

Governing Body

Geneva, November 2009

FOR DEBATE AND GUIDANCE

SIXTH ITEM ON THE AGENDA

Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)

Introduction

1. This report updates the activities of the ILO Liaison Officer in Yangon since the 98th Session (2009) of the International Labour Conference. It covers information on the operation of the Supplementary Understanding regarding complaints on the use of forced labour; various other activities undertaken by the Liaison Officer, Mr Stephen Marshall, and his assistant Ms Piyamal Pichaiwongse; a report on the final outcomes of the post-cyclone Nargis project response; and brief information on ILO participation in the UN country team activities in Myanmar.
2. For ease of reference, Appendix I contains the conclusions concerning Myanmar of the 304th Session of the Governing Body (March 2009); Appendix II presents details of activities undertaken between the 304th Session of the Governing Body and the 98th Session of the Conference; Appendix III includes the conclusions of the special sitting on Myanmar of the Committee on the Application of Standards of the 98th Session of the Conference; and Appendix IV contains the updated register of cases.

Activity under the complaints mechanism

3. The level of activity under the Supplementary Understanding has increased both in respect of the number of complaints received and the follow-up work required for the treatment of complaints. While a total of 152 complaints had been received by 15 May 2009, that number has increased to 223, as at 28 October 2009. This represents an increase of 71 new cases compared to 31 new cases for the same period in 2008. These latest cases include 52 cases of alleged under-age recruitment, 17 cases of alleged forced labour with two cases having been assessed as outside the Liaison Officer's mandate. Over the period, 48 cases have been submitted for investigation and 29 cases have been closed with varying degrees of satisfaction. Currently 58 cases either await a response from the Government or are under continuing negotiation, and 18 cases are being assessed for possible submission.

4. This increase in complaints received appears to result from heightened awareness generally of citizens' rights under the law, the maturing and expansion of the facilitators' network, and an increased readiness to present complaints. However, it would not be correct to interpret this as an increase in the incidence of forced labour or under-age recruitment. Awareness levels, particularly in rural areas, remain low and the confidence to complain will not be assisted by recent incidents of complainant and facilitator harassment, which have received considerable media coverage. This issue is addressed separately below.
5. The Government Working Group for the Elimination of Forced Labour continues to respond to complaints through the good offices of the Ministry of Labour (MOL). A constructive meeting was held with the full Working Group following the 98th Session of the International Labour Conference and regular meetings are held with the Director-General of the Labour Department who has delegated responsibility for operational activity. When a victim of under-age recruitment is identified with proof of age and sufficient indication as to his whereabouts, he is regularly discharged from the military. Although most allegations of forced labour continue to be denied by the Government, parallel action is usually taken by the authorities to ensure that the practice does not continue and that further complaints are not received from that area. In the assessment process, every attempt is made to ensure that complaints submitted are genuine. Government responses at times reflect the sensitivity to what is perceived as political activism, and unfortunately this sometimes outweighs the facts of the case.
6. The complaints mechanism contained in the Supplementary Understanding remains, as the name indicates, complaints driven. The ILO Liaison Officer does not have the authority to initiate complaints or formally raise a case solely on the basis of his own observation or information.
7. While the declared objective of the Government is to put an end to the use of forced labour and to the recruitment of under-age children, this cannot be achieved by passive educational activity alone; the imposition of meaningful penalties on perpetrators is a necessary additional component. This continues to be a concern, particularly in respect of cases involving military personnel. The continued and repeated illegal recruitment of children by military personnel in the same recruitment centres and regiments attests to this need.
8. Assessment missions have been undertaken in Magway Division and a joint mission to Bago Division is planned for 30 October 2009 to follow up on a case in which the facts are in dispute.

Awareness raising

9. A number of joint awareness-raising activities have recently been undertaken. A joint ILO/MOL seminar has been held in Rhakine State with participants representing both the civil and military authorities. A joint presentation was made to a senior township judges refresher training programme. The ILO Liaison Officer, accompanied by a Department of Labour representative, visited villagers and socio-economic project committees set up by the company Total in nine villages in the proximity of the Yadana pipeline. This provided an opportunity to observe the situation in the region and discuss the rights and responsibilities of the local population under the law.
10. An interview with the Liaison Officer on the law and practice concerning forced labour was printed in the biweekly edition of *Eleven magazine*, a widely distributed and read publication. An awareness-raising seminar in Magway Division, an area from which numerous and serious complaints have been sourced, is scheduled for 5 November 2009.

An ILO-sponsored workshop on the law and practice in respect of forced labour including under-age recruitment is scheduled to be held in December 2009 for United Nations and selected international non-governmental organizations programme staff from both their Myanmar headquarters and the field. Some 16,000 copies of the translation of the Supplementary Understanding have been circulated. Unfortunately, the Government has not yet agreed to the production of a simply-worded brochure outlining the law against forced labour and the procedures available to exercise rights under the law.

Harassment and judicial actions

11. A number of serious cases of apparent harassment and judicial retaliation against complainants, facilitators and other persons associated with complaints have taken place in the reporting period. All arise out of 11 complaints from 328 farmers over the use of forced labour in Magway Division. Seven of those cases stem from Aunglan Township and one serious case from Natmauk Township. Six of these eight complaints remain unresolved despite lengthy negotiations. In three of those cases agreements for their resolution have been reached but they have not been satisfactorily applied. Serious harassment, including lengthy and intense interrogations and judicial action, has taken place against complainants at various stages of the process, some of it in obvious retaliation for their attempts to apply the settlement arrangements.
12. In one case (case 129) complainants in a previously resolved complaint (case 001), in which forced labour was proven, have again been subjected to forced labour on the same land. They have been refused access to their traditional land contrary to the settlement reached, which had granted them the right to return to their land. Three of them, U Nyant Myint, Ko Thura Aung and Ko Kalar have been detained and charged with causing damage to government property in respect of the trees which they were forced to plant on their land, which was the basis for the original complaint.
13. In another case (case 066) the ILO Liaison Officer and a Government Working Group representative negotiated a comprehensive written agreement for the resolution of a complaint concerning the confiscation of land as a penalty for refusing to undertake forced labour. Part of that settlement granted the complainants the right to return to their traditional land and to grow crops as they determined. Subsequently, 12 persons have been charged and sentenced to prison terms ranging from nine months to four years and nine months, for trespass on that land and damage to property as they prepared the land for the next harvest. A 13th complainant has been imprisoned for failing to repay his agricultural loan at an old interest rate which was to have been lowered as part of the settlement. It is understood that in its determination of the case, the court referred to the written agreement for settlement under the Supplementary Understanding as “unofficial” and concluded that it therefore provided no grounds on which its judgement should be based.
14. In respect of another forced labour case (case 109), the agreed settlement for the return of land confiscated by the army or the allocation of replacement land has not been implemented. In addition, the facilitator, U Zaw Htay, and his lawyer remain in prison despite the call for their release included in the conclusions of the 304th Session of the Governing Body. Individual complainants have been interrogated in military premises by senior personnel on the way complaints to the ILO have been prepared, and have been required under threat to sign confessions, which in practice undermine their fellow complainants and the ILO complaints process.
15. It would thus appear that there is a serious “disconnect” between the desire of the central government authorities to stop the use of forced labour and the behaviour of the local authorities, both civilian and military, who do not accept settlements reached, continue

traditional forced labour practices, and harass those who attempt to exercise their rights under the law. Previous reports of the Liaison Officer have already referred to this disconnect. Given the seriousness of the situation, the Liaison Officer has formally proposed to the Working Group that joint action be taken to consider all of these issues collectively with a view to achieving lasting solutions. This proposal has not as yet been accepted, although the agreement to a joint awareness-raising seminar in the region (referred to in paragraph 10 above) can be seen as a small first step in that direction.

16. There is nothing new to report on the cases of imprisoned activists who have been mentioned in earlier conclusions of the Governing Body. Su Su Nway, U Min Aung and the six labour activists Thurein Aung, Kyaw Kyaw, Wai Linn, Nyi Nyi Zaw, Kyaw Min and Myo Min remain in prison, despite repeated calls from the Governing Body for their release.

Children in armed conflict

17. The ILO Liaison Officer, on behalf of the Country Task Force on Monitoring and Reporting on Children and Armed Conflict (CTFMR), has accepted responsibility for the monitoring, reporting and intervention activity in respect of the Security Council Resolution 1612 (2005). This work falls within the scope of the ILO Forced Labour Convention, 1930 (No. 29), and within the application of the Supplementary Understanding.
18. The first meeting between representatives of the CTFMR and the Government Working Group established for this purpose was held on 20 and 21 August and a second meeting is scheduled for 3 November 2009. The primary objective is the agreement of a joint CTFMR/government action plan.
19. The Government Committee on the Prevention of Military Recruitment of Under-age Children reports considerable activity in the training of military personnel on the law concerning under-age recruitment.
20. As at 28 October 2009, 102 complaints concerning under-age recruitment had been received, of which 89 have been submitted under the Supplementary Understanding. As a result, 59 children have been discharged from the military, 30 cases are still under Government investigation or are the subject of ongoing communication, and nine await ILO initial assessment prior to submission. All children discharged through this process are referred to UNICEF for reintegration and rehabilitation support through the services of their partner organizations.
21. With the support of funding received from the Government of Germany a small sub-unit has been established for dealing with under-age recruitment cases under the Supplementary Understanding, as well as for monitoring and reporting on the child soldier situation nationwide. A programme officer has been selected and will join the staff once the Government has processed the submitted visa application.

ILO post-Nargis infrastructure project

22. The workplan between the ILO and the Ministry of Labour on the infrastructure project in the Irrawaddy Delta area expired on 30 September 2009. During the period 31 October 2008 to 30 September 2009 the project undertook work in 65 villages in the cyclone-affected area. A total of 159 community contracts were governed by community committees established for the purpose. Some 7,404 people were engaged for a total of

80,491 days of work, under the technical supervision of the ILO engineering team, building 87.6 kilometres of raised concrete footpaths, 25 jetties, 55 bridges and 40 latrines. Awareness-raising seminars on employment rights, forced labour, and under-age recruitment were held throughout the project for project employees with a further 7,000 or more villagers in attendance. The Government announced that it was unable to extend the project period owing to the workload prior to the parliamentary elections. The Liaison Officer is hopeful that similar activities could be considered at a later stage. The whole ILO engineering team has now been engaged by the United Nations Development Programme (UNDP) to continue work on that organization's infrastructure programmes.

UN Country Team activities

23. As part of the UN Country Team, the ILO assumes an active role on the nationwide Inter-Agency Protection Group and the Human Rights Subgroup. The Human Rights Subgroup has met the Government Human Rights Body on one occasion and is awaiting agreement for a further meeting with the objective of identifying common human rights priorities for joint action.

Geneva, 4 November 2009.

Submitted for debate and guidance.

**Decision on the sixth item on the agenda:
Developments concerning the question of the
observance by the Government of Myanmar of
the Forced Labour Convention, 1930 (No. 29)**

Governing Body conclusions

The Governing Body:

- (a) took note of the report of the Liaison Officer and listened with interest to the statement made by the Permanent Representative of the Government of the Union of Myanmar;*
- (b) in the light of the information available, and considering the interventions made during the debate, it concluded as follows:*
 - full compliance with the Forced Labour Convention, No. 29 (1930), implementation of the recommendations of the Commission of Inquiry and the complete elimination of the use of forced labour in Myanmar have not yet been achieved; all activity must be targeted to this end;*
 - the Governing Body recalls its previous conclusions and those of the International Labour Conference and reconfirms their continuing validity; this concerns particularly accessible material in local languages for awareness raising and the need for an authoritative statement by the senior leadership against the continued use of forced labour and the need to respect freedom of association;*
 - the Governing Body notes the Government's cooperation regarding the complaints submitted, as well as the joint Government/ILO awareness-raising activities; in continuing the arrangements under the Supplementary Understanding, the capacity of the ILO to deal with complaints throughout the country should be strengthened; cases of forced labour should be reported and followed up consistently so that the practices cease and the perpetrators are prosecuted and punished; particular attention should be paid to monitoring infrastructure projects such as oil and gas pipelines; the Governing Body calls for and encourages progress towards achieving greater compliance with the international obligations of Myanmar, including Convention No. 29, particularly where local practices do not respect the aim of abolishing forced labour;*
 - the Governing Body is deeply concerned about the continued imprisonment of a number of persons who have complained of being*

subjected to forced labour or who have been associated with such complaints; this is in total contradiction with the Government of Myanmar's own commitments under the Supplementary Understanding and puts into question the good faith necessary for the implementation of the Supplementary Understanding; if this situation is not promptly remedied, it will undermine the advances made to date; the Office should continue to examine potential legal implications of the failure to comply with Convention No. 29;

- the Governing Body calls for the immediate release of all persons currently detained being complainants, facilitators and others associated with the Supplementary Understanding complaints mechanism, as well as for the unconditional release of all imprisoned political and labour activists;*
- the Governing Body repeats its previous call for the Government of Myanmar to facilitate, as provided for in article 8 of the Supplementary Understanding, the adjustments to the staff capacity of the Office of the Liaison Officer so that an increased workload could be met; this includes the presence of an additional international recruited professional appointed by the ILO.*

E. Documents before the Governing Body at its 307th Session



INTERNATIONAL LABOUR OFFICE

GB.307/6
307th Session

Governing Body

Geneva, March 2010

FOR DEBATE AND GUIDANCE

SIXTH ITEM ON THE AGENDA

Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)

I. Introduction

1. Activity since the last report to the Governing Body ² has been targeted at operationalizing the conclusions of that debate (see Appendix I). Progress has been made in a number of areas as reported below. A mission was undertaken from 17 to 24 January 2010 by Mr Kari Tapiola, Executive Director, accompanied by Ms Karen Curtis, Deputy Director of the International Labour Standards Department with special responsibility for freedom of association, and Mr Drazen Petrovic, Principal Legal Officer in the Office of the Legal Adviser. A summary of the outcomes of the mission is reported below. During the mission an extension of the trial period of the Supplementary Understanding was signed, covering a further 12 months from 26 February 2010.

II. Operation of the Supplementary Understanding

2. Since the last report, 65 new complaints were received. Of these, 35 were assessed as falling within the scope of the Supplementary Understanding and were submitted as cases to the Government Working Group for the Elimination of Forced Labour (Working Group) for investigation towards resolution; 23 cases required further assessment or information before eventual submission; and seven cases were considered not to be within the ILO's forced labour mandate (see Appendix II).
3. Over the same period, 35 cases were closed with the case register recording various degrees of satisfaction with the resultant outcomes.

² GB.306/6.

4. In the period between the Supplementary Understanding's inception in February 2007 and 9 March 2010, a total of 289 complaints have been received. From these, 198 were accepted as cases, of which 70 remain open either awaiting Government responses or being the subject of continuing communication, and 29 either require more information prior to submission or are currently under assessment. The Government continues to respond to complaints lodged in a timely manner.
5. The structure of complaints has changed somewhat in recent time. The vast majority of new complaints are specific to under-age recruitment with six complaints on what can be considered as traditional forced labour received since the last report. Whilst there are indications from some parts of the country that the actual incidence of forced labour imposed by civilian authorities has diminished to some extent, this on its own would not account for the reduction in complaints. The use of forced labour, particularly by the military, remains an issue throughout the country. In the view of the Office, the imprisonment of persons associated with the use of the complaints mechanism may have had an effect on the reduced confidence to lodge forced labour complaints. No similar consequences have been reported by those who have filed complaints on under-age recruitment. The recent prison releases, the planned brochure campaign and continuing awareness-raising activity (see below), will hopefully increase confidence in the functioning of the complaints mechanism as set out in the Supplementary Understanding.
6. The Government underlined its concerns that the complaints mechanism should not be used for political ends and that the protection provisions of the Supplementary Understanding should not be used to justify activities that are contrary to the law. The Liaison Officer continued to insist that each complaint would be examined strictly on the basis of the facts reported.

III. Awareness raising

7. Since the last report, the Assistant to the Liaison Officer made two presentations to UNICEF-led recruitment officer training programmes and one presentation to middle-level government officials on the obligations under international labour standards as part of a five-day UNITAR training seminar. A two-day seminar was held for 54 field staff from UN organizations and international NGOs on the law relating to forced labour, observation skills and information reporting processes. Presentations were also made to field staff of UNHCR and UNDP as part of their in-house staff development and planning processes. A further joint ILO–Ministry of Labour presentation has been made to a training course for deputy township judges.
8. Broad in-country publicity resulted from seven different articles that were published in various domestic newspapers with nationwide coverage. These covered such matters as the renewal of the Supplementary Understanding with reference made to the complaints mechanism; the Government's agreement to the publication of an easily understandable brochure; the Penal Code and Military Regulations in force on forced labour including under-age recruitment and how complaints can be lodged under the Supplementary Understanding; the non-harassment guarantees under the Supplementary Understanding; the imprisonment of military personnel for the recruitment of minors; and the recent publication of an ILO booklet on the rights of migrant domestic workers in Thailand.
9. During the meeting of the ILO mission with the Minister of Labour, U Aung Kyi, it was confirmed that the Government agrees to the publication of a brochure, in Myanmar language, explaining in simple terms the law pertaining to forced labour, including under-age recruitment, and the procedure for lodging a complaint. The Working Group has

proposed that a comprehensive discussion with the Liaison Officer on the previously submitted draft text takes place after the current Governing Body session.

10. Proposals made for the next three joint awareness-raising seminars are as follows:

- in Northern Rhakine State in follow up to a number of reports of continuing use of forced labour in that area;
- community and local authority seminars along the proposed path of the Myanmar–China pipeline in accordance with the November 2009 Governing Body conclusions;
- in Bago Division, which is an area with a high incidence of reported complaints.

IV. Under-age recruitment and child soldiers

- 11.** In addition to his work in respect of under-age recruitment complaints under the Supplementary Understanding, the Liaison Officer continued to play a role as part of the Country Task Force for Monitoring and Reporting (CTFMR) under Resolution 1612 of the Security Council. As reported above, at the invitation of both the armed services and the Ministry of Social Welfare, presentations were made at training courses for recruitment officers. The CTFMR met the Government Committee for the Prevention of the Recruitment of Minors to discuss further the substance of a proposed joint action plan against under-age recruitment. The ILO mission also met this high-level committee. The meeting was constructive and assisted in clarifying the role of the ILO, under both the Supplementary Understanding and as part of the CTFMR, as well as providing the opportunity to discuss practical matters associated with the application of the Supplementary Understanding. The Government Committee has been very active in training of military personnel and itself monitors the performance of recruiting centres in respect of recruitment of minors.
- 12.** Two authorized inspection visits to recruitment centres were undertaken in conjunction with the CTFMR, while the Liaison Officer accepted an invitation to visit the Military Service Academy (officers training) and the Military Services Technological Institute (engineer officer training) establishments.
- 13.** Since the last report, one officer has been dismissed from the military and sentenced to one year's imprisonment with hard labour in a civilian prison and two privates were sentenced to military imprisonment with hard labour for three months and one month respectively, having been convicted for breach of the military regulations on under-age recruitment. There were no notifications during the period under review of sentences being imposed under the Penal Code.
- 14.** As of 9 March 2010, in all 154 complaints alleging under-age recruitment have been received resulting in 84 children being discharged to date.

V. Extension of the Supplementary Understanding trial period

- 15.** In addition to constructive and open discussions in Naipyidaw with the Minister of Labour and the Government Committee for the Prevention of the Recruitment of Minors, as reported above, the ILO mission held an extensive meeting with the Working Group for the Elimination of Forced Labour. The operation of the Supplementary Understanding was reviewed after a discussion which reconfirmed the principles contained in it and addressed

practical issues for the further advancement of the policy for the elimination of forced labour. The extension of the Supplementary Understanding trial period was agreed upon for a further 12 months from 26 February 2010 without change.

16. After a visit to Bagan, the mission travelled to Aungmye Township to discuss with local authorities, villagers and, in particular, the families of imprisoned complainants. In Yangon the mission met with the UN Country Team, the diplomatic corps and a group of the volunteer facilitators supporting the application of the complaints mechanism. Meetings were also held with the Myanmar Federation of Chambers of Commerce and Industry following which a proposal is under consideration to possibly produce a Myanmar language version of "Combating forced labour: A handbook for employers". The mission also met with the Workers' Co-ordination Committee established for the election of a Workers' delegate to the International Labour Conference.
17. The mission was extended full cooperation and courtesy by the Government. It was not, however, possible for it to visit certain persons who have been associated with the complaints procedures and are currently in prison.
18. The mission could note a certain number of steps forward. It is reasonable to expect that the increased publicity, continuing awareness-raising activities and the yet to be distributed brochure will increase public understanding of rights provided under the law. It is similarly expected that the continuing operation of the Supplementary Understanding, supported by the ongoing training of government personnel (civil and military) will increase understanding on the responsibilities that the law imposes on all.
19. The granting of the still awaited visa for the engagement of an additional international professional staff member would better ensure the ability to support Government efforts for the full elimination of forced labour in Myanmar.

VI. Freedom of association

20. The national Constitution adopted in 2008 contains an article providing for freedom of association and the right to organize. The Government of Myanmar has recently announced its intention to introduce a Trade Union Act into the new Parliament which will result from the national elections to be held this year. During the visit of the ILO mission, a meeting took place with senior civil servants from several ministries and the Supreme Court at which Ms Karen Curtis made an extensive presentation on Convention No. 87. An open discussion took place on the Government's principles and concepts of the proposed legislation, leading to a request from the Government for further exchanges and advice on the issue.

VII. Release of imprisoned persons

21. The report to the 306th Session of the Governing Body (November 2009) pointed out that 17 complainants or persons otherwise associated with the operation of the Supplementary Understanding had been imprisoned. Discussions on the circumstances and implication of the sentences of these persons took place during the ILO mission. The Government reviewed the situation and, following this, 13 of the persons were released. One of them had completed his sentence, 11 were released following a significant reduction of their sentences following an appeal to the district court and lawyer U Pho Phyu was released following the reduction of his sentence on judicial review.

22. The Liaison Officer undertook a follow-up assessment mission to Aunglan Township from 5 to 7 March 2010. He made site visits, met the released farmers and the families of those still in detention, and held consultations with groups of complainants on the current situation and the way forward in respect of their various cases.
23. The Court of Appeal decision concerning two of the remaining imprisoned complainant farmers is awaited and negotiations continue in respect of the release of one further farmer and the facilitator U Zaw Htay. No other persons mentioned in earlier Governing Body conclusions have been released.

VIII. Other forced labour-related activity

24. At the invitation of the Government, through the UN Resident Representative, the Liaison Officer and his assistant joined the UN Special Rapporteur on the situation of human rights in Myanmar on his mission to the Rhakine State. This provided useful opportunities to meet and discuss forced labour issues with local government officials, UN and international NGO field staff and community members in both Rhakine State and, in particular, Northern Rhakine State. The mission provided the opportunity for a visit to labour activist U Kyaw Min in Buthidaung prison. He is in good health, and the prison conditions have improved over the last six to eight months.
25. As part of the UN Country Team subgroup on human rights, the Liaison Officer has been able to meet the Government Human Rights Committee to discuss procedures and obligations under the Universal Periodic Review process (Myanmar hearing 2011). Training on the human rights-based approach to programming has started for UN staff and, by agreement with the Government, is planned for senior government officials in the near future.
26. Again, in conjunction with the appropriate UN Country Team grouping, the Liaison Officer and his assistant are supporting the Government in respect of the forced labour aspects of human trafficking and labour migration.

Geneva, 12 March 2010.

*Submitted for debate and
guidance.*

307th Session of the Governing Body of the International Labour Office

(March 2010)

SIXTH ITEM OF THE AGENDA

GB.307/6

Conclusions concerning Myanmar

The Governing Body took note of the report of the Liaison Officer, the statement made by the Permanent Representative of the Government of the Union of Myanmar and the subsequent discussion. In light of the debate, it made the following conclusions:

1. The recommendations of the Commission of Inquiry for compliance with the Forced Labour Convention, 1930 (No. 29), have still not been implemented, and the primary objectives of the eradication of forced labour in both law and practice, as well as ending the impunity which allows forced labour to continue, remain unachieved. Sustained action at all levels, including by the local authorities, is necessary.
2. The further extension until 25 February 2011 of the trial period of the Supplementary Understanding, agreed during the High Level ILO mission visit, is noted as an encouraging step. The complaints mechanism established by the Supplementary Understanding continues to function, particularly in cases of the recruitment of minors into the military. There is a need for the national application of a proper and accountable recruitment system.
3. It is imperative that the Government strictly ensures, in accordance with the provisions of the Supplementary Understanding, that there is no judicial or retaliatory action, or any other form of harassment of complainants, their representatives, facilitators and/or any other relevant persons involved in the complaints. Without this, the necessary confidence in the complaints mechanism is absent. It is crucial that access to the complaints mechanism is facilitated.
4. Certain positive developments have been noted regarding the earlier conclusions of the Governing Body, such as: the Government's agreement in principle to a simply worded brochure in the local language; increased local media reporting on the rights contained in the Supplementary Understanding; the continuation of joint awareness-raising seminars and training; and the imposition of prison sentences on certain military as well as civilian personnel for the use of forced labour and under-age recruitment.
5. In considering these steps the Governing Body looks forward to an early agreement on the brochure wording and its wide distribution in the near future, particularly in rural areas. It further encourages the continuation of joint awareness-raising and training activities, which should be broadened further to encompass the wider community.
6. While welcoming the release of 13 out of the 17 persons imprisoned for activities which have been the subject of procedures under the Supplementary Understanding, the Governing Body calls for the urgent release of the four persons associated with the operation of the Supplementary Understanding who remain in prison (U Zaw Htay, U Htay Aung, U Nyan Myint and Maung Thura Aung).

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7. The Governing Body strongly reiterates its call for an early release of all of the imprisoned labour activists referred to in its previous conclusions (these include, among others, Su Su Nway, U Min Aung, U Myo Aung Thant, U Thurein Aung, U Wai Lin, U Nyi Nyi Zaw, U Kyaw Kyaw, U Kyaw Win and U Myo Min).
 8. The Governing Body expresses serious concern at the delay in the approval of the visa application submitted for an additional international professional staff member to strengthen the capacity of the Liaison Officer to meet the growing work demands under both the initial Understanding and the Supplementary Understanding. It trusts that the Government will take immediate action to remedy this situation.
 9. The Governing Body shares the concerns expressed in this debate and during the 98th Session of the International Labour Conference (2009), concerning the absence of freedom of association rights, which is an area intimately linked to the elimination of forced labour. The Governing Body welcomes the fact that the January 2010 ILO mission discussed with the Government the basic principles of trade union legislation. The Governing Body thus urges the Government to continue to seek and make use of information and advice from the Office so that early progress can be made concerning the legal framework for respecting freedom of association.
 10. The Government should take immediate steps, without waiting for any future legislative action, to guarantee in practice the right of workers to organize freely in accordance with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), ratified by Myanmar, in order to promote and defend their occupational interests. This is particularly important in the context of any industrial conflicts.