



THIRD PART

**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. RECORD OF THE DISCUSSION IN THE COMMITTEE ON THE APPLICATION OF STANDARDS

A Government representative of Myanmar commended the Director-General on his strong and effective leadership and substantial contribution to the advancement of the dignity, decent work and welfare of workers. He stated that the ILO Liaison Officer had reflected in detail long and difficult negotiations leading to the successful conclusion of the joint Plan of Action for the elimination of forced labour in Myanmar. Her official activities until the end of May 2003 included, among other things, a meeting with General Khin Nyunt, First Secretary of the State Peace and Development Council in May 2003, which emphasized the importance attached by Myanmar to cooperation with the ILO. He noted that the Committee on the Application of Standards had before it a full and positive report on the ongoing cooperation between Myanmar and the ILO. The agreement between the Government and the ILO on the joint Plan of Action for the elimination of forced labour in the country was a breakthrough, a landmark agreement which was the outcome of a long process of continuous and intensive negotiations.

As he had said in the past, given the delicate and sensitive nature of the issue, a step-by-step approach had to be adopted in the endeavour to eliminate forced labour in the country. The Government was committed to the elimination of forced labour and, to this end, was taking the necessary measures in good faith with genuine goodwill and with the best of intentions. When the situation in 1999 was compared with today, no one could deny that a great deal of progress had been made. A comprehensive framework of legislative, administrative and executive measures existed in Myanmar. Order 1/99 and the Order Supplementing Order 1/99, issued in 2000, provided a statutory basis for the implementation of Convention No. 29. These Orders clearly stipulated that the requisition of forced labour was illegal and strictly forbade such acts. They also clearly set out the legal consequences for breach of these orders. It should also be noted that these Orders had the full force of law. Furthermore, necessary instructions had been issued to all ministries, including the Ministry of Defence, and all departments, and peace and development councils at the various levels. The administrative and executive measures taken by the Government included the establishment of the ministerial level ILO Affairs Working Committee, chaired by the Minister of Labour, and the ILO Convention No. 29 Implementation Committee, chaired by the Deputy Minister of Home Affairs. These bodies gave the necessary guidance and oversaw the implementation of Convention No. 29. Seven field observation teams were in full operation, making frequent visits to various parts of the country to oversee the implementation measures and the prevailing conditions on the ground. Close cooperation between the Government and the ILO dated back to 2000. Four technical cooperation missions had taken place in May and October 2000, May 2001 and February 2002. Moreover, an ILO High-Level Team (HLT) led by Sir Ninian Stephen, the former Governor-General of Australia, had visited the country in September-October 2001. The visits of these ILO teams had produced tangible results. The high point was the visit of the HLT, which had been a significant success. In its comprehensive report, the HLT had made a number of recommendations and suggestions for important steps, including some form of ILO presence, a plan of action for the elimination of forced labour in the country and a mechanism to receive complaints in accordance with the agreed procedure. The steps that were currently being taken in cooperation with the ILO stemmed from those recommendations and suggestions. An ILO Liaison Officer in the person of Mrs. Hong-Trang Perret-Nguyen, had assumed duties since October 2002 and had been functioning fully and effectively. An agreement had now been concluded with the ILO on the joint Plan of Action, which covered a wide range of actions for the elimination of forced labour, as recommended by the HLT. The Plan addressed, among other matters, the role of the Facilitator to receive complaints in accordance with the agreed procedure, a public information campaign, public awareness-raising programmes, the translation of the Orders into ethnic languages, the designation of the pilot project area of Myeik district, the pilot construction project in Myeik district, the expansion of animal transportation and the functions of the field observation teams. The joint Plan of Action covered a period of 18 months with effect from 1 July 2003.

In the past, some criticisms had been expressed that the Government had done "too little, too late" and that the measures it had adopted were only procedural and not substantive. The adoption of the joint Plan of Action refuted these criticisms. Informal consultations with the ILO on the Plan of Action had started in March 2003 following the 286th Session of the Governing Body and had been concluded within the time limit set by the Governing Body. Nobody could deny that the Plan was substantive, not procedural. Its con-

clusion marked a new phase of cooperation with the ILO. Its effective implementation would indeed be essential and no efforts would be spared in this respect. The Government remained committed and determined to further cooperate with the ILO to resolve the issue.

He expressed the hope that the goodwill and commitment of the Myanmar authorities would be reciprocated by the Conference and the present Committee and that, in the light of the substantial and substantive progress and major important steps taken by the authorities, the Committee would respond with a positive gesture with a view to being constructive, forward-looking and positive.

The Worker members emphasized that forced labour had been ravaging Myanmar for many years. Until very recently, and thanks to the efforts of the ILO, there had been hope of an improvement in the situation. However, for the past week they had been witnessing a deterioration in the progress accomplished until then. For the second time, this Committee was holding a special sitting on the case of Myanmar and the recent events were an additional reason for holding the sitting.

The Worker members recalled that the discussions of the Committee were based in the first place on the report of the Committee of Experts, supplemented by the information contained in documents D.5 and D.6. The violations of Convention No. 29 were grave, generalized, systematic and structured in law and in practice. The Government had been requested to implement the three recommendations of the Commission of Inquiry: (1) to amend the legislation in order to bring it into conformity with Convention No. 29 and thus abrogate all legislation which made forced labour possible; (2) to put an end in practice to the exaction of forced labour; and (3) to enforce the penalties provided for in the Penal Code against persons found guilty of having exacted forced labour. The conclusions of the Committee of Experts were clear.

Concerning the amendment of the legislation, the laws concerned had not yet been modified despite the repeated promises made by the Government for over 30 years. On this subject, the Government indicated that these laws were ancient and unchangeable. But in 2001 and 2002 it had adopted and reformed other laws. Order 1/99 could constitute a sufficient legal basis to ensure the application of the Convention in practice provided that it was applied by the civil and military authorities. Concerning the exaction in practice of forced labour, the Worker members noted that the measures taken by the Government of Myanmar were not sufficient to put an end to such exactions, as indicated by numerous documents. On this subject, the Committee of Experts had stated in its report that the instructions given by the Government to the civil and military authorities were not sufficiently specific and concrete and that the Orders had not been publicized in a sufficiently general way in order to bring an end to the exaction of forced labour. Moreover, even if the Government had created a Committee for the supervision of the implementation of the legislation and had sent an observation team to the field in order to examine whether the population was aware of the Orders and verify whether any complaints had been lodged, no information had been provided as to the progress made up to now. Concerning penal sanctions, the Committee of Experts stated that the Government had not adopted any measures so that those responsible for the exaction of forced labour could be prosecuted. Thus, despite the Government's promises, none of the three recommendations of the Commission of Inquiry had been implemented in practice to this day.

Admittedly, following the efforts of the Office, certain changes had been observed. But these were principally, if not exclusively related to procedural issues. All the request of the Committee, the ILO had sent a High-Level Team in September 2001 to Myanmar and the border regions in order to evaluate the situation on the spot. On the basis of the report of the mission, the Governing Body had adopted conclusions, particularly for the Director-General to pursue the dialogue with the authorities in order to define the modalities and parameters of continued and effective ILO representation in Myanmar. Under the terms of a Memorandum of Understanding between the ILO and the Government of Myanmar, a Liaison Officer had been appointed in May 2002.

Documents D.5 and D.6 indicated the latest developments in Myanmar. A Plan of Action by the Government and the ILO for the elimination of forced labour practices in Myanmar had been finalized just in time for the beginning of the Conference, but too late for the recent dramatic events. In view of these events, the Worker members were sceptical as to the viability of the new agreements and initiatives between the Government and the ILO as the Government's attitude was proving to be misleading. In fact, despite the Government's indication that the elimination of forced

labour would be its main objective, the fact remained that nothing had really changed. Before last week's events, the Workers could have been optimistic and have talked about progress. However, the current events, that is the detention and holding in secret of the executive of the National League for Democracy (NLD), and in particular Daw Aung San Suu Kyi, were a setback in that they resembled the events of 1995-97. Although political progress had been made over the past two years, these events cast doubt on the implementation of the Plan of Action.

The Worker members stated that they placed much hope in the visit to Myanmar of Mr. Razali, Special Envoy of Mr. Kofi Annan. The Governing Body had clearly recommended to the Government that it should take measures to abolish forced labour practices, ensure that those who exacted forced labour were brought to justice and modify the legal procedure so as to implement the required measures. The Worker members stated that, as long as the recommendations had not been implemented, the measures adopted under 33 of the Constitution of the ILO should not be revised.

The Worker members, also recalled that, according to the report of the Commission of Inquiry of 1998, the impunity with which government officials, in particular the military, treated the civilian population as an unlimited pool of unpaid forced labourers and servants at their disposal was part of a political system built on the use of force and intimidation to deny the people of Myanmar democracy and the rule of law, which were indispensable prerequisites for the suppression of forced labour. Moreover, they expressed concern at the deeply disturbing developments of the past week, which had a profound impact on the ability of the ILO to go forward in its cooperation with the Burmese Government. Contrary to what the regime had been saying, the growing body of information emerging from the country indicated that a massive crackdown of the NLD was under way, with killings, injuries and disappearances seeming to take place, not only in the area where Daw Aung San Suu Kyi had been ambushed, but also in many areas around the country. There was reliable information that Daw Aung San Suu Kyi had been injured and the fact that the authorities had not allowed the ICRC or her own doctor to see her was deeply disturbing. The discussion of forced labour over the past few years, both in this Committee and the Governing Body, had been conducted in the context of a climate of political reconciliation and it was no coincidence that the release of Daw Aung San Suu Kyi from house arrest and the beginning of confidence-building talks between the regime and the NLD had coincided with the adoption of the 33 resolution. However, the events of the past week cast a dark cloud over the discussion. If the Government wished to improve its credibility it should inform the Committee when Daw Aung San Suu Kyi would be released and be able to receive medical attention, the whereabouts of the missing NLD activists, when the brutal crackdown would end and if the process of political reconciliation would ever resume. Until these events ended, it was hard for the Worker members to see any way for the cooperation between the ILO and the regime to go forward.

Concerning the agreement tentatively reached between the Government and the ILO on a plan of action that included a formal understanding on a facilitator and a pilot project, he said that it was not surprising, given the long history of the case, that only a week before the start of this Conference, an agreement had been reached on the Plan of Action. The Committee had seen this pattern many times before. Only days before a Governing Body meeting or the beginning of the Conference, the Government came to some agreement with the ILO after months of delay and subterfuge, and then touted this agreement as a breakthrough. As the Committee of Experts had pointed out, there was no evidence that these agreements had led to any discernible decrease in forced labour. The Federation of Trade Unions of Burma had just released a report outlining 71 new cases of forced labour. Reputable international NGOs, such as EarthRights International and Forum Asia, had also released reports recently. Most importantly, the Liaison Officer herself had reported to the Governing Body that forced labour remained prevalent in many parts of the country, particularly in ethnic areas and in those areas with a substantial military presence. Although the Liaison Officer had reported allegations of forced labour to the Government, the latter had not confirmed any of these allegations. The Worker members had not forgotten the case of the seven Shan villagers who had allegedly been murdered for complaining about forced labour, a case which had been discussed on a number of occasions by the Governing Body and still remained pending. The Governing Body's suggestion for an independent investigation had been rejected outright by the Government. The fact remained that in villages, townships, and large areas of the country, forced labour was not only practised, but was a way of life for untold thousands of people.

The latest tentative agreement on a Plan of Action included seven work programmes dealing with various issues on the elimination of forced labour throughout the country, including the dissemination

of information, awareness-raising programmes, the pilot project for local road construction, enhancing public awareness of the mechanism to make complaints and, of course, the role of the Facilitator. The Worker members' understanding was that, although the pilot project was envisioned as a concrete expression of the Government's political will to proactively eliminate forced labour, it was only a place to begin. They emphasized that this commitment by the Government to eliminate forced labour in practice had to apply to the country as a whole, and not just to the area of the pilot project. The Government was under an obligation to implement these programmes, especially the dissemination of information, awareness-raising and enhancing public awareness of the mechanism to make complaints everywhere and not just in the area of the pilot project. Similarly, it was clear that the role of the Facilitator to improve the access of the alleged victims of forced labour to the judicial process went beyond the area of the pilot project and extended throughout the country. It was important to emphasize that a fundamental objective of these activities was to increase the confidence of the people, and the victims of forced labour in particular, that legal redress was possible without recrimination. Until now there had been no confidence that a remedy was possible given the fact that the practice continued unabated, that the military was the primary perpetrator and that more often than not it had been the victims with the courage to complain who had been punished rather than those who were responsible. It had not gone unnoticed that there had been virtually no prosecutions. The Facilitator, in particular, would be asking victims to trust him so that he could help them gain legal redress. And the public-awareness campaign was a deliberate attempt to raise public expectations that something could and would be done. The Worker members asked the Government how any of this could happen under the current climate of fear and intimidation. Could the Facilitator in any way guarantee that those individuals who came to him would be safe after the appalling developments of the past week? Was it possible or ethical for the ILO to be raising public expectations in view of what had been happening? The answer to such questions was a resounding no. They could not envision any way for the implementation of the Plan of Action to begin without a return to some sense of normalcy, to a renewed and invigorated political reconciliation process.

Although the Worker members viewed the Plan of Action with a healthy dose of scepticism, they also noted it with interest. They looked forward to the day when the process of implementation would begin and they would do their part to monitor developments closely. But they could not see how such a process could begin under the current state of repression. As to what was to be done in the future, only days ago legislation entitled the Burma Freedom and Democracy Act had been introduced in the United States Congress on a bipartisan basis banning all exports from Burma to the United States. The Bill specifically cited the Director-General's call in response to the article 33 resolution for all member States and constituents to review their relationship with the regime to ensure that they did not directly or indirectly contribute to forced labour. Many other countries were considering similar action. In the light of the lack of progress regarding the actual elimination of forced labour after all these years and the recent developments inside the country, it was time for the Director-General to re-issue and strengthen this call. And the Worker members hoped that this time governments would respond in a much more serious way.

The final paragraph of the report of the Commission of Inquiry revealed a saga of untold misery and suffering, oppression and exploitation of large sections of the population inhabiting Myanmar by the Government, the military and other public officers, a story of gross denial of human rights to which the people of Myanmar had been subjected since 1988. The report had expressed the hope that in the near future the old order would change, yielding place to a new one in which everyone in Myanmar would have the opportunity to live with human dignity and to develop his or her full potential in a freely chosen manner without subjection or enslavement by others. This could happen only through the restoration of democracy. The current events inside the country appeared to show that the people of Burma were as far or further from that goal today than they had been when the report was written five years ago.

The Employer members recalled that the case of the use of forced labour in Myanmar was an extraordinary one as forced labour had been a reality in the country for decades, embracing all areas of life on the basis of national law and deep-rooted practice. Intensive efforts had been made for a decade to adopt effective measures to put an end to this grave violation of Convention No. 29, which was the fundamental Convention with the highest number of ratifications. All efforts so far had been extremely difficult. As shown in the voluminous information before the Committee, many small positive steps had been taken over the years, but many setbacks had also occurred. The position of the Government of Myanmar had been characterized for a long time by silence, preferring not to hear the denunciations and contesting the existence of forced

labour in the country. Formal cooperation had emerged only recently. The activities undertaken by the ILO from July 1998 to May 2002 had revealed the deep-rooted legal and practical causes of forced labour in the country and had resulted in a difficult but also intensive period of cooperation, although such cooperation was always delayed and occurred only after pressure had been exerted.

Concentrating on recent developments and with reference to the joint Myanmar/ILO Plan of Action, the Employer members pointed out that this agreement had been initialled but not signed. They recalled that the agreement had been the result of great efforts made by the ILO Facilitator and had been approved by the Governing Body at its November 2002 and March 2003 sessions. They thanked the ILO for the efforts made in this respect. The agreement related to the same basic demands that had been made for some time. Firstly, the Village Act and the Towns Act, which set the legal basis for forced labour, had to be removed and, secondly, new provisions abolishing forced labour had to be enacted, published in all the necessary languages and disseminated in order to raise awareness. The almost secret decrees issued so far had been inadequate. The measures contained in the Plan of Action were to be implemented from July, in particular in a pilot region. By furnishing technical assistance, the ILO was providing significant help to the Government. However, the core demands for clear legal provisions which would prohibit forced labour throughout the country remained the same. Violations of such provisions had to be accompanied by sanctions and such sanctions had to be implemented in an impartial manner, especially as those who violated the law were often high officials in the administration and the military. Victims should be able to lodge complaints without fear of reprisals. In this regard, the task of the Facilitator was particularly important. Concerning the pilot project, the Employer members wondered how the Government would finance the replacement of forced labour by regular paid workers.

The Employer members concluded that this case continued to reflect a dual picture, as in the recent past. On the one hand, the Government announced its formal cooperation with the ILO based on agreements. From this point of view, the situation was one of progress. On the other hand, the situation with regard to the more important issue of practical progress towards the abolition of forced labour was unsatisfactory. Forced labour in Myanmar was not rooted merely in legislation or a practice that had run out of control, but was part of the whole state system. It was a systemic phenomenon from which the whole population suffered. The recent agreement offered a glimmer of hope, but it was for the time being only an agreement on paper which had not been implemented in practice. The Employer members also expressed deep concern at the recent developments. They emphasized that the discussions had gone on long enough and that it was now essential to see concrete results as soon as possible for the benefit of the people of Myanmar.

The Employer members added that they were aware of the gravity of the situation which had led to the holding of the present sitting. They indicated that the case of Myanmar was one of the most serious in the modern history of the ILO and that it concerned the violation of the Forced Labour Convention, 1930 (No. 29). They emphasized their support for the principles of labour law relating to the abolition of forced labour. There were no productive advantages which were not based on the respect of these rights. States had to contribute to seeking solutions and to the application of all instruments of the ILO for the achievement of these goals. That is why they did not question the application of article 33 of the Constitution, an unprecedented event in the history of the ILO. Following the Governing Body and the International Labour Conference, the Employers would follow closely this discussion and the progress that was being achieved, and they would share their doubts and their observations. The Employers commended those steps which implied the opening and initiation of dialogue. Evidently, such steps were not the solution, but only the tools for reaching a solution. The solution was in the effective application of the Convention, with a view to the effective and complete abolition of forced labour. There had to be the conviction, not just the presumption that forced labour had been completely eradicated, and this had to be verified by tripartite means. Furthermore, there should not be any doubts that the victims of forced labour could have access to justice, and the Facilitator would have an important role to play in this respect. The Employer members expressed their gratitude to the Liaison Officer, and for the appointment of a Facilitator, as well as for the adoption of the Plan of Action. This had to be implemented on the ground and immediately, since the case concerned violations of fundamental human rights. Beginning with the present session of the Conference and until the next session of the Governing Body in November, the Employer members expected to receive sufficient information to dispel any doubts. It was important to distinguish between the means used to identify violations and the real situation. The events of recent days had had a negative impact on the situation in the country, as well as on the abolition of forced labour.

They hoped that the Plan of Action would be implemented in an efficient way and that it would introduce a new order that would change the attitude of the Government.

The Government member of Viet Nam, speaking on behalf of the ASEAN member States of the ILO, expressed appreciation to the Director-General for his efforts in promoting cooperation with the Government of Myanmar and welcomed the political will and commitment of the Government to observe Convention No. 29, as well as its continuing determination to eradicate forced labour from the country. He also welcomed the Plan of Action for the elimination of forced labour practices in Myanmar concluded between the Government and the ILO. This important agreement would go a long way in assisting the efforts of the Government to resolve the issue. The Plan of Action and the strenuous efforts by the ILO Liaison Officer in Myanmar would foster better cooperation between the ILO and Myanmar. It was therefore extremely important that the discussion in the Committee on the Application of Standards on this issue be conducted in a constructive and forward-looking manner. He expressed the hope that the effective implementation of the Plan of Action would bring about an improvement of conditions in Myanmar and would lead to a situation that would enable the Conference to remove, upon the recommendation of the Governing Body, the measures taken against Myanmar under article 33 of the Constitution. He finally encouraged the Government and the ILO to continue their cooperation until the issue was completely resolved.

The Government member of Greece, speaking on behalf of the European Union countries, the candidate countries (Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia), the associated countries (Bulgaria, Romania and Turkey), and Iceland and Norway, which associated themselves with his statement, he emphasized that the establishment of genuine democratic procedures in Burma/Myanmar was essential for the expression of the will of the people and for its well-being and that the European Union fully supported the people in their efforts to bring justice and social advancement to the country and to tackle impunity, human rights violations and the practice of forced labour. It also fully supported the work of the ILO and its Liaison Officer and their efforts for the implementation of the Plan of Action, which was a positive step forward, although its successful implementation would be the key issue. He expressed support for the appointment as Facilitator of Leon de Riedmatten, who should be allowed to operate freely to help victims of forced labour seek redress. It would be important to establish a local office in the pilot region to review and support complaints. If successfully implemented during the initial 18-month period, the Plan of Action should be extended beyond the pilot region.

However, the European Union deplored the recent decisions by the Burma/Myanmar authorities, especially the detention of Daw Aung San Suu Kyi and NLD party officials, the closing down of NLD offices and the suspension of the activities of universities throughout the country, and called on the authorities to release immediately Daw Aung San Suu Kyi and her party officials, to allow the opening of the universities and NLD offices, and to engage constructively with the United Nations Secretary-General's Special Representative, Mr. Razali. These acts were of grave concern to the European Union. They seriously undermined the stated commitment of the authorities to the process of national reconciliation and the creation of an environment that would facilitate the proper implementation of the Plan of Action and they demonstrated a lack of political will for the restoration of democracy in the country. Credible action on forced labour was very difficult in the absence of full commitment by the authorities to pursue economic, social and political reform. The European Union was concerned that the recent political developments reflected a serious decline in the authorities' interest in pursuing national reconciliation and the return to democracy in the country, as demonstrated by the stalling of the political reform process and the continued absence of credible policies to tackle the worsening economic situation. The issue of national reconciliation was of crucial importance if the use of forced labour was to be ended. Also of grave concern was the continued refusal of the Government to enter into a genuine democratic dialogue with Daw Aung San Suu Kyi. Moreover, the structure and the size of the armed forces, and their use for internal security reasons, contributed significantly to the overall incidence of forced labour and the reported acts of associated violence. It was also clear that it was the armed forces which were the most resistant to cooperation with the ILO.

The situation would be kept under close and continuous review and the European Union would respond quickly and proportionately to developments on the ground, be they positive or negative. In view of the lack of sufficient progress to date, it would be inappropriate for any consideration to be given to removing the measures imposed under article 33 of the Constitution. Before such consideration was warranted, the Conference and the Governing

Body would need substantial evidence that the authorities had met the conditions of the Commission of Inquiry and had taken sustained action to eliminate forced labour. In the meantime, this issue required close monitoring by the ILO.

The Government member of Switzerland indicated that her Government endorsed the statement by the Government member of Greece, who had spoken on behalf of the Member States of the European Union.

The Government member of Libyan Arab Jamahiriyā stated that, since the adoption of the resolution on the use of forced labour in Myanmar under article 33 of the ILO Constitution, various efforts had been made with a view to ensuring the application by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29). Several meetings had been held, missions sent to the country, a Liaison Officer had been appointed, administrative measures had been adopted and special orders had been issued, circulated in ministries and published in order to acquaint the people with the prohibition of forced labour and enable them to submit complaints. The Plan of Action had been adopted and now needed concerted efforts in order to be implemented. As long as the political will was present in Myanmar, as had been repeatedly affirmed, the ILO should continue to provide technical cooperation in order to achieve the main objective, which was to eliminate forced labour and alleviate the suffering of the people of Myanmar. He considered that, in order to demonstrate good intentions on all sides, with a view to encouraging the eradication of forced labour in the country, it might be advisable to suspend the application of the resolution on Myanmar adopted under article 33 of the Constitution.

The Government member of the United States recalled that the Committee of Experts, after reviewing all the information available to it at the end of the previous year, had concluded once again that none of the three recommendations formulated by the Commission of Inquiry in 1998 had been implemented. The Village and Towns Acts had not been amended. The administrative orders regarding forced labour had not been sufficiently publicized, and their dissemination had not stopped the recruitment of forced labourers and the brutal treatment that so often accompanied it, particularly by the military. Finally, there was no indication that anyone responsible for using forced labour had ever been prosecuted under the laws of Burma.

In the face of this discouraging report, the Plan of Action came as a welcome new development. The Government acknowledged that forced labour was ignoble and stated that it would make unremitting efforts to eliminate it from the country. The various work programmes, if implemented in good faith, should help to raise awareness among public officials, military personnel and the population in general of the issue of forced labour and the right to redress. The understanding on the Facilitator and pilot region were particularly important, as these were the elements that were missing when the Governing Body had examined the Plan in March. The Office, and particularly the Liaison Officer and her assistant, deserved much credit for successfully negotiating these agreements. She also expressed gratitude to Mr. de Riedmatten for agreeing to serve as the Facilitator.

She emphasized the importance of the implementation of the Plan. Over the next 18 months, it would be necessary to watch closely for evidence that the Government was genuinely committed to the strict enforcement of the ban on forced labour in the pilot region and in the country as a whole. The various components of the Plan, including in particular the role of the Facilitator, had to be implemented with the Government's full cooperation and without delay. While she agreed that, as stated in the Plan's conclusion, the elimination of forced labour could not be accomplished overnight, she also believed that measurable progress could and had to be made within the 18-month period. Good faith implementation would be the test of the Government's commitment.

In that connection, it was impossible to ignore the violent events that had taken place in Burma on 30 May of 2003. Officials from the United States Embassy in Rangoon who had visited the site of these events found evidence of a premeditated attack, instigated by the Government, against Daw Aung San Suu Kyi, one of the world's most courageous defenders of human rights. The Government's version of the story was not credible and its actions so far suggested that it had decided to end efforts aimed at national reconciliation. The Government had not lived up to its commitments in the past, and it was only to be hoped that it would demonstrate by its actions in implementing the Plan of Action that it could fulfil the commitments it had entered into on forced labour.

The Government member of Australia stated that the Australian Government's position on forced labour practices in Burma was clearly on record, not only in the context of the ILO, but also in its support for the United Nations resolutions on Burma. He said that his Government had paid close attention to the observations of the Committee of Experts, the additional report provided to the Conference Committee by the Office and the statement made by

the Government representative of the Government's observance of its obligations under Convention No. 29.

He noted that the Committee of Experts in its report referred to the lack of concrete developments over eight years in Burma, including those in the drafting of a new constitution and the redrafting of old labour laws. He emphasized that Australia had on many occasions expressed its disappointment at this slow rate of progress in addressing the issue of forced labour. He stated that in this context the agreement reached on the Plan of Action was a development worthy of international support. This Plan of Action contained many positive elements. In particular, he offered strong support for the appointment of the Facilitator; the creation of field observation teams and the identification of a pilot project. These were all moves in the right direction and he urged the Government to extend the various activities nationally.

Although he did not believe that it was appropriate for the present Committee to become involved in broader political debates, it was nevertheless appropriate for Committee members to convey clearly to the Government that recent events had raised serious doubts about its intention to implement the Plan of Action. Although welcome, the Plan of Action was a modest achievement when set against the work still to be done in the country to stop abuses of human rights. The detention of Daw Aung San Suu Kyi, the Secretary-General of the National League for Democracy, and her supporters had brought that into sharp focus in the past week. The Australian Government had called for Daw Aung San Suu Kyi's immediate release and expressed concerns about her welfare. There was no justification for her detention and he again urged the Government to release her without delay. He expressed his gratitude to the Office and, in particular, to the Liaison Officer and her assistant for their ongoing efforts to help eradicate forced labour in Burma.

The Government member of New Zealand emphasized that her Government had repeatedly called on the Government of Myanmar to make strenuous and effective efforts to fulfil its obligations under Convention No. 29. Her Government was heartened to see a credible Plan of Action before it, which included, significantly, an agreement on the establishment of an independent facilitator and a pilot region.

Nevertheless, she remained concerned that there were currently few signs of improvement on the ground towards the elimination of forced labour in Myanmar. A Plan of Action was a very positive step in the right direction, but the key test remained that tangible results were delivered to those experiencing, or facing the threat of forced labour. These results had to be driven by a firm political commitment to end this abhorrent practice. She reiterated previous calls on the Government of Myanmar to give higher priority to this issue. While recognizing that the implementation of the Plan of Action had to be a step-by-step process, she urged the Government to exceed targets in view of the considerable time taken to agree on the Plan and the long history of violations of human rights that had prompted it.

While emphasizing the long-standing position of her country that technical bodies such as the ILO should not be drawn into debate on more general political issues which might detract from their mandated tasks, she noted that the eradication of forced labour in Myanmar was unlikely to take place in a climate of fear, where freedom of expression was suppressed. It was in this context that she reiterated her condemnation of the re-arrest of Daw Aung San Suu Kyi and her supporters and urged their immediate release.

The Government member of Sri Lanka welcomed the efforts made by the Government of Myanmar in cooperation with the ILO towards the elimination of forced labour. He expressed his confidence of Myanmar's commitment to its obligations under Convention No. 29. Furthermore, he believed that the Plan of Action signed by the Government and the ILO last month in Yangon was a positive step towards realizing this objective. The concrete elements detailed in the Plan of Action provided a good basis in this regard. He encouraged Myanmar and the ILO to continue working together and expressed the hope that the effective implementation of the Plan of Action would lead to constructive discussion on this issue in the future, resulting in the removal of measures taken against Myanmar by the Conference.

The Government member of India was pleased to note that this matter, which had engaged the attention of the Conference Committee and the Governing Body for some time, was in the process of being resolved satisfactorily. In his view, the Committee would wish to express its appreciation for the accommodation and flexibility shown by the Government of Myanmar.

He recalled that at the last session of the Governing Body the Chairperson, referring to the Plan of Action proposed by the Government of Myanmar, had indicated the supplementary elements necessary in order to meet the concerns expressed by some members. Those concerns had been addressed, leading to the successful conclusion of the agreement between the Government and the ILO

on 27 May 2003. In addition to the formal understanding on the Facilitator, the Plan of Action comprised a road-building project in a pilot area, alternatives to the use of forced labour and information and measures aimed at awareness raising.

His country had consistently advocated the path of constructive dialogue between the ILO and the Government of Myanmar, which had brought results. He referred to previous calls to give Myanmar the necessary assistance to bring about the needed changes, rather than linking it to the political process and economic reforms.

As a matter of principle, his country supported the adoption of a promotional approach by the ILO in matters falling within its mandate, rather than a confrontational one. The appointment of an ILO Liaison Officer last year with the full support and cooperation of the Government was an important step in the right direction. The Myanmar-ILO joint Plan of Action, to be implemented over an 18-month period starting from 1 July 2003, was the logical next step. The ILO had undertaken to provide technical assistance and support to Myanmar for the projects identified in the Plan of Action. These were positive steps in the right direction and involved commitments by the ILO and the Government. He believed that nothing should be done to jeopardize these positive trends. The Conference Committee should encourage the ILO and the Government to continue moving in this positive direction. The Plan of Action therefore deserved full support.

An observer representing the International Confederation of Free Trade Unions (ICFTU), speaking with the authorization of the Officers of the Committee, emphasized that, despite the denials of the military regime, forced labour still occurred in Burma because the regime did not have the political will to change its treatment of the people. After all the time and effort devoted by the ILO to the issue, the authorities had destroyed the confidence of the ILO and the international community by their attitude towards Daw Aung San Suu Kyi. This was proof indeed that the military regime relied on brute force to solve problems, whether they were financial, political, or ethnic. He said that before and during the ILO's visits to the country, a major plan had been implemented to ensure that all the people, even in rural areas, denied the existence of forced labour. But this action showed that the authorities were concerned about the repercussions of ILO action. They were not worried about the representatives of the European Union, the United Nations, or the Red Cross, who did not interact with the people and were not visible. But the ILO was visible to the people and it was only ILO action that would be able to eradicate forced labour, forced relocations and violations of workers' rights in the country. He therefore said that, as part of the pilot project, monitoring visits should be carried out by the ILO to every city to reinforce the hope of the people. With reference to Daw Aung San Suu Kyi, he reaffirmed that she was a hostage and that United Nations representatives had been refused access to her. He therefore called upon the ILO and its Members to take strong and concrete action to enforce a solution in the country.

The Worker member of the Netherlands recalled that very rapidly after the adoption of a resolution concerning Myanmar by the Conference in 2000, the ILO had made a first effort to monitor its follow-up by the tripartite constituents. By the end of 2000, the Office had requested governments, employers' and workers' organizations in member States to indicate what they had done to implement the resolution and review their relations with Burma.

The trade unions in his country had welcomed these measures as a wake-up call and an encouragement to make changes. They had made good use of the first report to put pressure on the Government of the Netherlands to change its policy. Moreover, this action had been effective and, although in February of 2001 the Government had reported to the ILO that its policy was neutral in this respect, three months later this had changed to a policy of "further discouraging" contacts with Burma. However, three years after the adoption of the resolution by the Conference, it was strange that the ILO had not made any efforts to repeat this action. He expressed his regret at this lack of activity and asked whether there were any plans for a new reporting exercise and, if so, when it would take place. He suggested that when the Office was preparing a new round of reporting on the implementation of the resolution, it should include questions not only on the activities of the three constituents, but also on tripartite activities at the national level. He added that the Office should also encourage the use of existing relevant non-ILO instruments for the implementation of the resolution, in an effort to improve awareness among governments, the business community and trade unions. He referred, in particular, to the United Nations Global Compact, and the OECD Guidelines for Multinational Enterprises. The latter had been used in his country to encourage enterprises to make a contribution to the elimination of forced labour in Burma, both directly and by requesting their business partners in the host country to respect the paragraph on forced labour in the Guidelines. He referred to complaints under the OECD Guidelines lodged by the trade unions in the Netherlands against a dredging company and a number of travel

agencies which continued to operate in Myanmar. Another complaint against a company importing wood from Myanmar was being prepared. Jointly with the Austrian Trade Union Centre the Dutch unions were looking into possibilities of lodging a complaint under the OECD guidelines against the Austrian airline Lauda Air. In all these cases, the trade unions were working closely with the Burma Committee in the Netherlands, and possibilities were being explored of joint action with trade unions in other countries. He therefore called upon all governments, employers and trade unions to review their commercial relations with Myanmar.

The Worker member of Italy deplored the injury and the arrest of Daw Aung San Suu Kyi and the nationwide crackdown on the democracy movements which made it very hard to believe in the Government's good will in the implementation of the recently agreed Plan of Action. The key problem was unfortunately the confirmed absence of a real political will to eliminate what could be called one of the backbones of the survival of the military junta.

The Ambassador of Burma had declared in the Governing Body in November 2002 that his was a country in transition striving to become a modern, peaceful, prosperous and democratic State and that transition needed to be a gradual process. It should then concentrate its budget and macroeconomic policy on the social development of its people and should refuse forced labour and undemocratic behaviour.

It was therefore difficult to understand why, instead of investing in the eradication of forced labour and the promotion of productive and decent jobs, it had doubled the size of its army since 1988 with an estimated 470,667 soldiers. Seventy seven thousand children under the age of 18 are forcibly recruited, threatened with jail or brutally beaten if they refused to join the army or if they tried to escape. It should be borne in mind that the Burmese Army was now one of the largest armies in South-East Asia and that 49.9 per cent of state expenditure was used for military expenses. Large quantities of weapons were imported from China, the Russian Federation and other countries. It was clear that forced labour was essential to the survival of the army and there was no way that the country could get out of the vicious circle of forced labour unless there was serious political commitment to completely reverse the situation. For these reasons, it was important that the Plan of Action focused as a matter of utmost urgency on the military, and particularly on regional commanders, to oblige them to change their behaviour and their means of working. Another important way of eradicating forced labour was to intervene to radically change the national budget structure. The already difficult economic situation was worsening, due also to the militarization of the rural economy. Forced labour, the land confiscation policy and rice procurement for export and for rice supplies to civil servants at subsidized prices forced farmers to sell most of the harvest to the Government at a price four to five times lower than that of the market price. This, together with the export-orientated policy to earn hard currency, explains the shortage of rice and the deterioration in the health conditions of farmers.

With the aim of developing the Union of Myanmar Economic Holdings and its branch, the Myanmar Economic Corporation, which constituted another instrument for the perpetration of forced labour, the Government had promoted travel and tour companies and factories exporting to Europe, the United States and Canada. Joint ventures had become the main logistical and economic support for the organization of the military regime. Since full foreign ownership of companies was forbidden, all the investments in the country were developed through joint ventures with the military.

The ILO resolution implementing article 33 of the Constitution had given rise to important actions, such as the European Union Common Position. She thanked those companies which had withdrawn from the country but deplored that many others still had significant investments in the country. According to Eurostat, since 1996 European Union countries had increased their imports from Burma more than 500 per cent. Denmark was the highest on the list, with 3.75 per cent procapita followed by the Netherlands, the United Kingdom, Belgium and France.

Other urgent measures are needed to make the ILO resolution really effective. The multilateral development banks, such as the ADB and of governments financing such institutions as the Italian Government, also needed to be consistent and revise their policies and agreements by suspending their participation, technical and financial support of the country through such programmes as the Great Mekon Subregion Economic Cooperation Programme. She called for the Global Fund to Fight AIDS, Tuberculosis and Malaria, set up by the Genoa G8, to withdraw the recently approved \$17 million project directly in favour of the military regime and regretted that it had refused a programme which would have been implemented by democratic Burmese organizations.

European governments and the European Union should go far beyond the measures taken already. She urged them to adopt economic measures and to impose a ban on investments and trade with

Burma on the grounds that any commercial or economic link would help the regime to perpetuate forced labour. Moreover, she appealed to governments and the European Union to implement XX of the GATT Agreement, which referred to measures relating to the protection of human health and measures relating to the product of prison labour. According to the WTO reply to the ICFTU request for clarification on this matter, governments could take trade measures the Government of Burma without fear of reprisals.

The Government member of Japan emphasized that his Government's position had always been and would be to resolve the problem of forced labour in Myanmar through dialogue and cooperation. In this regard, the Government of Japan, in cooperation with the international community, wished to continue to cooperate with the parties concerned through its comprehensive approach, encompassing social, economic and political dimensions. In this context, he referred to the recent incident involving the detention of Daw Aung San Suu Kyi and other NLD members by the Government. His Government regarded this incident as deeply regrettable. Through its continued engagement with the Government of Myanmar, Japan had persistently called for their immediate release, assurance of their political freedom and the prompt rectification of the present situation in Myanmar.

Referring to the question of forced labour in Myanmar, he expressed his appreciation to the Director-General and the staff of the ILO for their efforts to strengthen dialogue and cooperation with the Government of Myanmar. He also commended the work of the Liaison Officer since her assignment in Yangon.

He expressed his belief that it was of the utmost importance for the Government to take appropriate measures in response to the recommendations of the Commission of Inquiry. In this respect, he understood that the ILO and the Government had negotiated the Plan of Action for the elimination of forced labour, following the guidance of the Governing Body in November 2002. He wanted to emphasize that the purpose of this Plan was to encourage the authorities in their efforts to ensure the prompt and effective elimination of forced labour.

He welcomed the fact that a formal understanding on the Facilitator had been reached in Geneva in May 2003 and that the rest of the Plan of Action had been agreed upon in Yangon at the end of May 2003. He hoped that through the implementation of the Plan of Action, first in pilot areas and later at the national level, the Government would be able to discharge its obligations under Convention No. 29, by taking substantial steps towards the eradication of forced labour in the country.

He encouraged the Government to make further efforts and demonstrate its political commitment by the steady implementation of the Plan of Action, and expected the ILO to be able to present a report on the implementation of the Plan of Action to the next Governing Body in November 2003. If this report was positive, it would be possible to discuss further cooperation between the ILO and the Government beyond the scope of the eradication of forced labour.

The Worker member of Senegal stated that the re-examination of the case of Burma showed that, despite certain improvements, the Government had refused to implement the recommendations that had been made. This refusal by the Government to honour its commitments was the principal cause of the ineffectiveness of the procedures and the immunity enjoyed, in particular by the military. No specific or concrete instructions had been given to the civil or military authorities. The interpretation given by the military authorities to concepts such as work that is offered or benevolent was a method of evading Order 01/99 adopted by the Ministry of Interior. This Order, despite its adoption, did not prescribe the types of activity for which the requisitioning of labour was prohibited. The line between compulsory work and voluntary work was unclear and related to the question of the payment of wages.

The field observation teams had found that the documents distributed were printed in English and Burmese. However, despite the promises made, no explanations had been provided in the various ethnic languages in view of the scarce respect shown these people. Moreover, the villagers frequently had to pay fees for informational meetings, as well as the travelling expenses of the officials of the State Council for Peace and Development. The villagers questioned had indicated that they had not been informed of the measures taken to put an end to forced labour. The widespread confusion that now reigned and the terror inflicted upon the population were not conducive to the submission of complaints against forced labour. Furthermore, the authorities had not provided for any budget to recruit paid workers. The budgetary changes requested by the mission had not been put into effect. In this respect, the lack of commitment of the authorities was likely to seriously affect the credibility of the official agreement on the pilot region.

Finally, he emphasized that the approach taken by the authorities for the elimination of practices of forced labour seriously undermined the credibility of the official agreements concerning the Facilitator and the pilot region.

The Worker member of Pakistan said that, while he welcomed the Government's expression of commitment to the elimination of forced labour, he could only be dismayed by recent developments, and particularly the detention of Daw Aung San Suu Kyi. He emphasized once again that freedom from forced labour could only be fully achieved when civil liberties were respected, as reaffirmed in the Declaration of Philadelphia. He recalled that the issue of forced labour in the country had been under discussion by the Conference Committee and the Governing Body for many years and urged the Government to heed the very strong signals sent out through the ILO by all of its member States. Through its failure to take adequate action to amend the relevant provisions of the national legislation, the Government was in violation of the Convention. The orders that it had issued had not been fully disseminated and were not understood or complied with in the country in general. Moreover, the orders themselves were very inadequate. He therefore called upon the Government to implement the recommendations of the Commission of Inquiry, the High-Level Team and other ILO bodies by amending the legislation which allowed the use of forced labour and by adopting penalties against all those persons, including the members of the armed forces, who are responsible for its use. While welcoming the adoption of the Plan of Action, he warned that monitoring would be required for its effective implementation. In view of the overriding need to pursue social development in conditions of freedom, he called upon the Government to comply with its obligations relating to the rights of workers.

The Worker member of Greece recalled that the condition of slavery, to which the people of Burma had been reduced for approximately 30 years, had been on the agenda of this Committee for 12 years now. Despite this, progress had only been made on paper, and even so, the Government still had to translate into the ethnic languages the Orders it had agreed to adopt and to disseminate them during the first quarter of 2003. Moreover, the information brochures on forced labour would have to be published in the ethnic languages of the country, as the Government had undertaken to do in the first quarter of 2003. And finally, the victims of forced labour would have to be able to have recourse to justice. At the present time, while the authorities pretended that this possibility existed, the absence of any information concerning complaints, judicial proceedings and penalties demonstrated the considerable gap between the reality on the ground and the picture presented by the authorities. This contradiction became more evident in view of the statement of the Government to the Governing Body in November 2002 according to which Myanmar was a country in transition striving to become a modern, peaceful and prosperous democratic State. In conclusion, he said that history showed that tyrannical regimes did not last forever and that the intensity of the fall of tyrants was always proportionate to their cruelty.

An observer representing the World Confederation of Labour (WCL), speaking with the authorization of the Officers of the Committee, stated that until now there had been continuous use of forced labour, coordinated by high-ranking military officers in some areas of Burma. In most villages, road constructions and repairs were done by villagers themselves at the order of the military commander through the village chairman. Villagers were summoned to do the hard work and required to bring their own tools and food. They were obliged to work for a certain number of days without pay, and fines were imposed in case of failure to work. This kind of work was also required in the construction of military stations. Prisoners were also required to do hard labour, such as fetching thousands of buckets of water per day, serving as porters to battalions of soldiers and carrying rice and rum bottles weighing about 30 kilos, as well as military supplies and ammunition to nearby army camps. Since prisoners were not well fed, they could hardly carry the heavy weights and were therefore subjected to beatings by the soldiers.

The farmers who used to toil their own fields were forced to work in government rice fields, with the result that their land became unproductive and they lost their harvest. Leaving them with nothing to survive on resulted in an increased flow of refugees to Thailand.

Referring to Convention No. 87, she indicated that a large number of human rights violations were linked to freedom of association. There was a blatant denial of freedom of assembly, association and expression. The legal framework in Burma deterred and even banned any legitimate action aimed at establishing well-functioning, independent and representative workers' organizations in the country. Anyone who invoked the law to challenge arbitrary power faced arrest, violence and possibly death.

The situation in the country was greatly affecting the region. It was inhumane and unjust to deprive the Burmese people of their human rights and freedom. While most of the countries in the region were evolving democratically, Burma had not improved economically since the Asian crisis and the spread of SARS in the region. The issues of the illegal migration of workers and the increase in refugees from the country significantly aggravated this problem.

She emphasized that if the authorities were to implement their responsibilities towards their citizens, it had to provide more job opportunities to its people by diverting its budget allocation to income-generating activities, rather than allocating most of its finances to the military. In this way, the people would no longer resort to fleeing to nearby countries for jobs and the issue of irregular migration could be addressed.

The Worker member of Japan stated that, despite the promises of the Government, forced labour was still widespread even today. He urged the Government of Burma to implement the recommendations in paragraph 47 of the report of the Committee of Experts, including the amendment of the Village Act and the Towns Act, and Order No. 1/99 and its supplementing order.

He recalled that under the resolution adopted by the Conference in 2000, member States had to review their relations with the Government of Burma and, at the same time, not give to it any advantages to prevent the continued use of forced labour. He expressed the view that sanctions would be the most effective form of action if all member States could get together to put pressure on Burma. Unfortunately, in reality, there were several countries and some multinational companies which supported the Government, financially and politically. He did not deny the fact that international investment could help to open societies and bring democratic changes in some countries. However, this was not the case of Burma. Foreign direct investment in the country had to be carried out through joint ventures with the military regime. Under the law, fees and benefits from investments went straight to military generals. According to the Economist Intelligence Unit report, foreign direct investment in Burma from 1988 to 2000, except for the Asian financial crisis, grew steadily from US\$56 million to 1,352 million US dollars. This was largely due to the fact that most of the top investors in Burma were ASEAN countries, such as Singapore, Thailand, Malaysia and Indonesia. By the end of March 2001, foreign investors from 25 countries had committed themselves to 322 projects in 11 sectors of economy, amounting in total to US\$7,395 million. The most important aspect was that the amount of investment was greatly increasing even now, in spite of the ILO resolution.

The ten major foreign investors, most of which were multinational companies, originated from Singapore, the United Kingdom, Thailand, Malaysia, the United States, France, Indonesia, the Netherlands, Japan and the Democratic Republic of Korea. He added that his own country, as one of those that supported Burma economically and politically, had not fulfilled its responsibilities with respect to the democratization of the country. He mentioned that China was ranked the 15th with 61 million US dollars and it cannot be exonerated from political responsibility of supporting the military regime of Burma. There was no doubt that these types of financial and political support helped the military regime to survive and to oppress the people of the country. He urged the representatives of these governments and employers' groups no longer to offer any advantage to the military regime.

The Worker member of Malaysia recalled that he had spoken on the issue of forced labour in Myanmar on many occasions in the Governing Body. Referring to the promises made by the Government representative to the Governing Body, he emphasized that in reality nothing had been done for the past five years. Yet the Government representative was once again making promises. He recalled that no responses had been supplied to the many questions raised in the Governing Body in November 2002, in particular concerning the killing of seven people and the action taken to find and punish those responsible. Referring to the issue of human rights, he indicated that people of Burma had been waiting for many years to see the light at the end of the tunnel. There was no point in listening to any more empty promises. It was time for the Government to accept its responsibilities and to implement the recommendations of the Commission of Inquiry. However, no amendments had yet been adopted to the Village Act or the Towns Act. He therefore called upon the Governing Body to set up a committee to follow the implementation of the recommendations of the Commission of Inquiry.

The Worker member of Canada expressed his frustration and anger at the intolerable situation of forced labour in Myanmar. He referred to the developments since the last Conference as outlined in document D.5. A Liaison Officer had been appointed and a Plan of Action, including a pilot project and a facilitator mechanism, to help victims of forced labour to seek redress had been put together at the last second. Indeed, on 29 May 2003, as noted in the report, satisfaction had been expressed at finally reaching this level of progress. Unfortunately, the recent attack near a copper mine, merely hours after the meeting of the Liaison Officer with General Khin Nyunt, clearly pointed to the challenges posed by the eventual implementation of the Plan of Action. Firstly, the Plan of Action was to be implemented over an 18-month period. The question was what assurances the Conference Committee had that the authori-

ties would not use this period to continue its attacks on the democratic opposition, while claiming to comply with the Plan, putting the time frame in question. Secondly, with respect to the mechanism for making complaints by those who had been subjected to forced labour or those whose rights had been violated, under the present circumstances in the country it was doubtful whether many persons would seek redress, thus rendering public-awareness campaigns ineffective. Thirdly, while the purview, composition and functions of the field observation teams were outlined in great detail, any specific role for the facilitator remained completely undefined. It was unthinkable that under such circumstances and in the absence of the clearly recognized independence of the facilitator, an effective mechanism could be contemplated.

He expressed appreciation of the efforts made by the Director-General of the ILO, and the Liaison Officer. Unfortunately, the events of the past week served as an overwhelming and painful reminder that these challenges could not be overcome in the present context. He pointed out that the attacks of last week took place near an enormous copper mine operated by a Canadian mining company, Ivanhoe Mines, which was actively seeking to increase its investment in the country and therefore continuing to profit directly or indirectly from the existence of forced labour. In fact, Canada had become the third largest investor in the country.

He said that the Plan of Action should now be put on hold until such time as the Committee was satisfied with the commitment of the authorities to live up to their international commitments. Until then, regular visits by members of the Committee and/or the Governing Body should be considered as a means of ongoing monitoring of the situation.

The Worker member of India commended the Director-General and the Office on the adoption of a policy of considered, calculated and persuasive action for the elimination of forced and bonded labour in the country and welcomed the cooperative attitude of the Government. He emphasized that forced and bonded labour anywhere were a curse upon humanity and had to be brought to an end as soon as possible. Nevertheless, the issue needed to be seen in the context of the colonial past of the countries concerned. Myanmar had lost its traditional vocations, trade, culture and value system, together with enormous wealth, and was struggling for survival. He said that it was the essence of democracy that it needed to encompass diversity to achieve unity. While survival of the fittest was the law of the jungle, in a civilized world laws were needed so that the survival of the weakest became the responsibility of the fittest. He therefore called upon the ILO to use all the means at its disposal to raise awareness, educate and assist the authorities and people of Myanmar so that they could eliminate forced and bonded labour. However, he warned that this would require a change in national attitudes which could only be achieved through careful nurturing.

The Government member of Bangladesh commended the ILO for its constructive efforts to deal with the situation of forced labour in cooperation with the Government. He welcomed the Plan of Action and the Government's expressed commitment to eradicate forced labour and believed that its constructive engagement with the ILO was the most effective means of addressing the issue. He hoped that the measures agreed upon would generate an important momentum that would provide further impetus for continued constructive cooperation.

The Government member of Brazil emphasized the importance accorded by his country to the eradication of forced labour and respect for human rights. With respect to the issue of forced labour in Myanmar, he noted that the Government had shown the will to cooperate and had signed the Plan of Action with the ILO. He indicated that the proposed measures, especially the designation of the Facilitator, could contribute more effectively to promoting a climate of dialogue and cooperation. He expressed the hope that this would bring about changes in the country in the future. On the other hand, he expressed his concern at recent events and expressed the hope that such events would not have the effect of making it more difficult to apply the measures aimed at the eradication of forced labour.

The Government member of Canada regretted that, at a truly painful and tragic time in Burma's history, it was necessary to doubt the willingness of the Government to respect internationally recognized human rights, including the rights of workers, and particularly freedom from forced labour. At the Governing Body in March, his Government had cautiously welcomed the announcement of renewed commitment by the authorities for the appointment of a Facilitator to assist victims of forced labour to file complaints in a secure environment, as set out in the Plan of Action developed by the Government and the ILO. He gave thanks to the Office, and the Liaison Officer in particular, for their tremendous efforts in developing a more meaningful Plan of Action than that originally submitted by the authorities. The Plan of Action now set out concrete alternatives to the use of forced labour in the country and emphasized the need to eliminate this heinous practice. In particular, he

welcomed the appointment of Mr. de Riedmatten as Facilitator and emphasized the need for him to be able to operate freely in helping victims of forced labour seek redress. It would be critical for the authorities to cooperate fully and make every effort to ensure that the Plan of Action was implemented as quickly and effectively as possible.

However, he regretted that, despite the repeated condemnation of forced labour by the international community and the measures taken by the ILO, no appropriate action had been taken by the Government to achieve concrete results. The report of the Committee of Experts gave little reason for optimism and he recalled that the promises made in the past had been hollow. None of the key recommendations made by the Commission of Inquiry had so far been met. In the absence of such action, how was it possible to be sure that the Plan of Action was the appropriate way forward? The grave doubts concerning the political will of the authorities were compounded by the absolute lack of evidence that they were genuinely committed to national reconciliation or democratic transition. In other words, they had yet to establish an environment favourable for the implementation of the Plan of Action. He therefore called upon the authorities to engage immediately in substantive dialogue on national reconciliation, initiate the measures they had already agreed to in the past and implement in full the Plan of Action. Finally, he joined with other members in calling for the immediate release of Daw Aung San Suu Kyi and the other NLD party officials who had been detained.

The Government member of the Republic of Korea expressed appreciation of the progress made by the Government of Myanmar, including the appointment of the Liaison Officer, the development of the Plan of Action and the understandings adopted concerning the Facilitator and the pilot region. She emphasized the significance of the role of the Facilitator in seeking remedies for any victims who were or had been subjected to forced labour. She also hoped that the Government would continue to provide full support to and cooperate with the ILO and that it would adopt a credible and effective response to the ILO's recommendations. She called upon the ILO to help and facilitate the Government in its efforts to achieve concrete progress.

She said that all human rights were interrelated and indivisible. In this respect, she recalled that the Committee had recognized the need to address the important issues that lay within the ILO's mandate in a more integrated manner. She therefore believed that the establishment of a genuinely democratic government in Myanmar was essential for the achievement of all human rights and fundamental freedoms. However, she expressed concern at the recent detention of Daw Aung San Suu Kyi, and her colleagues in the NLD, and the closing down of the NLD headquarters. She called for their immediate release and an early normalization of NLD activities. Finally, she hoped that the Government would fully respect human rights and democratic principles and that it would further enhance its cooperation with the international community in its endeavours to improve the situation in the country, including the eradication of forced labour practices.

The Government member of Namibia reaffirmed that the situation of forced labour in Myanmar was undoubtedly a serious and contentious matter that had been on the ILO's agenda for some time. Positive action had been undertaken to provide technical assistance to the country in a structured, responsible and objective manner. He expressed satisfaction at the appointment of the Liaison Officer and Facilitator and the adoption of the Plan of Action and he urged the ILO to continue its valuable work. However, he emphasized that the most difficult part, namely the implementation of the Plan of Action, was still ahead and called upon the Government to provide full assistance and cooperation for this purpose.

An observer representing the World Organization Against Torture (OMCT) stated that this organization, known as a network of non-governmental national and international organizations, was justified in taking action on forced labour in Myanmar because the means used to impose this form of slavery notoriously included physical and moral torture, rape and summary execution. The Committee had raised the issue the previous year of the murders of victims of forced labour in the State of Shan, of which there had been no serious investigation. The Special Rapporteur of the United Nations Human Rights Commission had described the action taken by the Government on this case as hardly convincing and credible.

Although, from a formal point of view, progress had been noted with the abolition of forced labour on paper, the establishment of a Plan of Action and the appointment of a Facilitator, the need to implement these intentions in practice should not be overlooked. Recent events had been marked by a new wave of political repression, arrests of the opposition and massacres, which had occurred immediately following certain signs of openness towards the international community. Faced with such setbacks, the Facilitator should clearly take all possible precautions, as there were grounds

for doubting the guarantees offered to victims who might wish to denounce reprehensible acts. A survey by EarthRights International and the experience of the Human Rights Commission clearly illustrated the extent to which such guarantees could be tenuous.

The scope of forced labour in Myanmar was well known to everybody. A United States government body estimated the number of persons who were victims of these practices at between 100,000 and perhaps millions. There were grounds for doubting whether a regime founded on the reduction of the population to slavery could sincerely wish to reform its system. It could also be doubted whether the regime would have been elected if there had been free elections. In this respect, the United Nations Human Rights Commission had recalled that the will of the people of Myanmar had been clearly expressed at the elections in 1990. The objectives of the ILO (the elimination of forced labour) and the United Nations (the re-establishment of human rights) necessarily depended on a return to democracy in the country.

The Government member of Japan, exercising his right of reply to criticisms raised with regard to the economic assistance provided by his country to Myanmar, emphasized that such assistance was offered solely to address the real needs of the people in the fields of health, education and human development. It was important that the real objective of this assistance should not be misunderstood. He also expressed surprise at the criticism levelled at his Government's participation in the Global Fund to Fight AIDS, Tuberculosis and Malaria and emphasized that action needed to be taken against these diseases wherever they occurred.

The Executive Director of the Standards and Fundamental Principles and Rights at Work Sector, in response to the question raised by the Worker member of the Netherlands as to whether the Director-General had, or had not, written to member States concerning the review of the measures taken by them in relation to Myanmar, recalled that the Director-General took such measures upon the instructions of the Governing Body. Accordingly, he had written to member States following a decision by the Governing Body in November 2000 and reported the information supplied in response to the Governing Body in March 2001. The possibility of reactivating this measure in accordance with the article 33 resolution had been raised in the Governing Body in March 2003, although the Chairperson of the Governing Body had noted then that the Governing Body was not in agreement that the Director-General should proceed with these measures at this stage.

The Government representative said that he had listened with great interest to the statements and comments made and gave sincere thanks to the many speakers who had welcomed and expressed appreciation of the Plan of Action agreed upon by the Government and the ILO. In particular, he expressed profound gratitude to the ASEAN countries and other Government members who had made positive statements in support of his Government. He therefore concluded that, despite some critical comments on extraneous matters, there was a general sense of approval in the Committee, which welcomed the Plan of Action and the ongoing cooperation between the Government and the ILO. He reminded speakers who had expressed pessimistic points of view that the Plan of Action was a landmark agreement which would have been unthinkable even six months earlier. It was the best that could be achieved and met the requirements laid down by the Governing Body. Its implementation was clearly of crucial importance and his Government was committed to its effective application with a view to creating positive conditions that would eventually lead to the elimination of forced labour in the country.

However, he regretted that the forum had been abusively addressed by the observer from the ICFTU, Mr. Maung Maung, whose background of unlawful activities, including terrorism, made him unfit to intervene at the Conference. He also stated that Maung Maung (a) Pyi Thit Nyunt Wai was nothing but a criminal and a fugitive from justice and a terrorist. His criminal activities included, for instance, his involvement in an abortive terrorists' attempt to carry out bomb attacks in Yangon in 1997. He also regretted that certain speakers had referred to recent political developments in his country, which only served to detract from the main subject of the discussions. In his view, there was no linkage between politics and his country's observance of the Convention. The ILO dealt with labour matters, and not political or human rights issues. However, as the matter had been raised, he reluctantly felt the need to respond to the comments made. In this respect, he recalled that his Government had been engaged in national reconciliation efforts since the advent of the State Peace and Development Council. These efforts had borne fruit and, as part of the systematic transition to democracy, the Government was permitting legal political parties, including the National League for Democracy (NLD), to expand their political activities. Since the lifting of restrictions in May 2002, Daw Aung San Suu Kyi had been allowed to travel freely throughout the country and to engage in a wide range of political activities, including meeting the people, foreign diplomats and the

international media, and opening NLD party offices throughout the country. In this connection, there had been agreement that the members of the NLD would not engage in any activity that could disrupt the existing peace and stability in the country. While Daw Aung San Suu Kyi had been free to engage in normal political activities, it had also been agreed that prior consultations should be held concerning all her planned trips. However, militant members of the NLD had recently become lawless and their activities had given rise to unrest and disturbances. He expressed the belief that democracy must be disciplined, but indicated that the practices of the militant members of the NLD were a far cry from normal democratic practices. He cited cases of unrest, and even injuries caused by Daw Aung San Suu Kyi's motorcade. He stressed that, if Daw Aung San Suu Kyi was prudent and clever enough, she could have overcome all these problems. It was, therefore, evident that there was premeditation on the part of Daw Aung San Suu Kyi, but not on the part of the Government. In view of these events, the authorities had been compelled to control the situation and take temporary measures to provide protection to Daw Aung San Suu Kyi and some of the militant members of her party. He emphasized that these measures were temporary and gave assurances that Daw Aung San Suu Kyi was safe and unhurt. He said that she did not have even a bruise.

Finally, he reaffirmed that his Government would continue its policy of national reconciliation and of transition to democracy in a systematic and step-by-step manner. He also recalled his Government's determination and commitment to resolving the issue of forced labour and to implementing the Plan of Action.

The Worker members strongly protested against the accusations made by the Government representative with regard to Mr. Maung Maung. They emphasized that the statements were false and that other authorities, including the Thai Government, had recognized their wrongfulness. This was an old technique and was often used to prevent the application of Convention No. 87. They concluded that, after last week's events, there were good grounds for wondering who the real terrorists were.

The Employer members emphasized that the discussion had been long, serious and very necessary and that a rare degree of agreement had been reached on the subject under discussion. The Government should take note of this and ensure that its efforts went much further than in the past. Urgent action needed to be taken to implement the Plan of Action. In practice, this would require almost revolutionary measures, since forced labour was a part of the system in the country and there was no separation of powers within the State. An extraordinary effort would therefore be required from the Government to ensure that its people enjoyed their basic human right to freedom. However, if the practical steps agreed upon most recently were not taken, this would amount to a major setback. It was to be hoped that the Government realized that it was at a crucial crossroads and that a country which refused to fulfil its international obligations faced isolation from the international community, with all the consequences that this entailed for its people. The Employer members hoped that the Government realized this and would adopt a responsible approach in taking concrete action.

The Worker members stated that they did not wish to repeat the analysis of the case nor the conclusions of the Committee of Experts which had provided many irrefutable arguments. They repeated their main conclusion that the Government of Myanmar never followed up its assertions of good intentions with concrete action. The Plan of Action might be an indication of good intentions, but its implementation was completely undermined in advance by last week's events. In order to make this Plan of Action (which was positive in itself) credible, at least three elements were necessary. The Government should immediately release Daw Aung San Suu Kyi and her supporters, allow democracy in the country and engage in a constructive dialogue with the ILO's representatives.

Finally, they requested the ILO and the Director-General to reiterate and reinforce the call made in 2000 to the constituents of the Organization to inform the Office of the measures taken in order to help eliminate forced labour in Myanmar.

The Committee recalled that its debate was taking place at a moment when the international community was deeply concerned at the events which were occurring in Myanmar, namely the incommunicado detention of the leadership of the National League for Democracy, in particular its General Secretary, Daw Aung San Suu Kyi, and the alleged killing and disappearance of an unknown number of people. In this connection, a number of speakers expressed their concern at the personal situation of Daw Aung San Suu Kyi and asked that she immediately be released. These events, and the resulting climate of uncertainty and fear, called seriously into question the will and ability of the authorities to make significant

progress in the elimination of forced labour. The Committee requested the Government representative to convey its profound concern to his Government.

In its observation, the Committee of Experts had noted that the three recommendations of the Commission of Inquiry had still not been implemented: the Village and Towns Acts had not been amended, although Order 1/99 and its Supplementary Order could, if applied in good faith, provide a statutory basis for ensuring compliance with the Convention in practice; measures to stop the exacting of forced labour in practice, such as concrete and specific instructions to the civilian and military authorities and budgetary allocations for the effective replacement of forced and unpaid labour, had not been taken; and there had been no prosecution of or sanctions imposed on persons for exacting forced labour.

The Committee took note of the statement of the Government representative, as well as the other information and documents before it. It noted with appreciation the Government's cooperation with the ILO Liaison Officer in Myanmar since she had taken up her position in October 2002. It had to note, however, that the measures taken by the Government to publicize widely Order 1/99 and its Supplementary Order, including the translation of these texts into six languages of national minorities, and the field visits carried out by the field observation teams of the Convention No. 29 Implementation Committee, still had not resulted in tangible progress in the application of the Convention. It was clear from the information available from various sources, including the impressions of the Liaison Officer, as reflected in her report to the 286th Session of the Governing Body, that recourse to forced labour continued in practice and that the situation was particularly serious and appeared to have changed very little in certain areas with a heavy presence of the army. It also noted that despite the discussions between the authorities and the Liaison Officer in the Convention No. 29 Implementation Committee, all the investigations carried out by that Committee into the allegations of forced labour presented by the Liaison Officer had found that these allegations were unfounded.

Taking into account the urgent need expressed repeatedly by the Committee of Experts, the Governing Body and the present Committee to move from procedural steps to substantive progress in putting an end to forced labour, the Committee welcomed the fact that the Government and the ILO had agreed on 27 May 2003 on a joint Plan of Action for the elimination of forced labour and expressed its support for this Plan. It noted with interest that, on the basis of the suggestion made by the High-Level Team, the Plan envisaged the designation of an independent Facilitator to assist victims of forced labour to obtain redress under national legislation. It was noted that the Facilitator would carry out his functions throughout the country. Under the Plan of Action, the Government had undertaken to strictly enforce the prohibition on forced labour in the pilot region. While emphasizing that the implementation of the Plan of Action was without prejudice to the general obligation of the Government to put an end to forced labour in the whole of the country, the Committee felt that this Plan of Action, if it was applied in good faith, could enable tangible progress to be made in the elimination of forced labour and could open the way to more substantial progress. The Committee urged the Government to take all the measures required for this purpose. The reports of the Facilitator to the Governing Body, as well as the evaluation reports on the implementation of the Plan of Action, should allow the results obtained to be judged.

In view of this, the Committee was bound to deplore the situation created by recent events in Myanmar. A climate of uncertainty and intimidation did not provide an environment in which the Plan of Action, and in particular the Facilitator mechanism which it established, could be implemented in a credible manner. The Committee trusted that the Government would take the necessary measures to bring an end to this situation. The Committee hoped that the implementation of the joint Plan of Action would go ahead as soon as the Director-General considered that the conditions were met for its effective implementation. The Director-General was expected to report to the Governing Body at its November 2003 session on developments in the situation, in the light of the discussions in the present Committee.

The Government representative regretted that some of the Committee's conclusions were incorrect. He emphasized that recent political developments in the country were not relevant to the subject under discussion and he expressed his reservation in this respect.

The Worker member of the Netherlands, while fully aligning himself with the positive position adopted by the Worker members with a view to the conclusions, emphasized that the latter were very weak as regards the point of reporting on the implementation of the June 2000 ILO resolution which he had raised.

The sitting closed at 3 p.m.

B. 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)

1. The Committee has noted the Government's responses on the application of the Convention, including: reports received on 9 September 2002 and on 17 October 2002, communications dated 15 November 2002 and 18 November 2002, a report entitled "Developments concerning Convention No. 29" dated 18 November 2002, a report transmitted on 27 November 2002, and a supplementary progress report dated 27 November 2002. In examining compliance with the recommendations of the Commission of Inquiry established to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29), the Committee has furthermore taken note of the following information:

- the information submitted to, and the discussions held at, the International Labour Conference at its 90th Session (June 2002) (*Provisional Record* No. 28, Part Three);
- the information submitted to the Governing Body of the ILO at its 285th Session in November 2002, including in particular the report on "Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)" (GB.285/4 and appendices), the presentation by the representative of the Government and the conclusions by the Governing Body (GB.285/PV);
- a communication dated 14 October 2002 with which the International Confederation of Free Trade Unions (ICFTU) submitted to the ILO fresh documentation referring to the continuing massive recourse to forced labour by military authorities in Myanmar, a copy of which was transmitted to the Government on 8 November 2002 for such comments as it may wish to present on the matters raised therein.

2. Information available on the observance of the Convention by the Government of Myanmar will again be discussed under three main parts, dealing with: (i) the amendment of legislation; (ii) any measures taken by the Government to stop the exaction in practice of forced or compulsory labour and information available on actual practice; and (iii) the enforcement of penalties which may be imposed under the Penal Code for the exaction of forced or compulsory labour.

I. Amendment of legislation

3. In paragraph 470 of its report of 2 July 1998, the Commission of Inquiry noted:

... that section 11(d), read together with section 8(1)(g), (n) and (o) of the Village Act, as well as section 9(b) of the Towns Act provide for the exaction of work or services from any person residing in a village tract or in a town ward, that is, work or services for which the said person has not offered himself or herself voluntarily, and that failure to comply with a requisition made under section 11(d) of the Village Act or section 9(b) of the Towns Act is punishable with penal sanctions under section 12 of the Village Act or section 9(a) of the Towns Act. Thus, these Acts provide for the exaction of "forced or compulsory labour" within the definition of Article 2(1) of the Convention.

The Commission of Inquiry further noted that the wide powers to requisition labour and services under these provisions do not come under any of the exceptions listed in *Article 2, paragraph 2, of the Convention* and are entirely incompatible with the Convention. Recalling that the amendment of these provisions had been promised by the Government for over 30 years, the Commission urged the Government to take the necessary steps to ensure that the Village Act and the Towns Act be brought into line with the Convention without further delay, and at the very latest by 1 May 1999 (paragraph 539(a) of the Commission's report).

4. The Committee observes that, as at the end of November 2002, the amendment of the Village and Towns Acts sought by the Commission of Inquiry as well as the present Committee and promised by the Government for many years had still not been made, nor had any draft law proposed or under consideration for that purpose been brought to the knowledge of the Committee. In its previous observation, the Committee noted that legislative powers were exercised by the Government in June 2000 and February 2001 when it adopted the "Judiciary Law, 2000" and the "Attorney-General Law, 2001". The Committee once again expresses the hope that the Village Act and the Towns Act will at last be brought into conformity with the Convention.

5. In its observation in 2001 the Committee noted, however, that, although the Village Act and Towns Act still needed to be

amended, an "Order directing not to exercise powers under certain provisions of the Town Act, 1907, and the Village Act, 1907" (No. 1/99), as modified by an "Order Supplementary Order No. 1/99" dated 27 October 2000, could provide a statutory basis for ensuring compliance with the Convention in practice, if given bona fide effect not only by the local authorities empowered to requisition labour under the Village and Towns Acts, but also by civilian and military officers entitled to call on the assistance of local authorities under the Acts. This, in the view of the Committee, called for further measures to be undertaken, as indicated by the Commission of Inquiry in its recommendations in paragraph 539(b) of its report.

II. Measures to stop the exaction in practice of forced or compulsory labour and information available on actual practice

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

6. In its recommendations in paragraph 539(b) of its report of July 1998, the Commission of Inquiry indicated that steps to ensure that, in actual practice, no more forced or compulsory labour be imposed by the authorities, in particular the military, were:

... all the more important since the powers to impose compulsory labour appear to be taken for granted, without any reference to the Village Act or Towns Act. Thus, besides amending the legislation, concrete action needs to be taken immediately for each and every of the many fields of forced labour examined in Chapters 12 and 13 (of the Commission's report) to stop the present practice. This must not be done by secret directives, which are against the rule of law and have been ineffective, but through public acts of the Executive promulgated and made known to all levels of the military and to the whole population. Also, action must not be limited to the issue of wage payment; it must ensure that nobody is compelled to work against his or her will. Nonetheless, the budgeting of adequate means to hire free wage labour for the public activities which are today based on forced and unpaid labour is also required.

7. *Absence of specific and concrete instructions.* In its observation in 2001, the Committee noted that, in the absence of specific and concrete instructions to the civilian and military authorities containing a description of the various forms and manners of exaction of forced labour, the application of the provisions adopted so far turns upon the interpretation in practice of the notion of "forced labour". This cannot be taken for granted, as shown by the various Burmese terms used sometimes when labour was exacted from the population - including "loh-ah-pay", "voluntary", or "donated" labour.

8. In its previous observation, the Committee noted that in its report the Government only referred to a directive issued on 1 November 2000 by the State Peace and Development Council (SPDC) "instructing all concerned authorities to strictly abide by the Orders issued by the Ministry of Home Affairs", i.e. Order No. 1/99 and its Supplementary Order. The Committee noted from the report of the High-Level Team (HLT) that, at the time of drafting its report (in October 2001), the HLT had only received three instructions in Burmese issued by various military commanders to units under their command. Two of these instructions did not contain any specifications either of the kinds of tasks for which the requisition of labour was prohibited nor the manner in which the same tasks were henceforth to be performed. The third instruction issued by the NaSaKa and dated 22 July 2001 provided another example of the blurring of the borderline between compulsory and voluntary labour and of action which in the last resort is limited to the issue of wage payment, contrary to the specific indications in paragraph 539(b) of the report of the Commission of Inquiry.

9. In the Government's report received on 9 September 2002, the Government only refers to "explanations" of Order No. 1/99 and its Supplementary Order, mentioned in paragraph 5 above, that were made "at the offices of the Peace and Development Councils at various levels and also the offices of the General Administration Department throughout the country". The Government also indicates that the Orders were circulated to all ministries, including the Ministry of Defence, "for issuance of further directives to all units under its command". In its report transmitted on 27 November 2002, the Government indicates that "explanations" of the Orders were made at the offices of the Department of Justice and to the police forces and township courts. The Government has not supplied any further details about the "explanations" or the "further directives" referred to, nor has it made any further reference to the

directive issued on 1 November 2000 by the SPDC, which it mentioned in its 2001 report.

10. The Committee notes the report "Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)" (ILO document GB.285/4 and addenda), which includes, in Appendix I, a summary of activities carried out by the ILO interim Liaison Officer. The summary, at paragraph 25 of Appendix I, refers to a meeting the interim Liaison Officer had on 23 August 2002 with the Implementation Committee "in order to review developments since the HLT visit [in September and October of 2001]". At that meeting, the Deputy Minister for Labour indicated that:

On two occasions since the visit of the HLT, a number of teams headed by directors in the Department of Labour had visited the field to assess the situation and explain the Orders to the people of the area. As was explained by another member of the [Implementation] Committee, however, these teams did not generally meet with local military commanders.

The Implementation Committee stated further that:

... in addition to being distributed on paper in English and Burmese, the Orders had been announced publicly by town criers, and meetings had been called at which verbal explanations had been given to the people in the language that they understood, including various ethnic languages. Regarding additional instructions, none had been issued since the visit of the HLT, but further briefings had been given to administrative officials called to Yangon.

11. In its report transmitted on 27 November 2002, the Government, in referring to visits by field observation teams in 2002, states only that during the visits the teams "left necessary guidance to the authorities". The Government has not supplied information in any greater detail regarding the content of the "explanations", "briefings", or "guidance" which it states it provided in conjunction with the dissemination of Order No. 1/99 and its Supplementary Order.

12. Before the ILO Governing Body at its 285th Session in November 2002, a representative of the Government stated that "necessary directives and instructions" were issued to all the ministries and departments concerned including the Ministry of Defence. The representative did not provide information in any greater detail.

13. Thus, accepting that the Government has undertaken some distribution of instructions, nonetheless, clear instructions are still required to indicate to all officials concerned, including officers at all levels of the armed forces, both the kinds of tasks for which the requisition of labour is prohibited, and the manner in which the same tasks are henceforth to be performed. The Committee hopes that the necessary detailed instructions will soon be issued, and that they will, *inter alia*, cover each of the following:

- portering for the military (or other military/paramilitary groups, for military campaigns or regular patrols);
- construction or repair of military camp/facilities;
- other support for camps (guides, messengers, cooks, cleaners, etc.);
- income generation by individuals or groups (including work in army-owned agricultural and industrial projects);
- national or local infrastructure projects (including roads, railways, dams, etc.);
- cleaning/beautification of rural or urban areas;
- the supply of materials or provisions of any kind. The prohibition of requisition also must apply to demands of money (except where due to the State or to a municipal or town committee under relevant legislation) since in practice, demands by the military for money or services are often interchangeable.

14. *Publicity given to orders.* In its previous observation, the Committee noted the allegation made by the International Confederation of Free Trade Unions (ICFTU) in its communication dated 29 November 2001 that:

Indeed, many reports included herewith confirm that, in certain parts of the country at least, Order 1/99, its Supplementary Order and other relevant legal texts had been widely publicized. Reports abound in the ICFTU's evidence of meetings organized in villages by the authorities to this effect, ahead of the ILO's visit. As often as not, they had been run by senior SPDC officials dispatched from regional commands or even Rangoon.

... In actual fact, villagers frequently – if not always – had to pay the costs of these "information gatherings", such as gasoline or food and drink for visiting SPDC officials. As for the "Orders" themselves, they were publicized, quite cynically, through what can only be described as "forced distribution", whereby the so-called "Green Book" issued by the authorities on the subject had to be bought at 1,000 kyats or more per copy, with typically one to eight copies forcibly sold to each village; the villagers were also forced to purchase foam boards on which the "Orders" had to be posted.

15. The Committee invited the Government to comment on this allegation. The Committee notes that the Government has not

commented on this allegation in any of its most recent reports and communications. Instead the Government reports in various documents, either on its actions or its expressed intentions in relation to publicity of orders:

- In its report received on 9 September 2002, the Government states that Order No. 1/99 and its supplementing order have been circulated to all state organs and ministries including the Ministry of Defence.
- In its report transmitted on 27 November 2002, the Government indicates that the Orders were posted at the offices of the Peace and Development Councils at the various levels, at the offices of the General Administration Department, the Department of Justice and with police forces and township courts.
- In a communication of 15 November 2002 from the Director-General of the Department of Labour to the ILO Liaison Officer (Appendix to GB.285/4 (Add.2)) it was stated that, within a matter of days, translations of Order No. 1/99 and its Supplementary Order in Shan, Mon, and Kayin languages would be disseminated, and that translations into Kayah, Chin, and Kachin languages were in progress and would be published very soon. It also stated that a pamphlet on forced labour was being prepared in order to publicize the Convention. In a report dated 18 November 2002, the Government attached copies of what it states are translations of the Orders into the Mon, Shan, and Kayin languages.
- In a report transmitted on 27 November 2002, the Government states, at paragraph 3, that the translated versions would be distributed in the very near future, that it now planned to translate the orders into Chin, Kachin, and Kayah, and that it was initiating necessary steps to publicize the provisions of the orders in pamphlet form and by brochure, press release, etc.

16. The Committee notes this information and trusts that the Government will honour the indications it has given in relation to publicity of orders and report action on those items. The Committee also requests that the Government respond to the earlier allegation made by the ICFTU in its communication dated 29 November 2001 and in addition, to respond to the recent indications of the ICFTU in its communication dated 14 October 2002, that:

... in certain areas, villagers ... indicate that the practice [of forced labour] has never stopped and they had, in fact, never heard of any "Orders" from Rangoon to the effect that forced labour was now banned. This is clearly indicated in a number of interviews by forced labour victims provided by the Federation of Trade Unions – Burma (FTUB) and EarthRights International (ERI).

17. A June 2002 report by EarthRights International, which is appended to the communication of the ICFTU, is based on scores of interviews with villagers of Shan State, Karenni State, Karen State, Pegu Division, Mandalay Division, and Tenasserim Division during the period from January to May 2002. It alleges that:

Few villagers are familiar with Order No. 1/99 ... More villagers are aware of announcements that the practice of forced labour is to have ended, but many villagers still have never heard of such proclamations – formally or informally.

Further documentation supplied by the ICFTU also refers to:

... announcements regarding no more forced labour that had created confusion and fear among the population. This had resulted in an atmosphere that was not conducive to encouraging villagers to make complaints about ongoing forced labour. To date, ERI had yet to speak with a villager who knew how to make a complaint, much less one who had attempted to make a complaint about ongoing forced labour.

The Committee awaits the comments of the Government on these allegations.

18. *Budgeting of adequate means.* In its previous observation, the Committee noted that the issue of allocating adequate budgetary resources to recruit voluntary wage labour for public activities, which have been based on forced and unpaid labour, was taken up by the HLT with the Myanmar authorities. On a number of occasions during its field trips and in Yangon, the HLT requested details on alternative means of obtaining required labour or services now that forced labour was prohibited. The HLT also inquired about any changes in budgetary arrangements. The Committee noted that it appeared from paragraphs 63 to 66 of the report of the HLT that at the time the report was finalized (29 October 2001), the HLT had not received information allowing it to conclude that the authorities had indeed provided for any real substitute for the cost-free forced labour imposed to support the military or for public works projects.

19. The Committee notes that the interim Liaison Officer (discussed below) took up the issue of allocating adequate budgetary resources to recruit voluntary wage labour with the Implementation Committee, during his meeting with that Committee on 23 August 2002. The summary of the meeting (GB.285/4, Appendix I, paragraph 25) states: "Regarding evidence of budgetary provision for the payment of labour in public works projects, it

was again explained that according to the Myanmar budgetary system there was no separate budget line for labour costs, and it was therefore not possible to provide such evidence.”

20. The Committee notes the statement of the Government in paragraph 5 of the supplementary progress report transmitted on 27 November 2002, that:

As regards the budget allocation, ... there is always a budget allotment for each and every project. The labourers and all persons employed under the respective projects can enjoy the prevailing wages rate of the respective areas. In the light of this, we are confident that we have fully implemented the measures regarding the budgetary allotments ...

21. The Committee once again expresses the hope that the necessary detailed instructions will soon be issued and that, in the words of paragraph 539(b) of the Commission of Inquiry's report, provision will also be made for “the budgeting of adequate means to hire free wage labour for the public activities which are today based on forced and unpaid labour”.

22. *Monitoring machinery.* In its previous observation, the Committee noted that the Government referred to the creation of a Ministerial Level Committee and a National Level Implementation Committee which are not only to monitor the adherence to law by local authorities, members of the armed forces and other public service personnel, but also to ensure that the local authorities and the people at the grass-roots level are fully aware of the aforementioned Orders nationwide. The Government also referred to field observation teams (FOTs), respectively led by Heads of the Departments under the Ministry for Labour and comprising of responsible personnel from the General Administration Department, Myanmar police force and the Department of Labour, which it stated had been dispatched to various areas to investigate the situations relating to the practice of forced labour and to observe the public awareness of these Orders. The Government stated that these FOTs would make frequent visits to all areas within the country.

23. In its supplementary progress report transmitted on 27 November 2002, the Government again indicates that it has formed a Ministerial Committee with regard to ILO matters, headed by the Minister for Labour, and an Implementation Committee, headed by the Deputy Minister for Home Affairs, to monitor the implementation of Order No. 1/99 and its Supplementary Order. The Government also indicates, both in paragraph 6 of this report and in its previous report dated 18 November 2002, that the authorities have decided to include a high-ranking military official from the Office of the Inspector General under the Ministry of Defence to serve as a member of the Implementation Committee. The Committee notes that this inclusion would be a helpful and important addition to the Implementation Committee.

24. In its supplementary progress report transmitted on 27 November 2002, the Government refers to visits by FOTs headed by the members of the Implementation Committee to disseminate Order No. 1/99 and its supplemental order, and it refers to inquiries made by the teams about whether the Orders were made known to the public and whether there were any complaints on the exaction of forced labour. At paragraph 4 of its report, the Government indicates that a list of these visits was included in the attachment to the report. The attachment consists of a list of monthly visits by individual ministers to various townships and to visits by individual members of the Implementation Committee, most of which appear to have occurred in August, September, and October of 2002. At paragraph 7 of its report, the Government states that measures were carried out in the course of the visits, which included: determining first-hand the awareness and understanding of the Orders by the local populace; and assessing the effectiveness of the Orders and of measures taken by regional authorities at the state/division, township, and village tract levels.

25. *ILO Liaison Officer.* The Committee notes that, pursuant to an understanding concluded on 19 March 2002, the Government agreed to the appointment of an ILO Liaison Officer in Myanmar, as a step towards the establishment of a continued ILO presence in the country capable of contributing effectively to the objective of eliminating forced labour. The mandate of the Liaison Officer has been defined as covering all activities relevant to the objective of ensuring the prompt and effective elimination of forced labour in the country. Pursuant to this agreement, an interim Liaison Officer was appointed from 6 May 2002 to October 2002. During that time the interim Liaison Officer:

- made initial contacts in May 2002 with government officials;
- held a number of meetings with various parties during the period from June to October of 2002;
- conducted a field trip to Tanintharyi Division (GB.285/4, paragraph 6).

On 7 October 2002, a permanent ILO Liaison Officer took up her appointment in Yangon and already has had a range of contacts and meetings with government officials and others during October and November of 2002 (GB.285/4 (Add.), paragraph 1).

26. The Government makes several comments in relation to the field trip undertaken by the interim Liaison Officer to the Tanintharyi Division in September 2002. In the Government's report received on 17 October 2002, the Government refers to a visit by a FOT “composed” of government officials and the ILO interim Liaison Officer. The Government states that the report of the visit, submitted to the Ministry for Labour by the FOT, mentioned that “there are no instances of forced labour practices in the region, and that no legal action has to be taken against anyone under Penal Code 374 for infringement of Order No. 1/99.” The Government has not supplied a copy of the report it refers to.

27. The report on Developments (GB.285/4) at paragraphs 13 and 14, also refers to an FOT which “consisted” of the ILO interim Liaison Officer, his assistant, and a senior official from the Ministry of Labour which visited the Tanintharyi Division, and indicates that the purpose of the trip “had not been to conduct investigations into specific allegations, but was rather to gain an impression of the root causes of the problem (such as the economic situation) and explore the possibilities for ILO assistance in solving the problem”.

28. Whilst welcoming the interaction between the ILO Liaison Officer and the Implementation Committee and the FOTs, the Committee hopes that there will not be confusion between the differing roles and functions of the Liaison Officer from that of the government bodies. It is important that the FOT's actions are not regarded as “comprising” the ILO Liaison Officer as the function and actions of each of the respective bodies should remain separate and not become blurred.

29. The Committee notes these indications given by the Government of its endeavours to abolish the practice of forced labour throughout the country. The Committee notes, however, that these endeavours need to be placed in the context of the absence of specific and concrete instructions as well as the lack of budgetary allocations for the replacement of forced and unpaid labour.

B. Information available on actual practice

30. In its previous observation, the Committee took note of the “Findings as regards the impact on the realities of forced labour of the steps taken to implement the Orders”, set out in paragraphs 54 to 58 of the October 2001 report of the HLT. The Committee also noted the analysis by the HLT in paragraphs 59 to 62 of its report, in which it identified the obstacles to the more effective eradication of forced labour in Myanmar, particularly the “self-reliance” policy of the army, the uncertainty as regards substitute financial/practical arrangements, and institutional obstacles.

31. The Committee, in its previous observation, also noted the communication of the ICFTU dated 29 November 2001, which included allegations that the military authorities of Burma had continued to resort to forced labour on a massive scale. In support of its claims, the ICFTU enclosed nearly 30 reports and other documents, totalling over 100 pages, and which often included precise indications of time and place, any military battalions or companies involved, and the names of the commanders. The Committee hoped that the Government would examine the indications given by the ICFTU and supply detailed information on any action taken thereupon, as well as upon the report of the HLT, to prosecute all persons found responsible for ordering forced labour, and that it would supply full information on the action taken. In its latest reports, the Government has not supplied the information requested by the Committee.

32. *The Government's view.* In its earlier report on the application of the Convention transmitted on 30 September 2001, the Government states that the elimination of forced labour “will be the main priority concern of the Government”. Before the ILO Governing Body at its 285th Session in November 2002, the Government representative stated that, in comparing the situations in 2000 and 2001 to the one in November 2002, one would definitely say that improvement and progress in Myanmar has been made over the years, but he did not explain in specific terms the improvement or progress he considered had been made. In its recent report transmitted on 27 November 2002, the Government states that the Implementation Committee “will carry out its endeavours to eradicate forced labour”. Thus, the Government still gives no indications as to the progress and results so far achieved.

33. *Reports on meetings of ILO liaison officers and government officials.* The Committee notes that the report on developments (GB.285/4) refers to a number of communications between the Liaison Officers and government officials on a range of issues including:

- A meeting with the Minister for Home Affairs on 1 July 2002 concerning alleged abduction of teenagers in Yangon who were said to have been forced to work as porters, which was subsequently a matter for discussion by the ILO Governing Body at its 285th Session in November 2002 (GB.285/PV).

- A letter dated 24 July to the Minister for Labour (reproduced in GB.285/4, Appendix V) and a subsequent meeting on 30 July 2002, in which the interim Liaison Officer drew attention to specific allegations of forced labour contained in a report by Amnesty International (dated 17 July 2002 entitled "Myanmar: Lack of security in counter-insurgency areas"), and recommended that the Implementation Committee dispatch teams to the various areas to start investigating these allegations as well as also investigating other allegations of a worsening forced labour situation in parts of northern Rakhine State.
- A letter dated 4 October 2002 from the interim Liaison Officer to the Implementation Committee giving the details of a complaint (without identifying the source), that vehicle owners were being requisitioned along with their vehicles to transport troops and supplies in the Kyaikto area as well as work on the construction of an artillery base, and requesting that the Committee investigate this matter urgently and inform the ILO of the result.
- A meeting with the Implementation Committee on 23 August 2002 at which the interim Liaison Officer was briefed on progress that had been made since the last meeting in May. The Implementation Committee indicated that it was aware of various allegations of forced labour, including those contained in the report by Amnesty International, but stated there was no information from the field about any such cases and it considered that most of the allegations were exaggerated or had been fabricated by expatriate groups, but it would, however, take note of the point made in the report of the ILO HLT and look into the situation in remote areas.
- A meeting with the Implementation Committee on 9 November 2002, when the Liaison Officer was able to follow up on the allegations transmitted by the interim Liaison Officer in letters dated 23 July, 7 August, and 4 October of 2002. The Committee briefed the Liaison Officer on the various places in the country that its members had travelled to in order to disseminate information and learn about the situation on the ground. As regards the specific allegations, the Implementation Committee indicated that the situation in northern Rakhine State had been thoroughly investigated, and the allegations had been found to be false, as had the allegations concerning requisition of vehicles in Mon State. No investigations had been made of the Amnesty International allegations, or the allegations relating to the construction of an artillery base in Mon State. The Liaison Officer stressed the need for written reports of such investigations, indicated that the information provided by the Implementation Committee concerning northern Rakhine State was not consistent with a separate response given by the authorities to the United Nations High Commissioner for Refugees (UNHCR) on the same issue, and also raised a number of new allegations that had been communicated which she indicated the Committee should investigate. These new allegations, some details of which had been communicated to the Implementation Committee by the Liaison Officer in advance of the meeting, related to the forced recruitment of child soldiers, the killing of a trade unionist whilst being forced to work as a porter, a number of other specific allegations contained in information recently submitted to the Committee of Experts by the ICFTU, as well as information on alleged forced labour in two towns in Bago Division. The Liaison Officer transmitted further details of these allegations to the Implementation Committee in a follow-up letter dated 14 November.
- A meeting with the Minister for Foreign Affairs on 12 November 2002, at which the Minister indicated that the authorities had no policy of using forced labour, although they realized that the practice may be continuing in remote areas and they understood the need for prosecution of offenders.
- A meeting with Secretary-1 of the State Peace and Development Council (SPDC) on 14 November 2002, at which the Secretary stated that the authorities did not condone forced labour and had given clear instructions prohibiting it, although it was possible that such practices still occurred in remote areas. The Liaison Officer stressed the need to improve the existing system for investigating allegations and to find a way to investigate allegations concerning the army.

34. The addendum to the report on developments refers to a meeting of the Liaison Officer on 30 October 2002 with Daw Aung San Suu Kyi, the General-Secretary of the National League for Democracy (NLD). According to the report:

Daw Aung San Suu Kyi welcomed the appointment of an ILO Liaison Officer in Yangon, and hoped that the NLD would have regular contact with the Liaison Officer. She felt that while substantial progress on the forced labour issue ultimately required progress in the reconciliation process, the ILO might nevertheless be able to bring about improvements in some areas. The NLD had noted some decline in the use of forced labour, but also had information on continued recourse to the practice, including cases that she had come across herself.

35. The Committee welcomes the dialogue which the Government is having with the ILO Liaison Officer and hopes that the Government will rigorously carry out investigations into the allegations indicated by the Liaison Officer and will provide written reports including any prosecutions undertaken to enforce Order No. 1/99. In this way the Government may be able to demonstrate that it is truly implementing its expressed commitment to eliminate forced labour in the country.

36. *The ICFTU communication.* In its communication dated 14 October 2002, the ICFTU indicated that the information supplied therewith covers roughly the period October 2001 to September 2002. This information from a number of sources indicates very serious ongoing allegations related to forced labour. The communication describes cases from, among others, Chin State, Shan State, Mon State, Karen State, Arakan State and Irrawaddy and Tenasserim Divisions. The ICFTU stated that based on this information, it:

...considers that forced labour continues to be imposed in Burma by military and civilian authorities alike and that this forced labour is regularly, if not always, accompanied by egregious violations of human rights, including child labour, murder, assassination, torture, rape, beatings, looting or confiscation of property, denial of food, medical treatment, rest and shelter and many other violations ... All available evidence in fact clearly demonstrates that, after the ILO's High-Level Team left the country in October 2001, forced labour has fully resumed in all parts of the territory previously concerned by this practice.

37. The ICFTU pointed out that its communication was supported by numerous documents, including scores of interviews of forced labour victims. It stated:

Our evidence, totalling over 350 pages, describes, as always, hundreds of incidents of forced labour, involving thousands of victims and is supported by hundreds of written "forced labour orders". Most of the forced labour is for the direct benefit of the army, such as construction and maintenance of camps, barracks, fences and other army installations, forced labour on army agricultural property (mostly confiscated earlier from civilians). Part of it also concerns forced labour on or in connection with industrial projects operated by foreign companies. One report describes forced cultivation of opium, imposed by the army on the civilian population in Shan State.

38. The documents appended to the communication of the ICFTU include:

- ICFTU documentation concerning alleged murder by army elements in August 2002 of U Saw Mya Than, an official of the FTUB (Federation of Trade Unions - Burma) and the KEWU (Kawthoolei Education Workers Union), who had been forcibly recruited as a porter for the army's Light Infantry Battalion (LIB) No. 588, led by one Major Myo Hlaing. The ICFTU considered that the role of U Saw Mya Than as a trade union official and human rights activist was directly linked to his forcible recruitment as a porter and subsequent murder by the army (paragraph 3).
- A situation report from Kya Inn-Seik Gyi and Kawkerekik Townships and Dooplaya District, in Karen State based on interviews conducted with villagers, which details specific allegations involving the exaction of forced labour by SPDC soldiers from Division 88.
- The June 2002 report by EarthRights International (ERI), "We are not free to work for ourselves: Forced labor and other human rights in Burma (January 2002-May 2002)", based on 77 interviews concerning the practice of forced labour, conducted with villagers of Shan State, Karenni State, Karen State, Pegu Division, Mandalay Division, and Tenasserim Division during the period from January to May of 2002. The allegations in the report include findings that during that period, portering and other forms of forced labour continued in circumstances involving grave human rights abuses, that few villagers were familiar with Order No. 1/99, and that the use of fees to extort money continued to increase. The report included a very concerning allegation that the aftermath of Order No. 1/99 may have made the practice of forced labour more insidious and difficult to eradicate in the future. For example, ERI indicated that it found: efforts by the military authorities to "document" that forced labour had ended by pressuring villagers to give false testimony in a variety of forms that the practice had ended despite its continuance; threats of retribution by military commanders and soldiers, including the threat of being killed, if villagers told others that forced labour was continuing; changes in vocabulary surrounding forced labour in some areas, such as the use of the "helper" (a-ku-ah-nyi) instead of "forced labour" (loy-ah-pay); payments that now accompanied a few cases of forced labour, but villagers were still not able to refuse to work.
- Excerpts from an October 2002 report by the Documentation and Research Centre of the All Burma Students' Democratic Front, which includes allegations of forced labour in Chin State, Irrawaddy Division, Rakhine State, Shan State and Tenasserim Division.

- Excerpts from the Narinjara News concerning allegations of forced labour in Rakhine State.

39. The ICFTU documentation included a further supplement to the October 2001, namely a report of EarthRights International "More of the same: Forced labor continues in Burma". The report of EarthRights concerns alleged forced labour along the Yadana and Yetagun pipelines including allegations involving:

- military units providing security for two natural gas pipeline projects using conscripted forced labour and portering of villagers for construction or repair of military camps/facilities; national or local infrastructure project (including clearing roads, building bridges, etc.) in relation to the provision of military security;
- allegations that the consortiums which operate these pipelines which include TotalFinaElf (formerly Total) of France and Unocal of the United States, Premier Oil of the United Kingdom, use the Burmese military to provide security for their projects despite specific knowledge that the military has used and would continue to use forced labour;
- allegations that in about April 2002, civilians in at least 16 villages in Tenasserim Division (southern Burma) were forced to undertake construction work on a road between Kanbauk and Maung Ma Gan.

The documents appended to the ICFTU communication also included a copy of The Mon Forum (Issue No. 7/202, 31 July 2002), a publication of the Human Rights Foundation of Monland, in southern Burma, which includes similar allegations in relation to forced labour used in relation to the natural gas pipeline projects.

The Office has received correspondence from TotalFinaElf dated 31 October 2002 essentially denying the accusations.

40. The Committee requests the Government to examine the observations of the ICFTU which are specifically detailed in its report and attachments and supply detailed information on its investigations and any action taken thereupon to prosecute persons found responsible for ordering forced labour and for any concomitant crimes.

III. Enforcement

41. In paragraph 539(c) of its recommendations the Commission of Inquiry urged the Government to take the necessary steps to ensure:

... that the penalties which may be imposed under section 374 of the Penal Code for the exaction of forced labour or compulsory labour be strictly enforced, in conformity with Article 25 of the Convention. This requires thorough investigation, prosecution and adequate punishment of those found guilty.

42. In its observation published in 2001, the Committee had noted that point 4 of the directive dated 1 November 2000 from the State Peace and Development Council to All State and Divisional Peace and Development Councils (referred to by the Government in its 2001 report), provides for the prosecution of "responsible persons" under section 374 of the Penal Code, and that a similar clause is included in point 3 of an instruction dated 27 October 2000, addressed by the Director-General of the Police Force to all units of the police force.

43. The Committee again observes that no action under section 374 of the Penal Code has been brought to the knowledge of the Committee and that the report by the Government of asserted administrative action is inadequately documented and in any event does not fulfil the Convention requirements.

44. In its communication dated 14 October 2002, the ICFTU, in commenting on allegations demonstrating that forced labour had fully resumed following the visit by the High-Level Team in October 2001, stated:

Hence, in certain areas, villagers complain that forced labour has resumed with the same intensity, irrespective of Order No. 1/99 and Supplementary Order to No. 1/99, while in others, villagers indicate that the practice has never stopped ...

... Moreover, many incidents demonstrate clearly that field commanders and other army officers have only contempt for villagers' pleas to be spared from forced labour on the grounds of Order No. 1/99 and its Supplementary Order. Hence, in Kyaik Don (Doooplaya District, Karen State), the Commander Ohn Myint, in charge of army Division 88, is quoted in one of our reports as saying: "If some of you do not agree and are not satisfied with my arrangements for requesting villagers to work for us, you can submit it or inform about it to media if you dare. I am General Khin Nyunt's cousin".

The Committee requests the Government to comment on these matters, indicating in particular how any investigations into the allegations are being conducted, by the military themselves or by the judiciary, and any measures taken to protect from reprisals both witnesses having testified, and victims of forced labour seeking redress.

The Committee also requests the Government to give consideration to the establishment of the Office of Ombudsman or similar mechanism having the mandate and the necessary means to receive complaints of forced labour and conduct investigations as suggested by the HLT in 2001. The Government may wish to have dialogue with the Liaison Officer on this issue.

* * *

45. In summary, the Committee notes the following namely:

- measures recently announced by the Government which include the translation of Order No. 1/99 and its Supplementary Order into Shan, Mon, and Kayin languages;
- impending translation of the Orders into Kayah, Chin, and Kachin languages;
- the intent to disseminate these translated versions;
- the expansion of the Implementation Committee to include a high-ranking military official from the Office of the Inspector General under the Ministry of Defence;
- the preparation of a pamphlet on forced labour in order to publicize the Convention;
- the indication of the Government in paragraph 8 of its report dated 27 November 2002 that "an action plan calling for more effective and enforced measures to be adopted will be coordinated with the ILO Liaison Officer".

46. Whilst these actions are to be commended, at the same time the Committee recalls that the ILO Governing Body, at its 285th Session in November 2002 (GB.285/PV), welcomed the words of the Government but awaited the concrete action that must follow, and that the action it required of the Government is the eradication of forced labour, the bringing to justice of those responsible for perpetrating the acts of forced labour, and changing the legal process to give effect to the foregoing.

47. The Committee indicates that in spite of the indications and rhetoric of the Government, none of the three recommendations formulated by the Commission of Inquiry and accepted by the Government have so far been met. Despite longstanding promises, as well as the Government's assured good will, the Village Act and Towns Act have not yet been amended. While Order No. 1/99, as supplemented, has been widely publicized, by itself the Order has not stopped the exaction of forced labour, in particular by the military. There is no indication that the necessary specific and concrete instructions and budgetary provisions have been adopted or even prepared with a view to effectively replacing forced labour by offering decent wages and employment conditions to freely attract any workers needed. Finally, there is no indication that any person responsible for the exaction of forced labour and often concomitant crimes was sentenced or even prosecuted under section 374 of the Penal Code or any other provision, in conformity with *Article 25 of the Convention*.

[The Government is asked to supply full particulars to the Conference at its 91st Session.]

Document D.5

C. Brief summary of developments since June 2002

1. In the conclusions it adopted last year at the close of the special sitting concerning the application by Myanmar of the Forced Labour Convention, 1930 (No. 29), the Committee on the Application of Standards *inter alia* welcomed the establishment of a presence of the ILO in Myanmar, in the form of a Liaison Officer, but emphasized the need for real, rapid and verifiable progress, not only at the procedural level, but also and in particular at the level of the persistent reality of forced labour and the widespread impunity of those responsible, particularly the military. The following brief overview of the main developments since its last session should be of interest to the Committee. In a communication dated 22 July 2002 to the Minister for Labour of Myanmar the Director-General, noting the general impatience “to see concrete evidence of progress in the eradication of forced labour”, suggested that the two sides should work out “a coherent plan of work and action capable of making a concrete and verifiable impact towards the complete elimination of forced labour”.
2. In September 2002 the Director-General appointed Ms. Hông-Trang Perret-Nguyen as ILO Liaison Officer in Yangon. Ms. Perret-Nguyen took up her assignment in October, taking over from the interim Liaison Officer, Mr. Léon de Riedmatten.
3. At its 285th Session (November 2002), the Governing Body had before it a report¹ from the interim Liaison Officer and the Liaison Officer on developments since June 2002. The interim Liaison Officer and the Liaison Officer had *inter alia* held discussions with the authorities on the need for a comprehensive plan of action for the effective eradication of forced labour, but it had not proved possible to begin developing such a plan with the authorities. The Governing Body noted the Government of Myanmar’s stated commitment to eradicate forced labour, but requested that this commitment be converted urgently into concrete action through the development of such a plan of action, something that had been requested by the Director-General in a letter dated 21 June 2002 to the Myanmar Minister for Labour.
4. The 286th (March 2003) Session of the Governing Body had before it a report² from the Liaison Officer on her activities, including the text of a plan of action presented by the Government of Myanmar, which she was not able to endorse. The report also detailed a number of field visits conducted by the Liaison Officer and gave her impressions of the current situation on the ground as regards forced labour. The report further gave details of discussions between the Liaison Officer and the Convention 29 Implementation Committee concerning allegations of forced labour which had come to the attention of the Liaison Officer.
5. The Governing Body found that the Government plan of action fell far short of its expectations and did not meet the minimum requirements to be meaningful and credible. The Governing Body therefore gave a firm deadline of the end of May – before the start of the International Labour Conference – for agreement on a meaningful plan of action,

¹ Governing Body documents GB.285/4, GB.285/4(Add.) and GB.285/4(Add.2).

² Governing Body documents GB.286/6, GB.286/6/1, GB.286/6/1(Add.) and GB.286/6/1(Add.2).

which should include two missing elements: a pilot region including a systematic search for concrete alternatives to forced labour in that region, and a mediator/Facilitator mechanism to help victims of forced labour to seek redress.

D. Developments since the 286th Session of the Governing Body (March 2003)

6. Discussions have continued since March, both in Geneva and in Yangon, to agree on the missing elements of the Joint Plan of Action. A formal understanding on the Facilitator was agreed in Geneva on 8 May 2003; the rest of the Joint Plan of Action was agreed in Yangon on 27 May 2003.³ The final full text of the Joint Plan of Action is reproduced in the appendix.
7. The Joint Plan of Action thus consists of the plan of action put forward by the Government of Myanmar which was before the Governing Body at its March session, supplemented by two abovementioned understandings (together with a cover page and introductory note). The Joint Plan of Action will be implemented over an 18-month period.
8. It has further been agreed between the two parties that the Facilitator will be Mr. Léon de Riedmatten. The Facilitator's services will be available to all the persons concerned across the country and will be tested in the pilot region. It is understood that this does not in any way affect the mandate of the Liaison Officer who will continue to work with the Implementation Committee as before, including with regard to those allegations of forced labour which are not in the form of specific complaints and which are not dealt with by the Facilitator.
9. The pilot region is a region where "the prohibition on forced labour would be strictly enforced" and where a number of activities will be carried out with the technical assistance and support of the ILO. The designated region is Myeik district in the south of the country.⁴ The activities to be implemented in this region will include the development and testing of alternatives to the use of forced labour (one of which will be an ILO-implemented local road construction project using labour-based technologies), and an intensive public information campaign.
10. In order to identify the section(s) of road to be constructed, a team visited Myeik district from 19-22 May.⁵ Prior to the visit, the authorities had made a preliminary identification of six project sites. The team visited these sites, and others, in order to have discussions

³ Discussions which took place in Geneva between the Office and Ambassador U Mya Than, the Permanent Representative of Myanmar in Geneva, led to agreement on the formal understanding on the Facilitator. The formal understanding on the pilot region, and the Joint Plan of Action as a whole, were finalized in Yangon following discussions between the ILO Liaison Officer and the Myanmar authorities. In particular, the Liaison Officer had several meetings with the Minister for Labour, U Tin Winn, as well as discussions with a Deputy Attorney-General and Directors-General from the Department of Labour and the Ministry of Foreign Affairs.

⁴ Myeik district is located in Tanintharyi division and consists of four townships with a total population of approximately 630,000.

⁵ The team consisted of the ILO Liaison Officer (Ms. Hông-Trang Perret-Nguyen), together with her Deputy (Mr. Richard Horsey) and two ILO experts in labour-based technologies from the ASIST-AP program based at the ILO's regional office in Bangkok (Mr. Geoff Edmonds and Mr. Bjorn Johannessen). The team was accompanied by U Khin Maung Yee, a Director-General from the Ministry of Labour.

with local people and assess the feasibility and appropriateness of the various options. A final selection of three sites was made, in consultation with the local authorities.⁶ This selection of sites will enable the ILO to work with both of the local authorities usually responsible for the construction and maintenance of local roads.⁷

11. The Liaison Officer had meetings with the diplomatic community in Yangon in order to brief them on the content of the Joint Plan of Action, and discuss possibilities for donor funding. The Liaison Officer also briefed the Central Committee of the National League for Democracy⁸ as well as representatives of ethnic nationalities' political parties on developments.
12. On 29 May the Liaison Officer, together with the designated Facilitator, Mr. Léon de Riedmatten, had the opportunity to pay a call on General Khin Nyunt, Secretary-1 of the State Peace and Development Council. The Liaison Officer expressed her satisfaction at reaching agreement on a Joint Plan of Action, and her hope that this development would help to resolve the serious problem of forced labour in Myanmar. She hoped that progress on allegations could be made through the Facilitator's work, and in her continued discussions with the Implementation Committee. She thanked General Khin Nyunt for his help in enabling agreement to be reached, and hoped that she could count on his continued support in the implementation of the Joint Plan of Action. General Khin Nyunt noted that there had been a great deal of progress on the forced labour issue. He stressed that the Myanmar authorities wished to have positive and constructive cooperation with the ILO, and were carefully considering the ILO's advice on how to change their practices. The Government would work closely together with the ILO in the future. Mr. de Riedmatten noted that he had been asked by the Government and the ILO to carry out a very difficult task and he could be counted on to help in any way that he could. General Khin Nyunt stated that he himself stood ready to support the work of the Facilitator.

Geneva, 30 May 2003.

⁶ The sites are located around Tonebyaw village tract and Salun/Minthan village tracts in Myeik township, and around Sindin/Tagu village tract in Tanintharyi township. The road networks will serve a population of some 30,000 people.

⁷ That is, the District Development Affairs Department (under the Ministry of Progress of Border Areas and National Races and Development Affairs) and the General Administration Department (under the Ministry of Home Affairs).

⁸ The General Secretary of the NLD, Daw Aung San Suu Kyi, was unable to be present at this meeting as she was travelling in the country.

E. Appendix

Joint Government of the Union of Myanmar-ILO Plan of Action for the Elimination of Forced Labour Practices in Myanmar

27 May 2003

Yangon

This Joint Plan of Action, inclusive of Annexes A, B, C and D, has been agreed upon by the Government of the Union of Myanmar and the International Labour Organization as requested by the ILO Governing Body.

U Soe Nyunt

Director-General

Ministry of Labour

Ms. Hông-Trang Perret-Nguyen

ILO Liaison Officer

Yangon, Myanmar

Annex A

Introductory note

Following the agreement on the appointment of an ILO Liaison Officer in Yangon, the ILO Director-General proposed the development of a plan of action capable of making a concrete and verifiable impact towards the complete elimination of forced labour in Myanmar.

At its March 2003 session, the ILO Governing Body took note of the Plan of Action proposed by the Government of Myanmar, and requested that the Plan be supplemented on two points: the establishment of a Facilitator and the pilot region. In the light of this request, the following Joint Plan of Action has been agreed by both sides. Together with this introductory note, it consists of the Plan proposed by the Government, supplemented by two detailed understandings.

The ILO undertakes to provide technical assistance and support for the projects identified in the Joint Plan of Action (the Facilitator; the pilot region, including the local-road construction project and the public information campaign). Detailed proposals will be drawn up for these projects, setting out in concrete terms how they will be implemented and providing cost estimates, on the basis of which funding can be sought.

Appropriate publicity shall be given to the Joint Plan of Action within the framework of the public information campaign envisaged in the Government's Plan.

The Joint Plan of Action will be implemented over an 18-month period, starting from 1 July 2003.

Annex B

Plan of Action for the Elimination of Forced Labour Practices in Myanmar (Proposed by the Government of Myanmar)⁹

Introduction

1. The Government of Myanmar is politically committed to eliminate forced labour. It has taken legislative, executive and administrative measures in order to eliminate this practice from the country. Myanmar has agreed to the appointment of an ILO Liaison Officer with a view to enhancing its cooperation with the ILO in eliminating forced labour. This Plan of Action sets out elements for the effective elimination of forced labour.

Objective

2. The objective is to eliminate forced labour as contained in the provisions of ILO Convention No. 29 in cooperation with the ILO.
3. A number of work programmes are involved in the Plan of Action which aim at the elimination of forced labour in an effective manner.

Work programmes

4. The Plan of Action focuses on the following work programmes dealing with various issues on the elimination of forced labour situations throughout the country.

A. Dissemination of information

(1) Further intensification of public information campaigns

The public information campaigns will be further intensified to raise more awareness of the problem among all segments of the population.

(2) Translation of the Orders into ethnic languages

- (a) The Orders issued by the Ministry of Home Affairs prohibiting the use of forced labour published in Myanmar language have already been widely distributed throughout the country.
- (b) To reach out more extensively to the ethnic groups, these Orders which have now been translated into Mon, Kayin and Shan languages will be distributed in the aforementioned States. They will also be translated into Chin, Kayah and Kachin ethnic languages for distribution. It is envisaged that the distribution of the Orders in six different ethnic languages will be completed during the first quarter of 2003.

(3) Publication of pamphlets and labour bulletins

Pamphlets containing factual information on Convention No. 29 and other relevant information on the activities relating to the elimination of forced labour will be distributed to the public. The monthly labour bulletin containing news about the functional activities of the Ministry of Labour will be published for distribution to all public libraries throughout the country and to all

⁹ Document GB.286/6/1, Appendix 1.

government and non-governmental organizations. The first issue is expected to be published during the first quarter of 2003.

B. Awareness-raising programmes

With a view to raising awareness of public officials and military personnel on the issue of forced labour, training workshops will be conducted on a phase-by-phase basis. The first phase of this programme will focus on public officials. Military personnel will participate in later phases. This will be a continuing programme to be carried out in 2003 and 2004.

C. Pilot project for local road construction

This is a pilot project for construction of a local road which is of a compatible length of 20 to 30 kilometres. Although this local road construction pilot project will employ labour-based technology, light machinery and equipment should be put into use to avoid workers from doing strenuous work. Further details of this pilot project, including designation of a suitable project area, time frame, etc., will be discussed later.

D. Expansion of animal transportation

In recent years, Myanmar Tatmadaw (armed forces) has introduced animal transportation as an alternative to using porters. However, there have been some constraints and limitations in its efforts to expand this system from the company level to the battalion level. There is a need for sufficient supply of mules, a rare animal species which is essential for use in difficult terrain, for transportation of military supplies and equipment. This shortage could be overcome if a small stock of asses could be supplied which can be used for breeding to augment the supply of this stock.

E. Enhancing public awareness of the mechanism to make complaints

- (1) The Government of Myanmar has established relevant mechanisms to enable the people to make complaints concerning their grievances or damages. The two existing mechanisms are mentioned below:
 - (a) *Provision under Section 374 of the Penal Code.* If people are forced to do any work or service without their consent they can make their complaints to the nearest township police station or to the nearest township judicial court of law. Under this provision, action can be taken against those who unlawfully exact forced labour.
 - (b) *Other measures to make complaints by the citizens.* According to the Protection of Citizen's Rights Law, 1975, and Attorney-General Law, 2001, citizens have the right to make complaints for their grievances and damages caused to them. There are provisions to take legal action against those persons or organizations responsible for causing the loss of citizens' rights or benefits by abuse of power entrusted to them. To invoke these provisions, a citizen can file a complaint at the law offices established at different administrative levels. A separate branch has also been established at the Office of the Attorney-General to receive such complaints.
- (2) It is evident that there are legal provisions as well as mechanisms for complaints and legal action for those who have been subjected to forced labour or those whose rights have been violated.
- (3) Public awareness campaigns will therefore be intensified to enable the public to make effective use of the existing mechanisms which are in force.

F. Specific functions of Field Observation Teams

The Field Observation Teams have been visiting various parts of the country for inspection and investigation of forced labour practices, as well as to make the public aware of the Orders issued by the Government for elimination of forced labour.

- (1) The Chairman of the Implementation Committee, the Deputy Minister for Home Affairs and the Secretary of the Committee, the Director-General of the General Administration Department, have frequently made official tours to various parts of the country. On these occasions, they explained the Orders concerning prevention of forced labour and the consequences in case of failure to abide by them. Moreover, the Deputy Minister for Labour is the Vice-Chairman and the Director-General of the Department of Labour is the Joint Secretary of the above Committee.
- (2) The Ministry of Labour on its part has formed seven Field Observation Teams with the Directors-General and the Deputy Directors-General as leaders of respective teams which have been carrying out their function for two years (see attached list). To be effective in identifying instances of forced labour and in prosecuting those responsible, the functions of Field Observation Teams are specified as follows:
 - (a) The leaders of these teams shall coordinate and collaborate first with the following State/Division authorities:
 - (1) Secretary of State/Division Peace and Development Councils
 - (2) State/Division Administrative Officers of the General Administrative Department, Ministry of Home Affairs
 - (3) State/Divisional Judges, State/Division Courts
 - (4) State/Division Law Officers, State/Division Law Offices
 - (5) Commander of State/Division Police Force, Police Colonel
 - (6) Military personnel concerned
 - (b) The abovementioned teams will observe the situations mentioned hereunder:
 - (1) Effectiveness of the existing legislative, administrative and executive measures
 - (2) Prevalence of forced labour practices in national development and infrastructure building projects; in regional development works; in rural development works and in some plantation areas
 - (3) Use of forced labour as porters
 - (c) These teams will observe the following situations:
 - (1) Method of recruiting workers
 - (2) Mode of payment for workers
 - (3) Wage level of workers
 - (4) Facilities and privileges provided for workers
 - (d) (1) There are regions and areas from where the allegations on the use of forced labour have mostly emanated. In the light of this, the following regions and areas are being prioritized for field observations during this open season:
 - (aa) Tanintharyi Division
 - (bb) Rakhine State
 - (cc) Mon State
 - (dd) Kayin State

- (ee) Shan State
- (2) Myeik District in Tanitharyi division is designated as a “special focus region” for cooperation between the Government of the Union of Myanmar and the ILO. The following shall be implemented in the region:
 - (aa) A pilot project for construction of a local road of 20-30 kilometres. Although this pilot project for local road construction will employ the labour-based technology, light machinery and equipment shall be put into use to avoid workers from doing strenuous work. Further details on this pilot project, including designation of a suitable project area, in Myeik District, time frame, etc., shall be carried out in consultation with the Liaison Officer.
 - (bb) Implement on a trial basis a project concerning the use of mules to replace civilian porters.
 - (cc) Implement an intensive public information campaign and intensify efforts for public awareness of complaint mechanisms set forth in the Plan of Action.
- (3) In some remote areas where communication and travel are difficult, there might be unavoidable situations which may entail the use of forced labour despite the existing Orders and instructions. Such situations can be corrected by the visits of the Field Observation Teams to these areas.
- (4) As regards the allegations on the use of forced labour, proper investigation will be made by these teams depending on its source, credibility and concrete evidence. The allegations concerning the armed forces will be channelled to the Ministry of Defence through its representative who is a member of the Implementation Committee for the necessary action in accordance with the established procedure under the existing Defence Services Act.

G. Role of the Facilitator

In resolving problems relating to instances of forced labour in the country, it is vital to employ the services of a person who is already familiar with local situations. With this view in mind and in order to have continuity, Mr. de Riedmatten shall continue to act as Facilitator in reviewing instances involving the use of forced labour.

Implementation in cooperation with the ILO

- 5. Most of the work programmes shall be implemented with the technical cooperation and assistance of the ILO and its Liaison Officer.

Conclusion

- 6. Although elimination of forced labour is a noble task, it cannot be accomplished overnight. To be realistic and objective, relevant measures in the Plan of Action shall be implemented step by step leading to concrete progress. The Government of Myanmar on its part shall make unremitting efforts for the final elimination of forced labour from the country.

List of Field Observation Teams formed by the Ministry of Labour

Team No.	Assigned area	Team leader
1.	Bago and Yangon Divisions	Director-General, Department of Labour
2.	Rakhine State	Chairman, Social Security Board

3. Mon and Kayin States Director-General, Office of the Central Inland Freight Handling Committee
4. Shan State (East), Shan State (South) and Kayah State Director-General, Factories and General Labour Laws Inspection Department
5. Tanintharyi Division Director-General, Office of the Central Trade Disputes Committee
6. Shan State (North) Deputy Director-General, Department of Labour
7. Chin State General Manager, Social Security Board

Annex C

Formal Understanding on the Facilitator

I. In the light of the report of the High-Level Team (HLT) unanimously endorsed by the Governing Body, the commitment repeatedly expressed by the authorities of Myanmar, and the many requests made by the Governing Body for the implementation of the HLT's recommendations with a view to effectively eradicating forced labour in the country,

The International Labour Organization and the Union of Myanmar have agreed, as part of the comprehensive Plan of Action to assist the authorities of Myanmar in their efforts to implement the abovementioned recommendations, on the establishment of a Facilitator as follows:

II. Objective

On the basis of the report of the HLT and subsequent discussions in the Governing Body, the objective of the Facilitator is to assist possible victims in Myanmar to seek remedies available under the relevant legislation and as provided under the Forced Labour Convention, 1930 (No. 29).

III. Functions

- (a) The Facilitator shall receive complaints from persons bona fide residing within the territory of Myanmar alleging to be or to have been subjected to forced labour, or acting on their behalf, with a view to identifying those which represent a prima facie case, later setting aside those which appear to be unsubstantiated.
- (b) He/she shall perform his/her functions in strict confidentiality but shall communicate with the ILO and the ILO Liaison Officer, as well as with the authorities of Myanmar.
- (c) In the event that the Facilitator considers a complaint to represent a prima facie case of subjection to forced labour and, depending on the seriousness of the case, he/she may alternatively or successively: (i) subject to the consultation with the person(s) referred to in III(a) above, seek an informal practical solution with the authority concerned; (ii) transmit the complaint on behalf of the said person(s) to the competent authorities to initiate legal proceedings, as appropriate, and take necessary action.
- (d) No measures of any kind shall be taken by the authorities against the abovementioned person(s) and witnesses. The Facilitator shall have free access to the said person(s) and witnesses at any stage of the procedure. The Facilitator shall be informed of the decision(s) reached thereon.
- (e) Without prejudice to the strict confidentiality attached to individual cases, the Facilitator shall submit a yearly report on his/her activities and their results to the authorities of Myanmar and the ILO Governing Body.

IV. Facilities, support and status

- (a) The Facilitator will select an assistant and the support necessary to assist in the discharge of his/her functions in accordance with the above objective. The Facilitator and his/her assistant and support shall be extended all the facilities, assistance, protection and status necessary to carry out his/her functions effectively and in full independence and impartiality.
- (b) The resources necessary to cover the expenses of the Facilitator and his/her support shall be made available by the ILO to safeguard his/her independence and impartiality.

V. Trial period

- (a) The effectiveness of the application of the present Formal Understanding shall be tested in connection with the implementation of the Plan of Action for the pilot region of Myeik District.
- (b) A full assessment of the implementation and impact on forced labour of the present Formal Understanding, taking into account the report from the Facilitator referred to in III(e) above, as well as any relevant information, shall be made on completion of the pilot project. Necessary conclusions will then be drawn with a view to making it fully effective in the other regions of the country or its discontinuation as the case may be.

Annex D

Formal Understanding on the pilot region

Myeik District in Tanintharyi Division has been designated as a “special focus region”. This will be a pilot region where the prohibition on forced labour will be strictly enforced and where the following activities will be implemented with technical assistance and support from the International Labour Organization:

- an ILO-implemented local road construction project, using labour-based technologies, to provide a demonstration of the feasibility and cost-effectiveness of this technology in the construction of local infrastructure and to ensure that the local population is voluntarily involved in the development of that area. Networks of local roads in three areas (around the village tracts of Tonebyaw; Salun/Minthan; and Sinda/Tagu), constituting approximately 65 kilometres, have been identified by the Government and the ILO as being suitable, and more detailed technical and engineering surveys will be promptly carried out;
- an intensive public information campaign;
- other alternatives which would promote the use of voluntary labour practices will be developed and tested in the region, including the use of mules to replace porters;
- the services of Mr. de Riedmatten as the Facilitator referred to in the relevant formal understanding will be available.



Document D.6

FOURTH ITEM ON THE AGENDA

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

I. Developments since June 2002

13. At its 283rd Session (March 2002), the Governing Body endorsed an understanding reached that same month between the Government of Myanmar and the International Labour Office concerning the appointment of an ILO Liaison Officer in Myanmar, subject to a number of comments and clarifications made during its debate of the question, and on the understanding that this first step must develop into a full and effective ILO representation. The Director-General appointed Mr. Léon de Riedmatten as interim Liaison Officer on 6 May 2002. A summary of the activities carried out by Mr. de Riedmatten up to June was provided to the Committee on the Application of Standards of the International Labour Conference, at its special sitting set aside to consider this matter.¹⁰ The conclusions of the Committee are reproduced in Appendix II.

14. As the Director-General stressed to the Minister for Labour of the Government of Myanmar in a meeting during the International Labour Conference, and in a subsequent letter dated 21 June, the decision on Mr. de Riedmatten's successor as Liaison Officer was an important one which required special care, as the choice of this person would be critical in achieving the common goal of eradicating forced labour in Myanmar. It was therefore

¹⁰ See ILC, 90th Session (Geneva, 2002), *Provisional Record* No. 28, Part 3, section C, *Other developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)*. The relevant section is reproduced in Appendix I.

agreed by the Director-General and the Myanmar authorities that Mr. de Riedmatten should continue in his functions until a choice on his successor was made.¹¹

15. In his letter of 21 June, the Director-General also underlined to the Minister that there was no time to waste if a convincing picture of progress were to be presented to the Governing Body in November; therefore Mr. de Riedmatten should have the opportunity to immediately initiate discussions with all concerned with a view to developing an integrated plan of action to assist in the efforts to eradicate forced labour at the institutional level and through technical cooperation or other means.
16. The Director-General provided some further thoughts on this matter in a subsequent letter dated 22 July to the Minister (reproduced in Appendix III), emphasizing that the plan of action, which could initially be targeted to an agreed geographical region and be progressively extended on a step-by-step basis, would have to be carefully devised taking into consideration the analysis and recommendations of the 2001 High-Level Team (HLT) and should be discussed, adopted and subsequently implemented in such a way as to demonstrate the commitment of the authorities at the highest level and to receive the support of all other sectors concerned, including from the international community.
17. In a reply dated 9 August (reproduced in Appendix IV), the Minister for Labour informed the Director-General that plans were under way for a field observation trip to Tanintharyi Division, together with the interim Liaison Officer, and that such activities would be expanded on a step-by-step basis as the Director-General had suggested. It was pointed out by the Office to Ambassador Mya Than in Geneva, however, that the meaning and possible contribution of such field observation trips to the common objective would be better understood and appreciated by ILO constituents if they constituted an initial part of a coherent plan of action, to which the Director-General had referred. At this very late stage, time was more than ever of the essence, and the Director-General had therefore requested the interim Liaison Officer to follow up urgently on this matter with the authorities in Yangon.

II. Activities carried out by the interim Liaison Officer between June and October 2002

18. In order to follow up on his initial contacts in May, Mr. de Riedmatten, together with his assistant, held a number of meetings with various parties between June and October¹² as well as conducting a field trip to Tanintharyi Division in the south of the country.
19. *The need to develop a coherent plan of action.* In a meeting on 23 August with the Implementation Committee,¹³ as well as in meetings on 6 and 18 September with the

¹¹ As before, Mr. de Riedmatten continued at the same time in his function as representative of the Centre for Humanitarian Dialogue; the Centre generously agreed to an extension of the previous arrangement.

¹² A total of 16 meetings were held in Yangon, including several with the Minister for Labour as well as meetings with the Minister for Home Affairs, the Deputy Minister for Foreign Affairs, a senior military intelligence official, a meeting with the Implementation Committee and several meetings with senior officials from the Department of Labour. A meeting was also held with Daw Aung San Suu Kyi, the General-Secretary of the National League for Democracy. In addition, meetings were held with representatives of a number of United Nations agencies and international NGOs.

Minister for Labour, the interim Liaison Officer underlined the need for a coherent plan of action to be worked out between the ILO and the authorities. A mission from ILO, Geneva, could perhaps be fielded for this purpose, but time was running short, and the authorities should therefore urgently consider this matter.

20. The view of the Implementation Committee on this point was that the plan of action would emerge naturally from discussions between the two sides at the working level. The Minister for Labour echoed these feelings, pointing out that it would be more useful and appropriate to discuss a plan of action for the whole country only once some concrete cooperation had begun in the field. The results of this initial cooperation could then be discussed with a team from ILO Geneva and a plan of action could be developed in the light of these results.
21. The interim Liaison Officer understood this point of view, but underlined the need to demonstrate clear progress to the Governing Body in November. It was of course for the authorities to decide when they wished to take up the proposal for a mission from ILO Geneva, but he stressed that if it was decided that the mission should come at a later time then it would be important for him to have a meeting at the level of the leadership of the SPDC, to discuss developments and seek to ensure that there was a clear commitment on this point.
22. *The need for a credible and effective response to allegations of forced labour.* In a meeting with the Minister for Home Affairs on 1 July, the interim Liaison Officer reported allegations that teenagers were being abducted in Yangon and forced to work as porters. The Minister indicated that he had already received similar allegations, and had discussed the matter with the commander of Yangon Division, Major-General Than Swe, as well as with the police and general administration staff. It appeared that the officer in charge of recruitment was responsible for these reprehensible activities, and he had been dismissed. The Minister stressed that the teenagers had been recruited into the army, not taken as porters. In a letter dated 24 July to the Minister for Labour (reproduced in Appendix V), and in a subsequent meeting on 30 July, the interim Liaison Officer drew attention to specific allegations of forced labour contained in a recent report by Amnesty International, and requested that the Implementation Committee dispatch teams to the various areas to start investigating these allegations. He also offered his cooperation and assistance to these teams, should this be required. In a further letter dated 7 August to the Minister for Labour, the interim Liaison Officer gave additional details of the allegations contained in the Amnesty International report, as well as drawing attention to credible reports of a worsening forced labour situation in parts of northern Rakhine State, recommending that the Implementation Committee also send a team to investigate these allegations. The interim Liaison Officer also received a letter of complaint concerning forced labour in Mon State. The letter was received through a third party in Yangon with the request that it be passed on to the ILO. It contained a complaint that vehicle owners were being requisitioned along with their vehicles to transport troops and supplies in the Kyaikto area as well as work on the construction of an artillery base. On 4 October the interim Liaison Officer sent a letter to the Implementation Committee giving the details of the complaint, without identifying the source, and requesting that the Committee investigate this matter urgently and inform the ILO of the result.
23. In his meetings with the various authorities, the interim Liaison Officer stressed the need for a credible and effective response to allegations that arose concerning the use of forced

¹³ For the composition and mandate of the Implementation Committee, see document GB.279/6/1(Add.1)(Rev.1). Not all members of the Committee were able to be present at the meeting on 23 August.

labour. In particular, he again raised the point that since the majority of the allegations concerned the army, it was vital for the Liaison Officer to have regular contact with an army representative, in order that these matters could be discussed and solutions found. In a meeting on 18 September with the Minister for Labour, the interim Liaison Officer pointed out that it was clear from the comments of the Implementation Committee itself that this Committee did not have the authority to investigate allegations that related to the army. The Minister indicated that in some cases, allegations related to areas that were not safe for civilians to visit, and the Implementation Committee was therefore unable to investigate such allegations. The interim Liaison Officer pointed out that this did not mean, however, that there were no possibilities for investigating such allegations. One possibility would be for a structure to be set up within the army that could independently investigate allegations of this kind. Although, as the Minister himself pointed out, there may be some doubts expressed about the credibility of such a mechanism, the interim Liaison Officer stressed that it would ultimately be judged on its results and effectiveness (that is, its ability to bring offenders to account and put an end to particular occurrences of forced labour).

24. In a meeting on 23 August with the Implementation Committee, the interim Liaison Officer had the opportunity to be briefed on progress that had been made since the last meeting in May. The Implementation Committee indicated that up to the end of July there had been no complaints to the Committee regarding forced labour, either directly, or through the courts, the local Peace and Development Councils or the police. The Committee was aware of various allegations, including those contained in the report by Amnesty International, but there was no information from the field about any such cases. While the Committee had no doubt about the integrity of Amnesty International, and felt that there could indeed be some truth in certain of the allegations, particularly in remote areas, it considered that most of the allegations were exaggerated or had been fabricated by expatriate groups. The Committee would, however, take note of the point made in the report of the HLT and look into the situation in remote areas. The interim Liaison Officer replied that as had been pointed out before, the lack of complaints should not be taken as an indication that there was no forced labour. Forced labour was acknowledged to be a problem, even by the Government itself, and so the lack of complaints cast doubt on the credibility of the existing complaint mechanisms. This was why the HLT had proposed the idea of some alternative mechanism such as the Ombudsperson. It would be fruitful to return to this idea in future discussions. Finally, regarding the dissemination of the Orders in minority languages, the Implementation Committee indicated that this was being planned, but no definite timeframe could be given.
25. *Field trip to Tanintharyi Division.* In the meetings on 30 July and 6 September with the Minister for Labour, the interim Liaison Officer had suggested that it would be important to make a field trip to one area of the country where there were allegations of forced labour and where there were some government projects, in order to look at the situation on the ground and explore concrete possibilities for ILO cooperation in the elimination of forced labour. The Minister proposed that Tanintharyi Division might be a good choice for a first trip. There were some security problems in this area, although not too serious, and there were allegations of forced labour, as well as a number of government projects. ILO involvement could begin here and then expand progressively north along the Thai border, since the security problems tended to increase from south to north. The interim Liaison

Officer accepted this proposal, and a visit to southern Tanintharyi Division took place from 9 to 14 September.¹⁴

26. The visit took place satisfactorily, and the interim Liaison Officer and his assistant were given the freedom to visit those places that they wished. As was pointed out both during the trip and on the return to Yangon, however, it was important on future trips of this kind, for the independence of the Liaison Officer, that the escort and security should be more discreet, and it would facilitate more frank and open discussions with the local population. The purpose of the current trip, however, had not been to conduct investigations into specific allegations, but was rather to gain an impression of the root causes of the problem (such as the economic situation) and explore the possibilities for ILO assistance in solving the problem.
27. The trip was important in giving a clearer understanding of the economic situation in southern Tanintharyi Division and the activities being undertaken by the authorities to address the forced labour issue. It also gave the opportunity to consider in more detail the form that technical cooperation between the ILO and the Government might take, and for this to be discussed with local officials. These considerations and discussions touched upon a tentative idea for a “pilot project” that could be undertaken with ILO technical cooperation.
28. Such a project could be in an area where the ILO had expertise, such as the use of labour-based technologies (LBT)¹⁵ in the construction of rural infrastructure. The project would address the forced labour situation in a number of direct and indirect ways, as required by the 1999 resolution. Direct effects might include: a reduction in forced labour simply because of the presence of the ILO in the area (which may tend to discourage the practice and which would also allow, for example, dissemination of information and training relating to the Orders banning forced labour, both to local officials and the general population), but also because significant employment would be provided to the rural labour force, which may give a certain degree of empowerment. The potential indirect effects could be even more significant. One aim of the project should be to demonstrate the inherent inefficiencies of forced labour and provide a concrete example to show that the Government’s legitimate development agenda can be implemented more efficiently through LBT-type projects without a major increase in resources being needed. A further aim must be to address cases of forced labour in the area that are not related to the project (for example, portering for the army). This is an important question of credibility both for the ILO and the authorities. This could be done by developing a credible complaint mechanism on an experimental basis and on a local scale; the presence of the ILO on the ground will enable the effectiveness of such a mechanism to be verified.
29. *Meeting with Daw Aung San Suu Kyi.* A meeting on 19 September with the General-Secretary of the National League for Democracy, Daw Aung San Suu Kyi, provided the opportunity to brief her on recent developments, including the field trip to Tanintharyi Division. The interim Liaison Officer mentioned that this first field trip had suggested

¹⁴ The team consisted of the interim Liaison Officer, Mr. Léon de Riedmatten; his assistant, Mr. Richard Horsey; and a senior official from the Ministry of Labour, U Khin Maung Yee. The itinerary of this trip can be found in Appendix VI.

¹⁵ LBT is a construction technology which aims to apply a labour/equipment mix that gives priority to labour, but supplements this labour with appropriate equipment where necessary to achieve acceptable standards of quality. While producing or maintaining infrastructure to a specified standard in a cost-effective manner, people are employed with fair working conditions.

some possibilities for initial cooperation on the ground between the ILO and the authorities, and gave some details of the possibilities.

III. Appointment of the Liaison Officer

- 30.** In a letter dated 20 August, the Director-General formally confirmed to the Minister for Labour of the Government of Myanmar his intention to appoint Ms. Hông-Trang Perret-Nguyen as the ILO Liaison Officer in Myanmar.¹⁶ It was publicly announced on 4 September and in a letter dated 29 August that the Minister for Labour reacted positively to this choice. Ms. Perret-Nguyen arrived in Yangon to take up her appointment on 7 October.¹⁷
- 31.** An additional short document will be prepared to update the Governing Body on any developments following the appointment of Ms. Perret-Nguyen.

Geneva, 8 October 2002.

¹⁶ Ms. Perret-Nguyen (France/Switzerland) was born in Viet Nam and holds degrees in political science and law from the Institut d'Etudes Politiques and the Sorbonne in Paris. She joined the ILO in the International Labour Standards Department where she became Chief of the Equality and Rights Branch. She subsequently served as the Director of the ILO Caribbean Office and returned to Geneva where her last appointment was as Director of the ILO's Industrial Relations Department.

¹⁷ She is assisted by Mr. Richard Horsey, who arrived in Yangon in May 2002, following the appointment of Mr. de Riedmatten as interim Liaison Officer. Mr. de Riedmatten has agreed to continue to be of assistance as appropriate to the ILO and the authorities in his previous role as "facilitator".

Appendix I

Extract from document C. App./D.6(Corr.), Committee on the Application of Standards, ILC, 90th Session (June 2002)¹⁸

[...]

III. *Activities carried out by the interim Liaison Officer to date*

15. Mr. de Riedmatten's mandate as interim Liaison Officer, on top of his functions with the Centre for Humanitarian Dialogue, is set out in the Director-General's letter dated 18 April to the Minister for Labour, which states that

... in this capacity he would not be called upon to discharge the full range of activities expected from the Liaison Officer as discussed by the ILO Governing Body last March. He would concentrate on settling all logistical issues in relation to the physical establishment of the Liaison Officer (premises, communication facilities, selection of local support staff), as well as establishing preliminary contacts with all institutions and persons with whom a Liaison Officer will have to deal.

The letter goes on to state that Mr. de Riedmatten had been asked to contribute to the preparation of the present report, and to that end could, in particular, organize consultations as appropriate between the competent ministries and ILO representatives to review developments as regards the substantive issues dealt with by the Governing Body with a view to reporting these to the Conference.

16. Consultations between the competent ministries and ILO representatives through an ILO mission to Yangon to review developments were considered impractical given the very limited time remaining before the Conference. However, these substantive issues were reviewed in meetings with the relevant authorities, including the Minister for Labour and the Implementation Committee, although it could be for a future ILO mission to pursue these matters further.
17. With regard to logistical issues, the first priority was to locate suitable premises for the future Liaison Officer and his staff. A number of options were considered on the basis that they should be accessible to all those persons with whom the Liaison Officer will wish to have contact, as well as allowing for expansion should this become necessary in the future. A suitable option has been identified, and a 12-month lease agreement is being negotiated with the owner. Arrangements are being made to procure all the necessary equipment so that the office can be fully functioning by July. No difficulties have been encountered in this regard, and the necessary support and assistance is being provided by the Ministry of Labour and the Ministry of Foreign Affairs.
18. As regards local support staff, it was felt that the future Liaison Officer might wish to be involved in recruiting his staff and therefore no permanent recruitment has been made at this stage. In order that the Liaison Officer has the necessary support and administrative assistance upon his appointment, however, arrangements have been made to recruit a receptionist/secretary and an administrative officer on a short-term basis.

¹⁸ See ILC, 90th Session (Geneva, 2002), *Provisional Record* No. 28, Part 3, section C, *Other developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)*.

19. As regards the establishment of preliminary contacts, the Liaison Officer ad interim, Mr. de Riedmatten (hereinafter “the L.O. ad interim”), accompanied by his assistant, has had meetings with a broad range of people with whom the Liaison Officer will have to deal.¹⁹
20. In a meeting on 10 May with the Minister for Home Affairs, Col. Tin Hlaing, the L.O. ad interim noted that the actions taken by the authorities to date, including the Orders concerning forced labour, had centred on the Government’s administration. It was also important to address the problems that existed concerning the army, and for this reason he felt that it was of great importance for the Liaison Officer to have an interlocutor from the army. The Minister replied that the issue of forced labour was being given due emphasis by the authorities and was being discussed at the highest level. On large infrastructure projects, such as the railway construction project in southern Shan State, army personnel were being used instead of civilians.
21. In a meeting on 20 May with the Minister for Labour, U Tin Winn, the L.O. ad interim indicated that his first priority was to establish an office for the Liaison Officer and his staff. He was also developing initial contacts with those people with whom the Liaison Officer would have to deal. In this regard, he emphasized again that it was important to have contact with the army. Because such contacts were often difficult, he suggested that one possibility would be to include a representative from the army in the Implementation Committee, which currently had representatives only of the Government’s administration. It was also pointed out that at the International Labour Conference that would be taking place shortly in Geneva, it was likely that the question of the Ombudsperson and the alleged incident in Shan State would again be raised. Concerning the incident, there had been a detailed response from the group which reported the original allegations. One possible way to resolve this matter would be to have independent confirmation of the results of the investigation which had been conducted by the authorities. The Minister replied that concerning the question of the Ombudsperson the authorities had certain reservations which had already been made clear. The usefulness of such an institution would in any case be limited on practical grounds, because many parts of the country were extremely remote and the people would not have any way to contact the Ombudsperson. It was therefore more practical to have a mechanism that utilized existing administrative structures; even in extremely remote areas, the administration had assistant township officers vested with administrative and judicial power. As regards the allegations, the Minister felt that there was no reason to question the reply given by Secretary-1 particularly on the basis of a counter allegation by a group that should not be accorded equivalent status by the ILO. It would therefore not be acceptable to the Government to have any kind of external verification. Lastly, regarding discussions with the army, the Minister noted that military personnel were subject to both military and civilian law. Although the military did not distribute their orders publicly, if the ILO wished, it might be possible to obtain copies of such orders relating to forced labour.
22. A meeting on 27 May with the Minister at the Prime Minister’s Office, Brig.-Gen. David Abel provided a further opportunity to discuss these various issues. Regarding the interlocutor with the army, the Minister indicated that within the military there was an Inspector-General’s department which consisted, in addition to the Inspector-General, of a Judge Advocate General and a Military Secretary. These three appointments were made by the Cabinet, and they reported directly to the Commander-in-Chief (Senior General Than Shwe). All military investigations were carried out by this department and this would be the most suitable interlocutor for the Liaison Officer. With regard to the question of the allegations, it would be a different matter if the complaint had come through appropriate channels such as the Liaison Officer. But, given that neither the source of these allegations

¹⁹ At the time this report was finalized, he had held a total of 24 meetings including with the Ministers for Home Affairs and Labour, Minister at the Prime Minister’s Office, senior officials from the Ministry of Foreign Affairs, the Prison Department and the Department of Labour, as well as with the Convention No. 29 Implementation Committee, chaired by the Deputy Ministers for Home Affairs and Labour. Meetings were also held with senior members of the National League for Democracy (NLD), including two with its General-Secretary Daw Aung San Suu Kyi, as well as with a number of ethnic representatives from the Chin, Kachin, Kayah, Kayin, Rakhine and Shan States. Meetings were also held with 16 members of the diplomatic community in Yangon (Australia, France, Italy, United Kingdom, United States, Japan, Russian Federation, Brunei, Cambodia, Indonesia, Lao People’s Democratic Republic, Malaysia, Philippines, Singapore, Thailand, Viet Nam), the United Nations Resident Coordinator, and representatives of the UNHCR, the ICRC and a number of international NGOs working in Myanmar. In addition, meetings were held with representatives of the international business community and with local religious representatives.

nor the organization through which they had been transmitted could be regarded as credible, the Government would not be in a position to accept an external inquiry into the matter.

23. Two meetings were held with the General-Secretary of the NLD, Daw Aung San Suu Kyi, on 14 and 23 May. The second of these meetings included Central Committee members of the NLD. The L.O. ad interim indicated that one of his priorities was to establish contacts with the army. He also noted that Daw Aung San Suu Kyi had mentioned on a number of occasions that one of the NLD's priorities should be improving the living conditions of the people, and he wondered to what extent the problem of forced labour could be relevant in this regard. Daw Aung San Suu Kyi indicated that once substantive issues were being discussed with the authorities, such questions as forced labour could certainly not be ignored, since they were all part of the issue of development. In the NLD's view, forced labour was not an isolated problem. One reason for the use of portering was that, in the early days of the army during the struggle for independence, civilians had willingly provided their help, in part because they were paid for their services. But this use of civilians had now become a habit and they were no longer paid and had to be coerced. The problem had improved somewhat since the early 1990s and the ILO had definitely played a role in this. She agreed that it was important for the Liaison Officer to have contacts with the army. The point needed to be made to the army that forced labour was not necessary, provided the required resources were provided to replace it, and that other countries as poor as Myanmar did not use this practice. In addition to dealing with forced labour, Daw Aung San Suu Kyi indicated that she was very keen for the ILO to become involved in the situation of factory workers, as the NLD had heard many complaints of poor conditions. She also stressed the importance of looking at the question of prison labour, in particular the poor conditions in labour camps.
24. In a meeting on 22 May with the International Committee of the Red Cross (ICRC), the head of delegation, Mr. Michel Ducraux, explained that the ICRC mandate extended to the question of forced labour; for example, it could be viewed as deprivation of freedom. Portering was particularly central to the ICRC mandate, since it was often in conflict situations that such practices occurred. Mr. Ducraux also noted that the question of portering by villagers was now included in the ICRC's confidential reports to the authorities. He stressed the importance in his view of confidentiality in facilitating the work of the ICRC, and noted that without such guarantees of confidentiality the work of the ILO Liaison Officer would be much more difficult.
25. The L.O. ad interim requested a meeting with the Implementation Committee in order to review developments since the HLT visit and report these as appropriate to the Conference.²⁰ Chairing the Committee, the Deputy Minister for Labour indicated that the Orders had been distributed throughout the country, down to the village-tract level. On two further occasions since the visit of the HLT, a number of teams headed by directors in the Department of Labour had visited the field to assess the situation and explain the Orders to the people of the area. As was explained by another member of the Committee, however, these teams did not generally meet with local military commanders. Up to this point, there had been no instances of prosecutions under section 374 of the Penal Code. There had, however, been two cases of violations of the Orders. In the first case, a township chairperson in Ayeyarwady Division had been found guilty of requisitioning rice from farmers and had been demoted. In the second case, a township officer in Magway Division had been purchasing rice at a fixed price lower than the market rate. This was found to be a criminal breach of trust and he was prosecuted under the Penal Code (though not section 374) and dismissed. Regarding evidence of budgetary provision for the payment of labour in public works projects, it was again explained that according to the Myanmar budgetary system there was no separate budget line for labour costs, and it was therefore not possible to provide such evidence. Regarding dissemination of the Orders via the mass media, it was explained that newspapers had a

²⁰ The ILO technical cooperation mission that visited Myanmar in February had not had an opportunity to meet the Convention No. 29 Implementation Committee, and so had submitted a reminder of the outstanding questions raised in the HLT's report. These questions related to: (1) new or additional cases of violations of the Orders concerning forced labour; (2) prosecutions of offenders, in particular under section 374 of the Penal Code; (3) evidence of budgetary provision for payment of labour on public works projects; (4) further publicity given to the Orders, including dissemination via the mass media (newspapers, radio, television) and dissemination in all appropriate languages, including major ethnic languages; and (5) any additional texts of instructions issued to the military or other authorities containing specifications of the kinds of tasks for which the requisition of forced labour was now prohibited, as well as the manner in which the same tasks were henceforth to be performed.

circulation of only about 200,000 and televisions and radios were not widely owned. For this reason, dissemination through the local government administration was more effective. Regarding dissemination in the major ethnic languages, the Committee indicated that, in addition to being distributed on paper in English and Burmese, the Orders had been announced publicly by town criers, and meetings had been called at which verbal explanations had been given to the people in the language that they understood, including various ethnic languages. Regarding additional instructions, none had been issued since the visit of the HLT, but further briefings had been given to administrative officials called to Yangon. The Deputy Minister for Home Affairs wished to point out that there were certain traditions and practices of community work in Myanmar but that, because of the new Orders, people were now reluctant to take part in such work in case it incurred someone's displeasure. A number of members of the Committee also requested clarification of under what conditions the "emergency provision" could be applied.

26. It seems appropriate before concluding this report to present certain comments and ideas regarding the future development of the ILO presence in Myanmar. As the L.O. ad interim stated in all his various meetings, it was important that the ILO role with regard to the eradication of forced labour be approached in a constructive manner. He stressed in various meetings with the authorities that they should not regard the elimination of forced labour as being just a response to external pressure and demands. Forced labour was an internal problem which it was vital for the authorities to solve, particularly given their stated desire to progress to a modern and democratic nation. Because the army would have to play a key role in any solution to this problem, it was vital for the Liaison Officer to have an interlocutor from the army. It would also be important for the Liaison Officer to be able to meet with regional and local commanders when he travelled to the field. Although the role of the Liaison Officer was to assist the Government in its efforts to eliminate forced labour, it would also be important to have close contact with the NLD and the ethnic nationalities, as well as with the international community, in order to develop effective and appropriate solutions and projects. It is also worth noting that the current reconciliation process in Myanmar could have an impact on the work of the Liaison Officer, and that positive developments in this process, particularly in addressing some of the root causes of the forced labour problem, could contribute to the eradication of this practice.
27. It is important also to note some of the constraints on the activities to be carried out by the Liaison Officer, in particular the resolution adopted by the Conference at its 87th Session (June 1999). While this resolution remains in place, for example, the question of factory conditions, raised by Daw Aung San Suu Kyi, cannot be addressed except to the extent that violations of the forced labour Convention are alleged to be involved. As regards the question of conditions in labour camps, raised by Daw Aung San Suu Kyi, it would appear that the matter falls more directly within the mandate of the ICRC, with whom the Liaison Officer might wish to cooperate on this issue. On the question of prisoners being used as porters, the L.O. ad interim stressed that this should not be seen as an acceptable alternative to the use of civilians.
28. Although it would be premature at this stage to make any concrete proposals concerning the kinds of projects that the Liaison Officer could implement, it is nevertheless possible to give certain general indications based on the various discussions held to date. One important role for the Liaison Officer could be in developing training programmes. For example, training to all sectors, including the administration, military, and the general population could both increase awareness of the Orders and increase the capacity to implement them, and thus represent a useful complement to the institutional measures recommended by the HLT. Such training could address the problem of the recurrent blurring of the borderline between compulsory and voluntary labour which was evident most recently in the comments and questions raised by the Implementation Committee. It was also mentioned by a number of observers that the armed forces of certain countries in the region had developed various

solutions to the problem of transporting supplies across similarly difficult terrain to that found in Myanmar, without the use of civilian porters. Increased mechanization possibly combined with a reduction in the size of the armed forces was perhaps the long-term solution, but in the interim, regional experience suggested other possibilities.²¹ It might be fruitful to investigate these possibilities further.

²¹ Ideas that had been suggested included the use of mules; the provision of salaries to porters which could, if combined with significant improvements in conditions, result in people who were fit and able to do the job volunteering for this work; and the use of soldiers not directly involved in combat for portering.

Appendix II

Conclusions of the special sitting of the Committee on the Application of Standards, ILC, 90th Session (June 2002)

After noting the information provided by the Government representative, the Committee noted with deep concern the observation of the Committee of Experts evaluating the effect given to the three recommendations of the Commission of Inquiry, taking into account the information contained in the report of the High-Level Team. With regard in the first place to the Village Act and the Towns Act, which had not yet been amended, the Committee of Experts had noted that Order No. 1/99, as supplemented, had been given considerable publicity and may momentarily have affected certain civil infrastructure projects, but had not brought an end to the exaction of forced labour, particularly by the military. The specific and practical instructions and the budgetary provisions that were lacking had not yet been adopted, or even prepared, with a view to replacing in practice recourse to forced labour by the offer of decent wages and conditions of employment to make it possible to attract the necessary labour freely. Finally, no sanction had been imposed under section 374 of the Penal Code or any other provision, in accordance with Article 25 of the Convention, on those responsible for the exaction of forced labour, while the means of recourse available to complainants were not effective.

The Committee also noted the information on the High-Level Team and its follow-up contained in the supplementary report submitted to the Committee. It noted that as a result of the cooperation of the authorities, it was possible for the first time to have available, through this report, an evaluation conducted freely in the country and on the other side of the border on the impact of the new regulations on the real situation of forced labour throughout the country. It also welcomed the fact that one of the recommendations of the High-Level Team intended to ensure the presence of the ILO in Myanmar had been followed up and that the ILO's presence had already been ensured in practice through the appointment of the interim Liaison Officer and the report that he had already been able to produce. However, it emphasized that this presence was only a means and would have no significance unless the future Liaison Officer rapidly had the capacity and administrative support, as well as the facilities, to conduct the various activities that could contribute to the effective implementation of the prohibition of forced labour. These facilities needed to include freedom of movement and access and required the cooperation of all the authorities, including the military. The Committee further regretted that no practical effect had yet been given to the other important proposals made by the High-Level Team with regard, on the one hand, to the murder of victims of forced labour in Shan State and, on the other hand, the establishment of an independent and credible form of mediation to offer a new means of recourse in which future victims could have confidence. Such an institution was particularly necessary in the absence of freedom of association, the significance of which for the situation of forced labour had been emphasized by the High-Level Team. The Committee also regretted that the provisions prohibiting forced labour had not been disseminated more broadly through all channels and in all appropriate languages, as called for by the High-Level Team. In general terms, the Committee emphasized the need for real, rapid and verifiable progress, not only at the procedural level, but also and in particular at the level of the persistent reality of forced labour and the widespread impunity of those responsible, and particularly the military. It encouraged the Office and the Director-General to pursue their efforts resolutely on all these issues, as well as their dialogue with the Government and all the parties concerned, and to report to the Governing Body, which would be responsible for examining, as appropriate, the conclusions to be drawn from the progress or lack of progress at its session in November 2002.

In this respect, the Committee noted that the Government representative, at the end of the discussions, had expressed the will of his Government to discharge its international obligations and to pursue the dialogue with the ILO.

Finally, it recalled that the Government would have to supply a detailed report for examination by the Committee of Experts at its next session on all the measures adopted to ensure compliance with the Convention in law and practice.

Appendix III

Communication dated 22 July 2002 from the Director-General to the Minister for Labour of Myanmar

Dear Minister,

I refer to our discussion during the Conference and my subsequent letter of 21 June 2002, in the light on which I have been giving further thoughts about how best to fulfil the renewed mandate bestowed on the Office in the conclusions of the Applications Committee.

Read together with the discussion in the Committee, these conclusions indeed make it clear that our constituents, while acknowledging the importance of developments such as the High-Level Team and the appointment of a Liaison Officer, are impatient to see concrete evidence of progress in the eradication of forced labour, and have an open mind about the consequences that would have to be drawn from such evidence.

It would thus seem fully consistent with the mandate I have received from the Conference this year as well as through previous resolutions, to examine with the authorities in the coming weeks how the ILO technical assistance and support, in the many fields where it has recognized expertise, could be mobilized to assist the efforts of the authorities in the form of a coherent plan of work and action capable of making a concrete and verifiable impact towards the complete elimination of forced labour.

Such a plan, which could initially be targeted to an agreed geographical region and be progressively extended on a step-by-step basis, would obviously have to be carefully devised taking into consideration the analysis and recommendations of the High-Level Team. It should be discussed, adopted and subsequently implemented in such a way as to demonstrate the commitment of the authorities at the highest level and to receive the support of all other sectors concerned, including from the international community.

But again time is of the essence. This is why I have asked Mr. Léon de Riedmatten and his assistant to examine with you and other relevant authorities how and with whom discussions could be conducted to successfully define such a mutually acceptance plan of action. I wish to thank you very much in advance for the cooperation and assistance you will no doubt wish to extend to him.

Yours sincerely,

(Signed) Juan Somavia.

Appendix IV

Communication dated 9 August 2002 from the Minister for Labour of Myanmar to the Director-General

Excellency,

I wish to acknowledge the receipt of your letter dated 22 July, 2002.

In this regard, I have the pleasure to inform you that since early July, the ILO Affairs Working Committee and the ILO/Convention No. 29 Implementation Committee have been making necessary preparations for field observation trips to various areas throughout the country as they have made in the last two years.

Consultations with the government departments and personnel concerned including the interim ILO/Liaison Officer, Mr. Léon de Riedmatten have now been made for choice of the area, proper work schedule and travel arrangements.

Upon consideration from the security point of view Tanintharyi Division is our first priority for the field visit to observe the situations concerning the progress made towards the elimination of forced labour practices in the area. Moreover, the existence of major development projects such as road construction, gas pipeline project and large palm-oil plantation projects is also an important factor that has been taken into consideration. Above all, Tanintharyi is one of those areas where various allegations on the use of forced labour emanated.

Thanks to the cooperation of all concerned, this first field visit to Tanintharyi will be made very soon. We will have to expand and widen these activities on a step-by-step basis as you have suggested.

Looking forward to the furtherance of our cooperation.

Regards,

Yours sincerely,

(Signed) U Tin Winn.

Appendix V

Communication dated 24 July 2002 from the interim Liaison Officer to the Minister for Labour of Myanmar

Excellency,

I wish to refer to a recent report by Amnesty International entitled “Myanmar: Lack of security in counter-insurgency areas” (17 July 2002). As you will no doubt be aware, this report contains a number of specific allegations of human rights abuses by the Myanmar armed forces, including allegations of forced labour. These allegations relate primarily to areas of the Shan, Kayin and Mon States and the Tanintharyi Division.

I take note of a response by the Myanmar Government to this report entitled “Myanmar Government appreciates Amnesty’s concern on human rights development in Myanmar” (Information Sheet No. C-2288, 18 July 2002) in which it is pointed out that proper assessment and judgement is essential before drawing conclusions with regard to such allegations.

I agree with the Government’s view that these allegations require proper assessment. This is particularly so given that Amnesty International is a respected organization and the allegations it reports thus tend to be regarded as credible by the international community. The allegations concerning forced labour are also largely consistent with those reported to the ILO High-Level Team. I would therefore like to recommend that the Convention No. 29 Implementation Committee dispatch Field Observation Teams to the areas mentioned in the report in order to carry out a thorough investigation of these allegations, which should of course include discussions with the battalions referred to in these allegations. I would also like to offer our cooperation and assistance to these teams, should this be required.

It is my conviction that a swift and credible investigation of these allegations will constitute an important demonstration of Myanmar’s commitment to the elimination of forced labour and can be a positive contribution to human rights development in Myanmar.

Yours sincerely,

(Signed) Léon de Riedmatten.

Appendix VI

Itinerary of visit to southern Tanintharyi Division, 9-14 September

9 September

- 07.30– Arrive Myeik airport
- 09.20-10.50 – Meeting with Supervisory Committee for the elimination of forced labour in Tanintharyi Division
- 11.00-11.30 – Meeting with local officials
- 13.30-16.30 – Visit to villages in Myeik area
- 16.40-17.00 – Daily wrap-up meeting

10 September

- 07.30-08.30 – Visit to Kyweku-Kyaukphya bridge construction site (north of Myeik)
- 11.00-13.00 – Visit to Tanintharyi town (about 55 km south of Myeik)
- 13.00-16.45 – Visit to villages and a private oil-palm plantation on the road from Tanintharyi to Myeik

11 September

- 09.00-12.00 – Visit to a number of joint venture and private companies in Myeik
- 14.30– Arrive Kawthaung airport
- 16.00-16.40 – Meeting with committee supervising the elimination of forced labour in Kawthaung District
- 16.40-17.00 – Meeting with local officials

12 September

- 12.00-15.30 – Visit to a number of private palm-oil plantations

13 September

- 09.00-13.00 – Visit to a number of private companies in Kawthaung

14 September

- 09.00-10.00 – Final wrap-up meeting



FOURTH ITEM ON THE AGENDA

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

Addendum

32. Following her arrival in Yangon on 8 October, Ms. Hông-Trang Perret-Nyuyen has been able to have a range of contacts and meetings that will be of interest to the Governing Body.^{22 23} Any developments following the finalization of this document will also be communicated to the Governing Body.²⁴

²² The Office of the Liaison Officer is fully established and operational, except that it has not yet proved possible to obtain telephone lines; temporary arrangements for telephone communication have had to be made. As regards local staff, the Office is finalizing the recruitment of a national administrative officer to take over from the current temporary appointee; a receptionist/secretary had already been recruited.

²³ At the time this report was finalized, a total of 17 meetings had been held, including with the Minister for Labour; the diplomatic community; the United Nations Resident Coordinator; the United Nations Country Team (as well as separate meetings with representatives of individual United Nations agencies); Daw Aung San Suu Kyi, the General-Secretary of the National League for Democracy; representatives of six international NGOs; and the ICRC. The Liaison Officer also had the opportunity to meet with the Special Rapporteur on the Situation of Human Rights in Myanmar, Prof. Pinheiro, during a visit he made to Myanmar. There has been some interest from the press, and the Liaison Officer has given a number of interviews, including to a Japanese television station (NHK), a semi-official weekly newspaper (the Myanmar Times, which published an article in its English version), to BBC radio (Burmese-language service), and to Agence France-Presse.

²⁴ The Governing Body will no doubt also be interested in developments in the United Nations Economic and Social Council (ECOSOC). Following the adoption of a resolution during its June 2001 session, ECOSOC further discussed the situation in October 2002.

- 33.** *Meeting with the Minister for Labour.* In a meeting on 11 October with the Minister for Labour, the Liaison Officer had the opportunity to follow up on the discussions that had taken place between the interim Liaison Officer and the Myanmar authorities by presenting some further ideas on the form that cooperation between the ILO and the Government of Myanmar might take. She stressed that while the appointment of an ILO Liaison Officer in Yangon was a positive step, there was a need to demonstrate concrete progress on tackling forced labour. One way to achieve such progress was through the development of a coherent “plan of action”, as had been mentioned by the ILO Director-General in his letter of 22 July and raised with the authorities by the interim Liaison Officer. Important issues that needed to be addressed included the establishment of a credible mechanism for investigating allegations, including those that concerned the military, and consideration of how ILO technical assistance could have an impact on the forced labour problem. Pending the establishment of such a mechanism for investigating allegations, it would be useful to publicize the presence of the Liaison Officer as widely as possible, as this would provide a potential channel for complaints to be submitted; these complaints could then be passed on to the authorities. Concerning ILO technical assistance, one immediate possibility would be for the ILO to assist the Ministry of Labour in the translation into ethnic languages, and dissemination of information about the Orders prohibiting forced labour. This was an issue that had been raised both by the High-Level Team and by the Committee of Experts. The Minister replied that there was no need to publicize the presence of the Liaison Officer, as this was widely known, even in remote areas. Concerning the Orders, his Ministry was working with the Ministry of Information on translation into ethnic languages, but he did not feel this would be useful since ethnic people did not make much use of their languages, preferring to use the Burmese language. On the question of an investigation mechanism, he suggested that allegations of forced labour be transmitted to the Implementation Committee, who would then investigate them.
- 34.** The Liaison Officer has also requested meetings with the ministers for Home Affairs and Foreign Affairs, and with a minister at the Prime Minister’s Office, as well as with Secretary-1 of the State Peace and Development Council, General Khin Nyunt. At the time this report was finalized, no answers to these requests had been received. A meeting that was scheduled with the Implementation Committee was postponed at the request of the Liaison Officer as a number of members of the Committee, including its two co-chairs, could not be present. No new date for this meeting has been fixed.
- 35.** On 1 November the Liaison Officer, accompanied by her assistant, made a one-day visit to some towns and villages near Yangon, in order for her to start gaining an impression of the general situation.
- 36.** *Meeting with Daw Aung San Suu Kyi.* The Liaison Officer had a meeting on 30 October with Daw Aung San Suu Kyi, the General-Secretary of the National League for Democracy (NLD). Daw Aung San Suu Kyi welcomed the appointment of an ILO Liaison Officer in Yangon, and hoped that the NLD would have regular contact with the Liaison Officer. She felt that while substantial progress on the forced labour issue ultimately required progress in the reconciliation process, the ILO might nevertheless be able to bring about improvements in some areas. The NLD had noted some decline in the use of forced labour, but also had information on continued recourse to the practice, including cases that she had come across herself.
- 37.** *The possible visit of an ILO mission.* The question of a high-level ILO mission visiting Myanmar in order to help develop a coherent plan of action, as mentioned in the Director-General’s letter to the Minister for Labour on 22 July 2002, had been discussed with the

Permanent Mission of Myanmar in Geneva.²⁵ Following indications that such a mission would be welcome by the authorities, the Office confirmed its willingness to send such a mission at a mutually convenient time, provided there was an invitation from the authorities making clear that the purpose of the mission would be for specific discussions on such plan of action, and that adequate preparations were made in advance between the authorities and the ILO Liaison Officer. (Any further developments on the subject will be presented orally to the Governing Body.)

Geneva, 11 November 2002.

²⁵ See also GB.285/4, paras. 7-9.



FOURTH ITEM ON THE AGENDA

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

Addendum 2

38. Since the finalization of document GB.285/4(Add.), the Liaison Officer has had a number of meetings that will be of interest to the Governing Body.²⁶
39. *Meeting with the Minister for Home Affairs.* A meeting on 8 November with the Minister for Home Affairs provided the Liaison Officer with the opportunity to reiterate and expand on some of the points that she had discussed in her earlier meeting with the Minister for Labour.²⁷ Her priorities were to achieve progress on the implementation of the Orders that had been adopted and on the establishment of a credible and effective mechanism for the investigation of allegations. In particular, a way needed to be found to address allegations that concerned the army. In this regard it was vital for the Liaison Officer to have contacts with a competent person from the army.²⁸ Prosecution and sanctioning of offenders would also send an important signal, whereas only administrative action had been taken so far. The Minister welcomed the appointment of the Liaison Officer, and saw such cooperation

²⁶ Meetings were held between 7 and 14 November with Secretary-1 of the State Peace and Development Council, the Ministers for Foreign Affairs and Home Affairs, the Implementation Committee, the Director-General of the Department of Labour, and the Union of Myanmar Federation of Chambers of Commerce and Industry. The Liaison Officer also had the opportunity during this period to meet with the United Nations Secretary-General's Special Envoy for Myanmar, Ambassador Tan Sri Razali Ismail, during his visit to the country from 12 to 16 November.

²⁷ See GB.285/4(Add.), para. 2.

²⁸ One Minister had earlier informed the interim Liaison Officer that the Inspector-General of the armed forces might be an appropriate contact in this regard.

with international organizations as a way to achieve greater progress. Previously, the Government had not agreed with the ILO criticism, as it had considered that the development projects it was engaged in were for the good of the people, and it had few resources to implement them. But its way of thinking had now changed, and it realized that these practices were no longer appropriate. However, the international community needed to have greater understanding and patience, as it was necessary to proceed step by step. In reply, the Liaison Officer stressed that in her view the international community understood the difficulty of the problem. However, for it to be willing to give the authorities the time and resources needed to solve it they first needed to give a credible demonstration of their will to genuinely address the issue.

40. *Meeting with the Implementation Committee.* In a meeting on 9 November with the Implementation Committee, the Liaison Officer was able to follow up on the allegations transmitted by the interim Liaison Officer in letters dated 23 July, 7 August and 4 October.²⁹ The Committee briefed the Liaison Officer on the various places in the country that its members had travelled to in order to disseminate information and learn about the situation on the ground. As regards the specific allegations, the Committee indicated that the situation in northern Rakhine State had been thoroughly investigated, and the allegations had been found to be false, as had the allegations concerning requisition of vehicles in Mon State. No investigations had been made of the Amnesty International allegations, or the allegations relating to the construction of an artillery base in Mon State. The Liaison Officer stressed the need for written reports of such investigations. The need for this was underlined by the fact that the information provided by the Committee concerning northern Rakhine State was not consistent with a separate response given by the authorities to UNHCR on the same issue. The Liaison Officer then raised a number of new allegations that had been communicated to her, and which the Committee should investigate.³⁰ The allegation concerning the killing of a trade unionist was particularly disturbing, and she urged the Committee to investigate and provide a written report on this as a matter of urgency. As regards the serious allegations of forced recruitment of children into the army, this was a matter which required detailed further discussions, together with UNICEF and other relevant organizations, in order to develop an appropriate response. The Committee replied that the allegation concerning the killing of the trade unionist emanated from an insurgent group that made many such allegations, and it was difficult to respond to all of them. The Government had already responded to the allegations concerning child soldiers by underlining that this was not a practice in Myanmar. The allegation of forced labour in Bago Division would certainly be investigated.
41. *Meeting with the Minister for Foreign Affairs.* In a meeting on 12 November, the Liaison Officer was able to reiterate the points that she had made to the Ministers for Labour and Home Affairs, in particular the need for progress on the implementation of the Orders. In this regard it was necessary for her to have direct contacts with the army. The Minister for Foreign Affairs welcomed the appointment of the Liaison Officer, which he saw as the first step towards the establishment of a full ILO representation. He stressed that the authorities

²⁹ See GB.285/4, para. 10.

³⁰ These new allegations, some details of which had been communicated to the Implementation Committee by the Liaison Officer in advance of the meeting, related to the forced recruitment of child soldiers (contained in recent reports by UNICEF and Human Rights Watch), the killing of a trade unionist while he was being forced to work as a porter (transmitted to the ILO Director-General by the ICFTU), a number of other specific allegations contained in information recently submitted to the Committee of Experts by the ICFTU, and information on forced labour in two towns in Bago Division that was reported by a reliable source in Myanmar. The Liaison Officer transmitted further details of these allegations to the Implementation Committee in a follow-up letter dated 14 November.

had no policy of using forced labour, although they realized that the practice may be continuing in remote areas, and they understood the need for prosecution of offenders.

42. *Meeting with Secretary-1 of the State Peace and Development Council (SPDC).* On 14 November, the Liaison Officer was received by General Khin Nyunt, Secretary-1 of the SPDC. General Khin Nyunt underlined the fact that the Liaison Officer was free to visit any place that she wished. He encouraged her to visit as many places as she could in order to see the situation, and offered any assistance that might be required to facilitate such visits. He stressed that the authorities did not condone forced labour and had given clear instructions prohibiting it, although it was of course possible that such practices still occurred in remote areas. The Liaison Officer indicated that some very important steps had been taken by the authorities, but that more needed to be done. The existing system for investigating allegations, in the form of the Implementation Committee, needed to be improved and, crucially, a way also needed to be found to investigate allegations concerning the army. Careful preparation and progress on a concrete plan of action, which addressed these and other issues, was needed prior to any visit of a high-level ILO mission. Such a plan of action could include a technical assistance project which addressed the forced labour problem, and further consideration should be given to this issue. General Khin Nyunt invited the Liaison Officer to have discussions on the plan of action with the Minister for Labour.
43. As this report was being finalized, a letter dated 15 November was received from the Director-General of the Department of Labour informing the Liaison Officer of three developments: a high-ranking officer from the Office of the Inspector-General of the Ministry of Defence would be included in the Implementation Committee; the Orders prohibiting forced labour had been translated into three ethnic languages (and would shortly be translated into a further three); and pamphlets would be produced in order to give further publicity to the prohibition on forced labour.

Geneva, 15 November 2002.

Appendix

**Communication dated 15 November 2002
from Soe Nyunt, Director-General of the
Department of Labour, Myanmar, to
Ms. Hông-Trang Perret-Nguyen
ILO Liaison Officer**

Subject: *Developments on Convention No. 29*

Dear Madame,

I am giving you this information before you depart for Geneva. It is necessary, I think, that you should know the latest developments since I look forward to forge close friendship and to establish it we need to have full understanding of each other at the working level.

Very recently, we achieve three developments concerning eradication of forced labour –

1. Within the matter of days we are going to disseminate the authentic translation of Order 1/99 and Order Supplementary to Order 1/99 in Shan, Mon and Kayin languages. At the same time translations of above Orders into Kayah, Chin and Kachin languages are in progress. They will also be published very soon.
2. It is decided that the Implementation Committee will be expanded to include a high-ranking official from Office of the Inspector-General under the Ministry of Defence.
3. In order to publicize about Convention No. 29 a pamphlet on forced labour is being prepared.

I hope that the above developments will be of use to you in your discussion with Committee of Experts. Also, these will be included in our Supplementary Report to the Committee of Experts.

Yours sincerely,

(Signed) Soe Nyunt,
Director-General.

cc: (1) Ministry of Labour;
(2) Office copy.

G. Extracts from document GB.285/PV: Minutes of the discussion at the 285th Session (November 2002) of the Governing Body of developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)

Extracts

SECOND SITTING

Wednesday, 20 November 2002, morning

The sitting opened at 10.50 a.m., with Lord Brett in the Chair.

Eighteenth item on the agenda

...

Fourth item on the agenda

DEVELOPMENTS CONCERNING THE QUESTION OF THE OBSERVANCE BY THE GOVERNMENT OF MYANMAR OF THE FORCED LABOUR CONVENTION, 1930 (NO. 29)

The Ambassador of Myanmar stressed that Myanmar was a country in transition, striving to become a modern, peaceful and prosperous democratic State. It was a multiracial society, counting 135 ethnic groups. The safeguarding of peace and stability was of paramount importance, and transition needed to be a gradual process. Given these circumstances, Myanmar had made significant progress in political, economic, social and cultural development.

Myanmar's cooperation with the United Nations had developed encouragingly, with visits from the Special Rapporteur of the United Nations Commission on Human Rights on the situation of human rights in Myanmar, from 17 to 28 October 2002, the Special Envoy of the Secretary-General of the United Nations, from 12 to 15 November 2002, and an accepted invitation to the United Nations High Commissioner for Human Rights to undertake an observation mission in the country at a mutually convenient date. Progress with the ILO, thanks to the diligent efforts of the interim Liaison Officer and the permanent Liaison Officer, and the cooperation of the Government, had also been significant.

Since starting the process of dialogue and cooperation with the ILO in 2000, there had been four ILO technical cooperation missions to the country, in May and October 2000, in May 2001, and in February 2002. The ILO High-Level Team, led by Sir Ninian Stevens, visited Myanmar in September and October 2001. Further technical assistance from the ILO would help the Government to increase the welfare and living standards of the Myanmar people. The Government would welcome a technical assistance mission, to establish a plan of action, and practical projects to help eradicate forced labour in the country. Such a mission was currently under discussion, and the Ambassador, in a letter of 21 October 2002, to Mr. Tapiola, had informed the ILO of his Government's willingness to cooperate in this connection. The Government understood that the 1999 resolution on the widespread use of forced labour in Myanmar would not prevent the Director-General from

providing technical assistance aimed at stopping forced labour in the country. Hopefully, the improved situation would allow the Governing Body at its 286th Session (March 2003), to recommend to the 91st Session of the International Labour Conference to review the situation with a view to removing the measures taken under article 33 of the ILO Constitution.

The Government had put in place a comprehensive framework of legislative, executive and administrative measures, including Order No. 199 prohibiting the use of forced labour, and other orders supplementing it. Necessary directives and instructions were issued to all the ministries and departments concerned, including the Ministry of Defence, to ensure compliance with these measures. The orders were posted at local, regional and national levels, published in the *Official Gazette* and in the *Myanmar Times*, and announced by village criers in villages throughout the country. They were also being translated into three major languages used in Myanmar, and would be translated into other major languages in due course.

Two supervisory bodies oversaw the implementation of Convention No. 29: the Ministerial Committee chaired by the Minister of Labour, with the Minister of Home Affairs, the Minister for Foreign Affairs, the Chief Justice and Attorney General as members; and the Implementation Committee for Convention No. 29, chaired by the Deputy Minister of Home Affairs, and with the participation of the Deputy Minister of Labour, the Directors-General of General Administration and of the Department of Labour and of various other departments. A representative of the Office of the Inspector General of Myanmar Forces from the Ministry of Defence was shortly to join the members of this Committee, in response to a suggestion by the ILO. The Implementation Committee appointed field study teams to oversee the observance of Convention No. 29 throughout the country. In May 2001, five teams visited Rakhine State, Kayah State, Shan State and the Tanintharyi Division. From 9 to 19 September 2002, three teams, in the company of the interim Liaison Officer, again visited the Tanintharyi Division, selected by the Government as a pilot project area. The projects would subsequently be extended to other regions of the country.

Substantiated complaints of recourse to forced labour were investigated by the authorities, and offenders were punished under the law. Sir Ninian Stevens had received the list of those against whom action had been taken for offences. To obtain a true picture of progress in Myanmar, it was necessary to view the situation in 2000 and in 2001, and compare it with that of November 2002. As the report stated, much had been done in a relatively short time, and much more could certainly be achieved, to allow Myanmar to assume the place it deserved in the international community. The Government would continue to cooperate with the ILO to this end.

The Worker spokesperson applauded the visits that various United Nations agencies had made to Myanmar, but suggested that such specially arranged, escorted visits were of limited value. Although the Ambassador's report indicated that progress was being made, reports from other quarters were alarming, and showed that matters had in fact got worse in Myanmar. The ICFTU had reported on recent additional killings, including the assassination of a trade unionist. The Implementation Committee had responded by laying the responsibility on an insurgent group. The matter should not be simply dismissed for this reason, but a fully independent investigation should be undertaken into the killing of the trade unionist and of the workers killed in Shan State. Moreover it was a cynical approach to human rights that allowed the economic circumstances of the country to be used as an excuse for recourse to forced labour.

The Workers' group was disappointed at the lack of progress. The absence of complaints to the Implementation Committee did not equate with the absence of atrocities. People would not come forward and report if they feared for their lives in doing so. The

Committee should be given the authority to investigate allegations made, and the Liaison Officer should have the ability and independence to choose when and how to conduct inquiries, without high-level security arrangements.

The interim Liaison Officer had requested investigations to be made into complaints of forced labour in Yangon, in Rakhine State, Mon State and Kyaikto, made by locals and by Amnesty International, to be met with a response from the Minister for Labour that some areas were unsafe for civilians to visit, precluding the possibility of investigations. This was unsatisfactory, and an independent, credible and effective mechanism for investigating such allegations was essential.

Evidence of the translations into three major languages of the various orders prohibiting forced labour should be produced. The Liaison Officer should be allowed to make spot checks without prior warning, and the Government of Myanmar be bound to a time limit to rectify the situation and punish wrongdoers. The Governments present in the Governing Body and, where practical, the Employers, should call clearly on the Government of Myanmar to implement the stated ILO objectives. The Office report reflected too strongly the position of the Government of Myanmar: teenagers were not “recruited” into the army, they were kidnapped. This was in blatant contravention of the Worst Forms of Child Labour Convention, 1999 (No. 182). Any military recruitment of children was unacceptable, especially in peace time. The question of the establishment of a legal ombudsperson remained unanswered, and the group wished to persuade the Government to accept the instigation of this measure.

There was some evidence that companies were withdrawing their investments from Myanmar. This would oblige the people of Myanmar to take very serious note of events, and would raise the question of what businesses and the member States of the ILO were prepared to do to bring social justice and human rights to the country, within a reasonable time limit.

The Employer Vice-Chairperson noted that the reports gave an up-to-date account of ILO activities in Myanmar, but insufficient time had elapsed to allow an in-depth analysis of the achievements registered so far. The eradication of problems such as forced labour, which were a taint to human dignity, was a major challenge for the ILO, and in this case it was important to gauge the commitment of the Government to achieving ILO objectives. The Ambassador of Myanmar had made what appeared to be the most categorical statement of determination to tackle forced labour thus far. However, as the Worker spokesperson had said, this statement must be followed up by action. The Liaison Officer must have the ability to check that genuine progress was being made. The plan of action, to which the Government referred, needed to be implemented to ensure that full and effective elimination of forced labour was going ahead.

The reports showed that the situation was still unsatisfactory: dialogue should be maintained, and the Office should provide guidance as to the next steps. Should an ombudsperson be established in Myanmar, what action would be taken in the field to check on activities? More information was required in this respect. The Employers’ group was convinced that forced labour should cease in Myanmar, and was ready to cooperate to this end.

A Government representative of Indonesia, speaking on behalf of the ASEAN group, approved the continuation of dialogue between the ILO and the Government of Myanmar, and welcomed the political will to eliminate forced labour shown by the Government and the appointment of the ILO Liaison Officer. It was to be hoped that an ILO technical cooperation mission would visit Myanmar in the near future, and open the field for further cooperation and a programme of work involving technical cooperation projects. The 1999 Conference resolution should not impede the Director-General from using his discretion to

provide technical assistance to Myanmar to assist it in its action against forced labour. It was to be hoped that this assistance would result in an improvement in the situation in Myanmar and enable the Governing Body at its 286th Session (March 2003), to recommend the International Labour Conference to review the situation and consider the possible withdrawal of the measures in place.

A Government representative of Italy, speaking on behalf of the European Union (EU), the countries of Central and Eastern Europe associated with the EU, Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia and Slovenia, and the associated countries of Cyprus, Malta and Turkey, and also Switzerland, said that the EU continued to encourage the restoration of democracy, the pursuit of national reconciliation, protection of human rights and the elimination of forced labour in Myanmar. It attached great importance to the ILO's efforts in this field. At the 91st Session of the International Labour Conference, the EU had called on the Myanmar authorities to take urgent and sustained action to eradicate forced labour. The report showed that insufficient action had been taken and suggested that the authorities did not acknowledge the immediacy and scale of the problem.

Conditions of dialogue had however been substantially improved by the appointment of a permanent Liaison Officer. The Officer must be given all required support, freedom to operate and cooperation from the authorities, since the delays she was encountering were worrying. It was also of concern that the recommendations of the 2001 High-Level Team had not yet been implemented in Myanmar. In particular, the authorities should take concrete action to disseminate orders banning forced labour in all appropriate languages, including major ethnic languages; conduct a credible investigation into the deaths of the Shan villagers; establish an ombudsperson institution as a means of independent mediation and legal recourse; present additional budgetary provision for labour costs, legal action and prosecution of offenders; establish contact between the ILO and the armed forces on issues related to forced labour. The situation should be closely monitored between the present meeting and the next session in March 2003.

A Government representative of New Zealand, also speaking on behalf of Australia, welcomed the appointment of the Liaison Officer, and also the imminent technical cooperation mission to Myanmar. This mission should lead to a plan of work allowing concrete progress towards the eradication of forced labour, ideally including verifiable performance indicators and an agreed time frame.

Two and a half years had passed since the resolution adopted by the 87th Session of the ILC, and the rate of progress was disappointing. It was not clear whether efforts so far had led to individuals in Myanmar being able to avoid forced labour. The Government should redouble its efforts and implement the recommendations of the High-Level Team. The ILO and the Government should work closely together to be able to present the text of the plan of work to the 286th Session (March 2003) of the Governing Body and present evidence of the plan being put into effect. Appropriate technical assistance should be provided within the terms of the resolutions adopted by the ILC in 1999 and 2000.

A Government representative of Norway said his Government welcomed the resumption of contacts between the ILO and the Government of Myanmar and the opening of an ILO Liaison Office in Rangoon. This Office should be given full freedom of movement and the required cooperation by all authorities, including the military. Norway shared the concern for conditions in the labour camps and for the factory workers in Myanmar voiced by Aung San Suu Kyi when she met with the ILO in the spring of 2002. It was now of critical importance that the practice of forced labour be brought to an end, especially within the military. The Government should take urgent steps to develop a plan of action in cooperation with the ILO to eliminate forced labour; systematically disseminate orders banning forced labour, translated into the relevant languages; conduct

an independent investigation into the allegations of the deaths of the Shan villagers and establish an ombudsperson institution to ensure a credible system of investigation and a contact point for filing allegations of forced labour. The Government should follow up the idea of a pilot project undertaken with ILO technical cooperation to address forced labour in direct and indirect ways, in a field of ILO expertise, such as labour-based technologies in the construction of rural infrastructure.

A Government representative of Bangladesh said there had been positive developments in Myanmar. The appointment of the permanent Liaison Officer and the interim Liaison Officer's field trip, as well as the decision by the Government to accept an ILO technical cooperation mission, were all elements that would encourage future cooperation in eradicating forced labour, and showed the Government's genuine political will to make progress. The 91st Session of the ILC should review the situation with a view to removing the measures taken against Myanmar

A Government representative of Mexico noted that the report showed that the Liaison Officer had already made contact with high-level government officials to put together a plan of action encompassing technical cooperation by the ILO, and had begun field visits to obtain a picture of the real situation. Technical cooperation had a valuable role to play and it was to be hoped that the next mission would result in a plan of action allowing concrete progress. If the Government continued to work with the ILO towards the effective implementation of Convention No. 29, it would soon be possible to consider lifting the measures taken under article 33 of the ILO Constitution against Myanmar.

A Government representative of the Libyan Arab Jamahiriya said that the Government of Myanmar had taken very positive legislative and administrative steps to eradicate forced labour and was cooperating closely with the ILO in accepting missions and in the establishment of the Liaison Office in Rangoon. The statement by the Ambassador of Myanmar also showed that the Government was acting with genuine political will. The ILO should continue to provide technical cooperation, and at the 286th Session (March 2003) of the Governing Body, a decision could be taken as to recommending to the Conference in June 2003 to review the measures taken under article 33 of the ILO Constitution in respect of Myanmar.

A Government representative of China said that the actions of the Government of Myanmar, and the progress made, showed that it had a true political will to eradicate forced labour. The Government of China had always maintained that this eradication could not be achieved through sanctions, but through dialogue and the provision of technical assistance and training. The idea of a pilot project for labour-based technologies in the development of rural infrastructure should be implemented at an early date; the Office should prepare programmes similar to those under the special technical cooperation programme for Colombia, funded from the budget surplus, to help Myanmar further. It was to be hoped that the 286th Session of the Governing Body would be able to recommend to the 91st Session of the ILC that it consider the removal of the measures taken against Myanmar.

A Government representative of Lithuania noted the political will displayed by the Government of Myanmar, but said that further concrete action was still required. Progress would depend on close cooperation with the ILO and through the Liaison Officer, who should be accorded all the required support.

A Government representative of Pakistan welcomed the political will displayed by the Government of Myanmar and the continued engagement of the ILO to eradicate forced labour in Myanmar. The Government of Pakistan appreciated the appointment of a permanent Liaison Officer and noted that a technical cooperation mission was mooted. The Director-General should use his discretion in providing technical assistance to help

eradicate forced labour. However, the correct approach to the problem was not based on sanctions, but on cooperation and dialogue. This should be strengthened, and the ILO should review the situation with a view to the removal of all the article 33 measures imposed.

A Government representative of Japan said the Government of Myanmar should take steps in response to the recommendations of the Commission of Inquiry. The Liaison Officer would be able to work to this end and, with the support and cooperation of the Government, encourage the authorities in their efforts to eradicate forced labour. It was understood that the Director-General could negotiate with and provide technical assistance to Myanmar to assist the Government in implementing the recommendations of the Commission of Inquiry. The Organization should therefore continue to work with the Government to this end, through the implementation of a mutually agreed plan of action.

A Government representative of the United States was encouraged by the Government of Myanmar's willingness to meet at senior levels with ILO officials and allow them to travel in the country. The next step was the development of a coherent plan of action capable of making concrete, verifiable progress towards the eradication of forced labour in Myanmar. The ILO had proposed sending a mission to Rangoon to help in drawing up this plan, and it was to be hoped that the plan could be prepared in time for the Governing Body to review it in March 2003. It remained that the advances made, however welcome, were largely procedural. Evidence showed the continued existence of forced labour, and impunity of those responsible for it, particularly the military. Until the full implementation of the recommendations of the Commission of Inquiry, there could be no question of the removal of the article 33 sanctions.

A Government representative of India recalled that India had from the outset supported a promotional approach by the ILO, rather than the imposition of sanctions. The Organization's aims could be better achieved through positive dialogue, cooperation and technical assistance. The proposed pilot project was an example of such cooperation and assistance and should be encouraged. The reports showed that the dialogue and cooperation were beginning to bear fruit.

A Government representative of the Russian Federation noted that cooperation between the ILO and the Government of Myanmar was developing successfully. Forced labour had existed in Myanmar for many years, and would take a long time and much work to eradicate completely. However, a spirit of understanding was apparent on both sides, and it might prove possible at the 286th Session of the Governing Body to view the Myanmar question in a more positive light.

A Government representative of South Africa welcomed the appointment of a permanent Liaison Officer in Myanmar, who should be given all the support necessary by the authorities to ensure the prompt elimination of forced labour. The proposal by the Director-General to provide technical assistance to Myanmar in elaborating a plan of action against forced labour had the South African Government's full support. Such a plan should include an effective means of responding to allegations of forced labour. While the Government had taken swift action in dismissing the army officer responsible for the recruitment of teenagers to act as porters, it was worrying to read in the report that the teenagers had not been recruited as porters, but "to the army", as soldiers. Continued cooperation should show greater progress, and the next report should contain yet more positive developments, especially regarding the investigation of the military in Myanmar.

A Government representative of Korea, Government Vice-Chairperson, said his Government believed that the appointment of a permanent Liaison Officer was a clear step forward in combating forced labour in Myanmar. The Government of Myanmar should provide full support and allow full freedom of movement to the Officer and her staff, and

respond credibly and effectively to Liaison Office recommendations. The collaboration between the ILO and the Myanmar Government should result in a coherent plan of action including technical assistance. The proposed technical assistance mission should be undertaken shortly, unhindered by the resolution adopted at the 87th Session of the ILC imposing sanctions on Myanmar.

A Government representative of Canada said the appointment of an ILO Liaison Officer was an important step towards the establishment of a full and effective ILO presence in the country. The Liaison Officer should be granted full freedom of movement and access, including to the National League for Democracy (NLD), to ethnic nationalities, to border areas and to the army. Forced labour remained a very serious issue in Myanmar, which the Government must solve if they wished to discharge their international obligations and become a modern, democratic society. A credible and effective response to allegations of forced labour was required. These allegations mostly concerned the army, and the Liaison Officer should have regular contact with the military at senior levels to solve this problem. It was therefore positive that senior military representatives were to be included on the Implementation Committee. At present the Committee had no authority to investigate allegations concerning the army, calling into question the complaint mechanism. The fact that few complaints had been received ran contrary to the perceived situation on the ground. An independent mechanism, such as an ombudsperson, should be established and perpetrators of forced labour prosecuted and punished: Canada was still awaiting the results of an independent investigation into the killing of seven villagers in Shan State in July 2001. Myanmar should enhance its cooperation with the ILO and develop an integrated and coherent plan of action with clear time frames. Given the lack of meaningful progress, the measures under article 33 of the ILO Constitution should remain in place.

The representative of the Director-General clarified three points: the reports before the Governing Body were not intended to present an evaluation of the situation in Myanmar. The interim Liaison Officer's field trip to Tanintharyi Division had not been to investigate allegations, but to gain an impression of the root causes of forced labour, and explore possibilities for ILO assistance. On the question of the forced recruitment of children into the army, the Liaison Officer had requested a meeting with the Implementation Committee, and the ILO had offered to work on this issue with UNICEF.

The Employer Vice-Chairperson said the debate had clarified the direction that the Organization should take in its future relations with Myanmar to achieve full respect of Convention No. 29 in that country. There was a need for a coherent plan of action; a mechanism to respond to and act on allegations of forced labour, possibly in the form of an ombudsperson; and a system to monitor the existence or eradication of forced labour. The Government of Myanmar must confirm its political will to eradicate forced labour by taking convincing measures. It was to be hoped that the report to the 286th Session of the Governing Body would contain evidence of concrete progress. If such was not the case, there was no question of requesting the Conference to remove the measures applied under article 33 of the ILO Constitution.

The Worker spokesperson said that notwithstanding the work done, atrocities were still being committed. The Government was not addressing the central aspects of the resolution. Recruiting children into the army was no better than kidnapping children to work as porters. The Government of Myanmar should return in March with evidence of sufficient action before the ILO engaged in technical cooperation. However, the resolution made it clear the Director-General could use his discretion in providing technical assistance to carry through the terms of the resolution. The Government had asked for such assistance to help it comply with its obligations. At present, the situation had not changed and the sanctions imposed under article 33 of the ILO Constitution should be maintained.

The Chairperson summarized the views of the Governing Body. The action required of the Government of Myanmar was the eradication of forced labour, the prosecution of those responsible for imposing force labour and the necessary alterations to the legal process to allow such prosecutions. The words of the Government were welcome, but evidence of concrete action was needed before serious consideration could be given to removing the sanctions imposed on Myanmar under article 33 of the ILO Constitution. The sentiments of the Governing Body should be conveyed to the Government of Myanmar in written form. The Government had stated its willingness to receive an ILO technical assistance mission. It should be clear that the purpose of this mission, if it took place, would be to finalize agreement on a comprehensive plan of action for the effective eradication of forced labour, taking account of the High-Level Team's recommendations. This would involve the establishment of a credible mechanism for the investigation of allegations. The 1999 resolution allowed the Director-General discretion to provide such technical assistance. The 286th Session (March 2003) of the Governing Body would assess the progress that had been achieved by the Government, and decide whether it was sufficient to consider the lifting of the sanctions imposed.

The sitting closed at 12.50 p.m.



SIXTH ITEM ON THE AGENDA

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

I. Activities of the Liaison Officer

44. In light of the guidance given by the Governing Body at its 285th Session (November 2002), the Liaison Officer continued her discussions with the Myanmar authorities on issues relating to her mandate, in particular on the content of a plan of action for the elimination of forced labour (see section III below).³¹
45. The Liaison Officer also had contacts with a range of individuals and groups, both in Yangon and elsewhere in the country.³² In addition, she made a number of field visits in order to gain a personal impression of the situation.
46. From 9 to 13 December, the Liaison Officer visited northern Shan State.³³ The trip was conducted independently and without prior notice being given to the authorities. The trip

³¹ As before, the Liaison Officer was assisted by Mr. Richard Horsey. The Liaison Officer had discussions with the Minister for Labour, a Minister at the SPDC Chairman's Office (Brig. Gen. Abel), a senior military intelligence officer (Col. Hla Min), the Implementation Committee and the Director-General of the Department of Labour. The Liaison Officer also had the opportunity to have discussions with Myanmar's Permanent Representative in Geneva, during a visit he made to Yangon.

³² The Liaison Officer met with representatives of ethnic political parties, ceasefire groups, the National League for Democracy, including its General-Secretary Daw Aung San Suu Kyi, civil society groups, the diplomatic corps in Yangon, United Nations agencies, international non-governmental organizations and the International Committee of the Red Cross. The Liaison Officer also had the opportunity to meet with two representatives of Amnesty International during a visit they made to Myanmar in early February.

gave the Liaison Officer the opportunity to gain a better understanding of the situation in the region, including as regards forced labour. She had free discussions with a range of people, including village heads and other community leaders.

47. In January 2003 the Liaison Officer visited northern Rakhine State. From 21 to 4 January she participated in a trip to the area that was organized for diplomats by the UNHCR, to inform them about the situation of refugee returnees as well as the various projects being implemented by UNHCR and other organizations to help stabilize these returnees. At the end of this trip she remained in Rakhine State so as to be able to conduct some independent visits and meetings. She had invited the Implementation Committee to accompany her on this second phase of her trip, and she was joined by the Implementation Committee member with responsibility for Rakhine State from 24 to 28 January.³⁴ In addition to meetings with the authorities at various levels,³⁵ the Liaison Officer also had the opportunity to travel independently in order to speak with local people and community representatives.³⁶
48. From 13 to 14 February, at the invitation of TotalFinaElf the Liaison Officer made a visit to the area of the Yadana Gas Transportation Project in Tanintharyi Division, operated by that company. She was briefed by TotalFinaElf on the situation in the pipeline corridor and on the company's socio-economic programme for the local population. The Liaison Officer also travelled unaccompanied to some villages in the area.
49. In addition to these trips within Myanmar, the Liaison Officer also visited Bangkok and Chiang Mai from 29 November to 3 December in order to meet with representatives of non-governmental organizations working with refugees from Myanmar, including aid organizations and human rights organizations.
50. *General impression of the current situation.* Although not in a position to conduct any form of systematic investigation, the Liaison Officer has been able to form a general impression of the current forced labour situation in the country as a result of her various discussions and visits. It should be recalled that the High-Level Team which visited Myanmar from September to October 2001 found that although the orders prohibiting forced labour had been widely (if unevenly) disseminated, the impact on the practice of forced labour was limited, and that there had been only a very moderate positive evolution in the situation since the Commission of Inquiry. The situation remained particularly serious in places with a large military presence, especially in border areas. The Liaison

³³ The Liaison Officer visited locations on the road between Mandalay and the Chinese border at Muse (including stops at Hsipaw, Lashio and Muse).

³⁴ U Aung Ba Kyi, Chairman of the Social Security Board under the Ministry of Labour.

³⁵ Meetings were held with the Secretary and some other members of the Rakhine State Peace and Development Council in Sittwe, the NaSaKa (border immigration) Director in Maungdaw, the Maungdaw District Peace and Development Council, the Buthidaung Township Peace and Development Council, and a NaSaKa sector commander; the Liaison Officer also participated in meetings in Maungdaw and Buthidaung attended by approximately 400 village-tract officials. It did not prove possible to have any meetings with the army.

³⁶ By prior arrangement, during independent visits the Liaison Officer was escorted by one police vehicle for security purposes, which remained well behind her own car and waited at the outskirts of villages that she entered. This arrangement was fully respected, but the Liaison Officer was concerned that she was closely followed by two men on a motorcycle, who attempted to listen in on her private conversations with local people despite her protests and interventions from the police escort.

Officer has heard from a number of sources that forced labour decreased around the time of the visit of the High-Level Team, but that this decrease had not been sustained. While it is her impression that there is probably less use of forced labour in central parts of Myanmar, the situation in areas near to the Thai border where there is continuing insecurity and a heavy presence of the army, as well as in northern Rakhine State,³⁷ is particularly serious and appears to have changed little. It is also her impression that there have been some changes in the manner in which forced labour is imposed. For example, she has heard from several sources that military units tend to no longer issue written orders to village heads to provide forced labour, and instead give these instructions verbally. Demands for labour appear to have been substituted in some cases by forced contributions (of materials, provisions or cash). It also appears that the authorities are more commonly making payments to those whom they requisition, although usually at well below prevailing rates. In the view of the Liaison Officer, the wide dissemination of the Orders undertaken by the authorities has not been sufficient to have a significant impact on the practice, as it has not been accompanied by other measures, such as providing alternative means to those currently imposing forced labour to carry out the tasks which is their responsibility to perform. This lack of alternatives could be one reason for the weakness in enforcing the Orders.

51. The Liaison Officer's impression of the situation and the importance for alternatives to be given to those currently imposing forced labour was reinforced by various meetings with ethnic political leaders, ceasefire groups and the National League for Democracy (NLD), including a meeting on 20 January with its General Secretary, Daw Aung San Suu Kyi. The Liaison Officer is also convinced of the importance of the national reconciliation process for achieving greater security for the population in border areas, which could lead to substantial improvements in the forced labour situation there.

II. Developments in the Implementation Committee

52. In a meeting on 20 December 2002 with the Convention No. 29 Implementation Committee, the Liaison Officer had the opportunity to review progress since the last meeting in November. A letter dated 15 November from the Department of Labour to the Liaison Officer³⁸ had set out three developments: (1) the Orders prohibiting forced labour were to be translated into six ethnic languages; (2) a representative of the army was now included in the Implementation Committee;³⁹ (3) a pamphlet about forced labour was in preparation and would be published in early January. The Committee indicated that the texts of three translations were complete, and preparations were now being made to distribute them; copies of these had already been provided to the Liaison Officer. As regards the representative from the army, the Liaison Officer welcomed the fact that he was now included in the Committee, but expressed surprise that he was from the Office of Strategic Studies, which was part of military intelligence, rather than from the Office of

³⁷ Which also has a heavy presence of security forces.

³⁸ The text of this letter was reported to the Governing Body at its 285th Session (November 2002). See GB.285/4(Add.2), appendix.

³⁹ The new member of the Committee was Lt. Col. Maung Maung Aye from the Office of Strategic Studies, Ministry of Defence.

the Inspector General as had been announced.⁴⁰ Of course, the formal designation of the person in question was not of primary importance, provided that he had authority to represent the army.⁴¹ Concerning the pamphlet, the Liaison Officer requested to see a draft before it was published, so that she would be able to offer comments and advice.

53. As regards progress on the various allegations presented to the Committee, the Liaison Officer was disappointed to note that to date she had received no written reports on any investigations.⁴² Concerning the alleged killing of trade unionist Saw Mya Than while he was being forced to work as a porter, the Department of Labour indicated in a letter dated 18 November to Mr. Tapiola that, despite reservations as to the credibility of the allegation and the organization that had made it, all necessary inquiries would be made in consultation with the ministries and departments concerned. In the meeting on 20 December the Implementation Committee reiterated these reservations, without giving details of any investigation. The Liaison Officer stated that this allegation was particularly serious and that she had been requested by the ILO Director-General to follow it up. She was therefore willing to have some involvement in any investigation.
54. The need for urgent investigation of allegations, and for written reports of these investigations to be provided by the Committee was underlined by the Liaison Officer in a letter dated 6 January 2003 to the Director-General of the Department of Labour. The letter pointed out that three recent allegations in particular required urgent investigation by the authorities. These were (1) the alleged killing of Saw Mya Than; (2) the allegation concerning TotalFinaElf, to which that company had responded, but which still required a response by the authorities; and (3) the credible and very serious allegations of the forced recruitment of children into the armed forces.

III. Discussions on a plan of action

55. The development of a plan of action was suggested by the Director-General in a letter dated 21 June 2002 to the Minister for Labour, and reiterated by him in a letter dated 22 July.⁴³ At its 285th Session the Governing Body endorsed this suggestion and expressed the hope that a comprehensive plan of action would be discussed between the Government of Myanmar and the ILO and presented to its March 2003 session. The plan of action was to take into account the suggestions of the High-Level Team, including the establishment of a credible system for responding to allegations of forced labour. It would represent convincing evidence of the commitment of the highest authorities of Myanmar to take concrete action for the effective eradication of forced labour.
56. Following her return to Yangon from the November session of the Governing Body, the Liaison Officer resumed discussions with the authorities on the contents of a plan of

⁴⁰ It should be noted that the appointment of this new member of the Committee does not represent any significant change in the composition of the Committee, since Col. Hla Min – senior in rank and also designated as being from the Office of Strategic Studies – had been included in the Committee since its establishment. See GB.279/6/1(Add.1)(Rev.1), Annex B.

⁴¹ This was called into question, however, when the officer was requested by the Liaison Officer to arrange meetings with army commanders in northern Rakhine State during her visit to the area. The officer's reply was that he was not in a position to organize meetings with the army.

⁴² The outstanding allegations before the Committee are set out in the appendix.

⁴³ See GB.285/4, paras. 3 and 4.

action. In various meetings, the Liaison Officer stressed that progress should be made on the plan in due time so that the Governing Body could give it proper consideration. If sufficient progress were made, a high-level ILO mission could come to Myanmar in order to finalize the plan.

57. In a meeting on 12 December 2002, the Department of Labour presented the text of a “draft project proposal aimed at the elimination of forced labour practices in Myanmar”. This text identified four main programmes to be included in the project: (a) “extension of dissemination of information among the general public”; (b) “reviewing the effectiveness of existing legislative, administrative and executive measures”; (c) “field observation of the regions and areas where there are major and minor development works and economic activities from which most of the allegations on forced labour emanated”; (d) “use of forced labour as porters”. The text tentatively identified five regions for priority implementation of these programmes.⁴⁴
58. In oral and written comments provided to the Department of Labour, the Liaison Officer pointed out that while the text contained some positive elements, it provided mainly for the intensification of the current public information and observation measures, which until now had not led to significant results. It would need to be further supplemented in order to form a credible plan of action that would meet the expectations of the ILO. There were two elements in particular that needed to be included:
- a reformed system of investigation (including a mediator or other mechanism to receive and follow up complaints) that would identify violations and would result in offenders being prosecuted and sanctioned;
 - a comprehensive review of current use and possible alternatives to forced labour in all its various forms. In this regard, the ILO had proposed a local road construction project using labour-based technologies, which could be a useful demonstration of an alternative to forced labour for the construction of local infrastructure.⁴⁵

A more general but very important point was that since most allegations of forced labour concerned the army, the text needed to reflect the fact that the army would be included in all the areas covered. These comments were also conveyed to the Minister for Labour in a meeting with him on 18 December.

59. A second draft text of the plan of action was presented by the Department of Labour on 26 December. This text no longer mentioned any review of the effectiveness of existing measures, but continued to place strong emphasis on dissemination of information, awareness raising and field observations. It referred to the expansion of animal transportation as an alternative to the use of porters and included the idea of a pilot local-road construction project using labour-based technologies. The text did not include any reference to a more general search for alternatives to the use of forced labour, nor did it suggest any revised system of investigation (or a mediator). In addition, the army was not adequately addressed: it was included in the public information campaign only “in later

⁴⁴ The regions identified were Tanintharyi Division and Rakhine, Mon, Kayin and Shan States.

⁴⁵ In connection with this proposal, the Liaison Officer had arranged for technical experts from the ILO Regional Office in Bangkok to visit Myanmar in order to give a briefing on the methodology involved, visit the road construction area that had been identified by the interim Liaison Officer in September 2002 and, since the project would require funding, come up with preliminary cost estimates. It would then be possible to incorporate this proposed project into the plan of action once it was finalized. The visit of the technical mission from Bangkok was postponed by the authorities, however, and no new date has yet been set.

phases”, and the existing system of inspections did not cover the army directly, but would “coordinate and collaborate” with military personnel concerned. Allegations that concerned the army would be channelled by the Implementation Committee to the Ministry of Defence “for necessary action according to the established procedure”, a procedure which, as far as was known, had not so far identified any cases of forced labour by the military.

60. These comments were first made in writing and were reiterated to the Director-General of the Department of Labour during a meeting on 10 January. The Liaison Officer also pointed out that the idea of a pilot region, mentioned in the Director-General’s letter of 22 July to the Minister for Labour, might present an opportunity for the authorities to demonstrate concrete progress. The area selected could incorporate the proposed local-road construction project and the use of animal transportation to replace porters. The other components of the plan, such as the public information campaign, could also be intensively applied in the region and a reformed system of investigation (including a mediator or similar mechanism) could also be implemented. These ideas were incorporated by the Liaison Officer into a text presenting proposals for a plan of action, which was communicated to the Department of Labour on 13 January and sent to the Minister for Labour on 20 January. The draft plan of action proposed by the Liaison Officer had four elements:

- a public information campaign;
- specific suggestions for a reformed system of inspections and verification of allegations, including an independent mediator;
- the establishment of a working group to identify and recommend alternatives to the current use of forced labour, and the immediate implementation of two alternatives: the use of animals to replace porters, and a local-road construction project;
- a pilot area around the local-road construction project where the prohibition of forced labour would be strictly enforced and the various elements of the plan intensively implemented.

The draft noted that, subject to the endorsement of the Governing Body, the ILO could provide assistance for the implementation of the plan (in the form of technical advice as well as help with mobilizing financial support from donors for technical cooperation projects). Implementation of the plan could begin in April and would be expected to last approximately 18 months. In addition to a final evaluation, progress reports would be made on a four-monthly basis.

61. The Liaison Officer had an opportunity on 31 January to discuss her ideas with the Minister for Labour. The Minister indicated that the authorities had no difficulty with the Liaison Officer’s proposals, except the proposal for a reformed system of investigation, which was a question for the future; he also expressed reservations over the idea of a mediator. He indicated that he would form a discussion team to work with the Liaison Officer on the draft text.

62. The Liaison Officer met with this discussion team on 6 February.⁴⁶ A third draft text was presented to her at the start of this meeting. The only substantive change was a new section

⁴⁶ The team was chaired by the Deputy Minister for Labour and composed of the Director-General of the Department of Labour, the Director-General of the International Organizations and Economic Department of the Ministry of Foreign Affairs, and a Deputy Attorney-General.

titled “Role of facilitator” in which it was stated that Mr. Leon de Riedmatten could continue to act as facilitator in “resolving problems relating to instances of forced labour in the country”. The Liaison Officer reiterated her concerns with the text. She stressed that Mr. de Riedmatten’s current role was facilitating relations between the ILO and the Government of Myanmar, and therefore that the word “facilitator” in the draft could lead to confusion. The text should therefore refer to him as a “mediator” and should spell out more clearly what role he would play in the verification of allegations. She also noted that although the draft mentioned a “pilot road construction project”, it still did not include a pilot area where the prohibition of forced labour would be strictly enforced and other aspects of the plan would also be intensively applied. The discussion team agreed to redraft the text to reflect this point.

- 63.** At the time this report was finalized, on 21 February, no new draft had been communicated to the Liaison Officer.

Geneva, 4 March 2003.

Appendix

Details of outstanding allegations before the Implementation Committee

- A number of specific allegations contained in the report by Amnesty International entitled “Myanmar: Lack of security in counter-insurgency areas” (17 July 2002) [raised with the Implementation Committee in a letter dated 24 July 2002].
- Allegations from a credible source concerning increased imposition of forced labour in certain parts of northern Rakhine State [raised with the Implementation Committee in a letter dated 7 August 2002].
- A complaint received from within the country that vehicle owners in a part of Mon State were being requisitioned along with their vehicles to transport troops and supplies as well as work on the construction of an artillery base [raised with the Implementation Committee in a letter dated 4 October 2002].
- Allegations by UNICEF and Human Rights Watch of the forced conscription of children into the armed forces [raised with the Implementation Committee at a meeting on 9 November 2002].
- An allegation from the Federation of Trade Unions of Burma (FTUB), transmitted to the ILO by the ICFTU, concerning the killing of trade unionist Saw Mya Than while he was being forced to work as a porter [raised with the Implementation Committee at a meeting on 9 November 2002].
- Specific allegations contained in the documents submitted to the Committee of Experts by the ICFTU on 14 October, including an allegation concerning TotalFinaElf [raised with the Implementation Committee at a meeting on 9 November 2002].
- Allegations from a reliable source within the country concerning forced labour in two towns of Bago Division [raised with the Implementation Committee at a meeting on 9 November 2002].



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)**Further developments**

64. By letter dated 23 February, the Director-General of the Department of Labour transmitted to the Liaison Officer a revised text of a plan of action.⁴⁷ The only substantive change in the text was the addition of a section⁴⁸ designating a “Special Focus Region for cooperation between the Government of the Union of Myanmar and ILO”, where the following would be implemented: (1) a pilot local-road construction project using labour-based technology; (2) a project concerning the use of mules to replace civilian porters, on a trial basis; and (3) an intensive public information campaign as well as a raising of public awareness of the mechanisms to make complaints.
65. In a meeting on 5 March, the Liaison Officer discussed with the Minister for Labour her serious concerns over lack of progress. In various meetings with the Minister and with the Department of Labour over the last few months, she had pointed out what she regarded as the elements that should be contained in a plan of action which could meet the expectations of the Governing Body. She had also presented these elements to the authorities in writing. The last text of the Government of Myanmar’s plan of action still fell short of what was required. In particular:
- no reformed system for the investigation of allegations was provided for, with only a vague reference being made to a “facilitator”;
 - no comprehensive review of the current use and possible alternatives to forced labour was provided for;

⁴⁷ This text is reproduced in Appendix 1.

⁴⁸ Section 4.(F)(2)(d)(2) of the text.

- the question of the use of forced labour by the army was not adequately or credibly addressed;
- on the question of the pilot region, there was no indication that strict instructions would be given for the enforcement of the prohibition on forced labour in this region, and that a mediator would be available to deal with any allegations that might arise.

The Liaison Officer indicated that she was not in a position to endorse the plan of action as it stood, and warned that if no further progress were made, this could create negative reactions in the Governing Body, which at its last session in November had already been impatient to see concrete evidence of progress in the elimination of forced labour. At this very late stage, the authorities should at a minimum incorporate two elements into their plan of action:

- provision for a mediator to receive and follow up complaints of forced labour should be included. The mediator would discharge a preliminary filtering of these complaints in order to set aside unsubstantiated hearsay or otherwise frivolous allegations, without however discouraging genuine complaints. Where he found that there was the prima facie case, the mediator could, as appropriate, seek an informal solution with the authority directly concerned, or transmit the complaint to the authority competent to deal with it under the relevant legislation. The mediator would be kept informed of the progress and outcome of the case, and would report in general terms on his activities both to the Myanmar authorities and the ILO;
- a clear indication should be given that there would be strict instructions on the prohibition on forced labour in the pilot region and that the mediator would have the necessary support and facilities in this region to enable him to deal effectively with any allegations of forced labour that might arise, including such confidential verification as may be necessary and appropriate to assess the plausibility of the allegations.

The Liaison Officer gave the Minister some written suggestions of wording that could be suitable to address these two points. While the resulting text would still fall short of what the ILO organs were expecting, it would at least represent some progress that the ILO and the Government of Myanmar could present to the Governing Body.

- 66.** The Minister expressed doubts that the Governing Body would be satisfied with the Government's plan, even if the additions proposed by the Liaison Officer were incorporated, since his Government's experience was that whatever action they took was never considered sufficient by the Governing Body. He indicated that the authorities were opposed in principle to the appointment of a new person or group to carry out any new function, but that Mr. Léon de Riedmatten's current role as facilitator already allowed him to play a role in reviewing cases involving the use of forced labour, as was foreseen in the Government's latest text. This was why they could not accept the proposal to change the word "facilitator" to "mediator", as it would reintroduce the idea of an ombudsman, which they had already rejected. He stressed that in any case there was insufficient time left before the Governing Body discussion for the authorities to make any changes to the present text, and confirmed that this text was to be presented to the Governing Body.
- 67.** The Liaison Officer noted that the functions of the mediator were more important than the name. She reiterated her concerns and advice to the Minister for Labour in a letter sent following the meeting, urging him to give serious consideration to supplementing the text of the plan of action along the lines that she had suggested in their meeting.
- 68.** *Other developments.* It did not prove possible for the Implementation Committee to meet with the Liaison Officer before the Governing Body discussion. Some written information

on further developments was instead provided, in the form of a letter from the Director-General of the Department of Labour dated 7 March. This letter indicated that further progress had been made in the translation into ethnic languages of the Orders prohibiting forced labour.⁴⁹ The letter also mentioned that the Ministry of Labour was publishing a monthly *Labour Bulletin* which included information relating to Convention No. 29.⁵⁰ Concerning investigation of allegations, the letter stated that field observation teams had visited five areas of the country in late January, and appended to the letter was a brief chart of their findings as regards six allegations reproduced in Appendix 2.⁵¹ In no case was forced labour found to have been imposed.

Geneva, 12 March 2003.

⁴⁹ The letter indicated that translation and distribution of the Orders had been completed in the following languages: Shan, Mon, (Pwo) Kayin (translations of which had already been seen by the Liaison Officer) as well as (Sgaw) Kayin, Kayah and Kachin. Booklets of translations in each of these languages were attached to the letter. The translations into the four dialects of Chin were in the process of being printed.

⁵⁰ Two editions of this bulletin (in the Burmese language) have so far been received by the Liaison Officer. Information such as news of the appointment of the Liaison Officer and summaries of the Orders was included in these bulletins. The letter indicated that these bulletins had a wide circulation, including to ministries and departments concerned, peace and development councils down to the village level, libraries and factories employing more than 500 people.

⁵¹ Two of these allegations had been specifically raised with the Implementation Committee by the Liaison Officer/Interim Liaison Officer (see GB.286/6, appendix). One case concerned a complaint received from within the country that vehicle owners in a part of Mon State had been requisitioned along with their vehicles to transport troops and supplies as well as work on the construction of an artillery base. (This was dealt with as two separate allegations by the Field Observation Team.) In coming to its findings in this regard, the Field Observation Team did not interview the military. The other case concerned an allegation from a reliable source within the country that labour had been requisitioned for general cleaning/beautification tasks in two towns in Bago Division.

Appendix 1

Plan of Action for the Elimination of Forced Labour Practices in Myanmar (Proposed by the Government of Myanmar)

Introduction

7. 1. The Government of Myanmar is politically committed to eliminate forced labour. It has taken legislative, executive and administrative measures in order to eliminate this practice from the country. Myanmar has agreed to the appointment of an ILO Liaison Officer with a view to enhancing its cooperation with the ILO in eliminating forced labour. This Plan of Action sets out elements for the effective elimination of forced labour.

Objective

8. 2. The objective is to eliminate forced labour as contained in the provisions of ILO Convention No. 29 in cooperation with the ILO.
9. 3. A number of work programmes are involved in the Plan of Action which aim at the elimination of forced labour in an effective manner.

Work programmes

10. 4. The Plan of Action focuses on the following work programmes dealing with various issues on the elimination of forced labour situations throughout the country.

A. Dissemination of information

(1) Further intensification of public information campaigns

The public information campaigns will be further intensified to raise more awareness of the problem among all segments of the population.

(2) Translation of the Orders into ethnic languages

- (a) The Orders issued by the Ministry of Home Affairs prohibiting the use of forced labour published in Myanmar language have already been widely distributed throughout the country.
- (b) To reach out more extensively to the ethnic groups, these Orders which have now been translated into Mon, Kayin and Shan languages will be distributed in the aforementioned States. They will also be translated into Chin, Kayah and Kachin ethnic languages for distribution. It is envisaged that the distribution of the Orders in six different ethnic languages will be completed during the first quarter of 2003.

(3) Publication of pamphlets and labour bulletins

Pamphlets containing factual information on Convention No. 29 and other relevant information on the activities relating to the elimination of forced labour will be distributed to the public. The monthly labour bulletin containing news about the functional activities of the Ministry of Labour will be published for distribution to all public libraries throughout the country and to all government and non-governmental organizations. The first issue is expected to be published during the first quarter of 2003.

B. Awareness-raising programmes

With a view to raising awareness of public officials and military personnel on the issue of forced labour, training workshops will be conducted on a phase-by-phase basis. The first phase of this programme will focus on public officials. Military personnel will participate in later phases. This will be a continuing programme to be carried out in 2003 and 2004.

C. Pilot project for local road construction

This is a pilot project for construction of a local road which is of a compatible length of 20 to 30 kilometres. Although this local road construction pilot project will employ labour-based technology, light machinery and equipment should be put into use to avoid workers from doing strenuous work. Further details of this pilot project, including designation of a suitable project area, time frame, etc. will be discussed later.

D. Expansion of animal transportation

In recent years, Myanmar Tatmadaw (Armed Forces) has introduced animal transportation as an alternative to using porters. However, there have been some constraints and limitations in its efforts to expand this system from the company level to the battalion level. There is a need for sufficient supply of mules, a rare animal species which is essential for use in difficult terrain, for transportation of military supplies and equipment. This shortage could be overcome if a small stock of asses could be supplied which can be used for breeding to augment the supply of this stock.

E. Enhancing public awareness of the mechanism to make complaints

- (1) The Government of Myanmar has established relevant mechanisms to enable the people to make complaints concerning their grievances or damages. The two existing mechanisms are mentioned below:
 - (a) *Provision under Section 374 of the Penal Code.* If people are forced to do any work or service without their consent they can make their complaints to the nearest township police station or to the nearest township judicial court of law. Under this provision, action can be taken against those who unlawfully exact forced labour.
 - (b) *Other measures to make complaints by the citizens.* According to the Protection of Citizen's Rights Law, 1975, and Attorney-General Law 2001, citizens have the right to make complaints for their grievances and damages caused to them. There are provisions to take legal action against those persons or organizations responsible for causing the loss of citizens' rights or benefits by abuse of power entrusted to them. To invoke these provisions, a citizen can file a complaint at the law offices established at different administrative levels. A separate branch has also been established at the Office of the Attorney-General to receive such complaints.
- (2) It is evident that there are legal provisions as well as mechanisms for complaints and legal action for those who have been subjected to forced labour or those whose rights have been violated.
- (3) Public awareness campaigns will therefore be intensified to enable the public to make effective use of the existing mechanisms which are in force.

F. Specific functions of Field Observation Teams

The Field Observation Teams have been visiting various parts of the country for inspection and investigation of forced labour practices, as well as to make the public aware of the Orders issued by the Government for elimination of forced labour.

- (1) The Chairman of the Implementation Committee, the Deputy Minister for Home Affairs and the Secretary of the Committee, the Director-General of the General Administration

Department, have frequently made official tours to various parts of the country. On these occasions, they explained the Orders concerning prevention of forced labour and the consequences in case of failure to abide by them. Moreover, the Deputy Minister for Labour is the Vice-Chairman and the Director-General of the Department of Labour is the Joint Secretary of the above Committee.

- (2) The Ministry of Labour on its part has formed seven Field Observation Teams with the Directors-General and the Deputy Directors-General as leaders of respective teams which have been carrying out their function for two years (see attached list). To be effective in identifying instances of forced labour and in prosecuting those responsible, the functions of Field Observation Teams are specified as follows:
 - (a) The leaders of these teams shall coordinate and collaborate first with the following State/Division authorities:
 - (1) Secretary of State/Division Peace and Development Councils
 - (2) State/Division Administrative Officers of the General Administrative Department, Ministry of Home Affairs
 - (3) State/Divisional Judges, State/Division Courts
 - (4) State/Division Law Officers, State/Division Law Offices
 - (5) Commander of State/Division Police Force, Police Colonel
 - (6) Military personnel concerned
 - (b) The abovementioned Teams will observe the situations mentioned hereunder:
 - (1) Effectiveness of the existing legislative, administrative and executive measures
 - (2) Prevalence of forced labour practices in national development and infrastructure building projects; in regional development works; in rural development works and in some plantation areas
 - (3) Use of forced labour as porters
 - (c) These Teams will observe the following situations:
 - (1) Method of recruiting workers
 - (2) Mode of payment for workers
 - (3) Wage level of workers
 - (4) Facilities and privileges provided for workers
 - (d) (1) There are regions and areas from where the allegations on the use of forced labour have mostly emanated. In the light of this, the following regions and areas are being prioritized for field observations during this open season:
 - (aa) Tanintharyi Division
 - (bb) Rakhine State
 - (cc) Mon State
 - (dd) Kayin State
 - (ee) Shan State

- (2) Myeik District in Tanitharyi Division is designated as a “Special Focus Region” for cooperation between the Government of the Union of Myanmar and the ILO. The following shall be implemented in the Region:
- (aa) A pilot project for construction of a local road of 20-30 kilometres. Although this pilot project for local road construction will employ the labour-based technology, light machinery and equipment shall be put into use to avoid workers from doing strenuous work. Further details on this pilot project, including designation of a suitable project area, in Myeik District, time frame, etc., shall be carried out in consultation with the Liaison Officer.
 - (bb) Implement on a trial basis a project concerning the use of mules to replace civilian porters.
 - (cc) Implement an intensive public information campaign and intensify efforts for public awareness of complaint mechanisms set forth in the Plan of Action.
- (3) In some remote areas where communication and travel are difficult, there might be unavoidable situations which may entail the use of forced labour despite the existing Orders and Instructions. Such situations can be corrected by the visits of the Field Observation Teams to these areas.
- (4) As regards the allegations on the use of forced labour, proper investigation will be made by these teams depending on its source, credibility and concrete evidence. The allegations concerning the armed forces will be channelled to the Ministry of Defence through its representative who is a member of the Implementation Committee for the necessary action in accordance with the established procedure under the existing Defence Services Act.

G Role of facilitator

In resolving problems relating to instances of forced labour in the country, it is vital to employ the services of a person who is already familiar with local situations. With this view in mind and in order to have continuity, Mr. Léon de Riedmatten shall continue to act as facilitator in reviewing of instances involving the use of forced labour.

Implementation in cooperation with ILO

11. 5. Most of the work programmes shall be implemented with the technical cooperation and assistance of the ILO and its Liaison Officer.

Conclusion

12. 6. Although elimination of forced labour is a noble task, it cannot be accomplished overnight. To be realistic and objective, relevant measures in the Plan of Action shall be implemented step by step leading to concrete progress. The Government of Myanmar on its part shall make unremitting efforts for the final elimination of forced labour from the country.

List of Field Observation Teams formed by the Ministry of Labour

Team No.	Assigned area	Team leader
1.	Bago and Yangon Divisions	Director-General, Department of Labour
2.	Rakhine State	Chairman, Social Security Board
3.	Mon and Kayin States	Director-General, Office of the Central Inland

Freight Handling Committee

- | | | |
|----|---|---|
| 4. | Shan State (East), Shan State (South) and Kayah State | Director-General, Factories and General Labour Laws Inspection Department |
| 5. | Tanintharyi Division | Director-General, Office of the Central Trade Disputes Committee |
| 6. | Shan State (North) | Deputy Director-General, Department of Labour |
| 7. | Chin State | General Manager, Social Security Board |

Appendix 2

Investigation on allegations concerning forced labour for the year 2002

State/Division: Rakhine State

Leader: U Aung Ba Kyi, Chairman,
Social Security Board

Date: 06.01.03 to 12.01.03

No.	Allegation	Findings	People//organizations being interviewed
1.	In September 2002, it was alleged that villagers were forced to plant trees beside Yangon-Sittwe Highways; the seedlings had to be bought at Ks.25. each.	State Peace and Development Council, Township Peace and Development Councils and Ward/Village Peace and Development Councils distributed the seedlings; the people plant the seedlings on their own so as to make their land green and beautiful covered with trees. They were not forced to buy the seedlings because villagers had their own nursery of plants. The seedlings were distributed free of charge.	Daw Saw Yee of Kyauk-taw township, Daw Khin Khin Hlay of Mrauk-U and Daw Tin Tin Hla of Ponna-Kyun.
2.	Villagers were forced to contribute money to build primary schools.	The State paid for the building of these schools. Also there were donations made by villagers and NGOs. No one was forced to contribute.	U Kyaw Mya and Daw Saw Yi of Kyauk-taw, U Maung Maung Lat and Daw Khin Khin Hlay of Mrauk-U, U Maung Kyaw Oo and U Ba Cho of Ponna-Kyun.
3.	Na-Sa-Ka and Na-Ta-La used forced labour in building villages.	Na-Ta-La offered minimum wages of Ks.100 per day for part-time workers. According to their skills, workers were offered Ks.400, Ks.500, Ks.800, Ks.1,000 and Ks.1,500. There were 345 workers, not 703 workers as alleged. It was not forced labour. There were receipts with signatures and thumb prints.	Col. Aung Ngwe, commanding officer of Na-Sa-Ka.

State/Division: Mon

Leader: U Maung Maung Ohn,
Director-General, Office of the Central
Freight Handling Committee

Date: 20.01.03 to 23.01.03

No.	Allegation	Findings	People//organizations being interviewed
1.	In Kyaikhto township, the vehicle drivers were forced to transport officers and troops of Battalion 44 and their families to Kyaikhtiyo Pagoda. No payment was given. The drivers were detained.	Local authorities were being investigated. There were no such forcing civilian drivers for military operation. While visiting Kyaikhtiyo Pagoda, the families of military personnel and staff might have used these vehicles. But all this was done through local authorities from association of vehicle owners. They were given petrol or diesel oil and also fare for the use of their vehicles. No vehicles were forced to work for any military purpose.	Village/ward Peace and Development Councils and Township Peace and Development Council of Kyaikhto township.
2.	The drivers were forced to work on construction of artillery base on the 4,000 ft. Kalama Hill, 80 miles from Kyaikhto. Drivers who refused had their licences revoked and banned from the route.	In some forward areas, supplies are needed to be dumped in open season. Sometimes it was necessary to hire civilian vehicles when more vehicles were needed. But these vehicles were hired through local authorities from owners' association. They were given fees for the hire of their vehicles and also necessary petrol and diesel oil. In cases of road being damaged on the way it is customary that both the soldiers and drivers have to repair the road.	Village/wards Peace and Development Councils, Township Peace and Development Council.



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)****Further developments*****Addendum***

The following text should be added to Appendix 2:

State/Division: Bago

Leader: U Soe Nyunt, Director-General,
Department of Labour

Date: 23.01.03 to 24.01.03

No.	Allegation	Findings	People/organizations being interviewed
1.	Local people were forced to clear the bushes and shrubs that were growing along the roadside in Thaygone and Padaung Townships.	It was found that no one from any organs of State's Power issued any order to clear the roadside bushes and shrubs. It is customary that after every raining season, the roadside bushes and shrubs are cleared by residents of every quarter by their own accord. These civic activities are traditional and they are voluntary.	Township and District Peace and Development Council and local people picked up at random and questioned.



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)**

Further developments

Addendum 2

- 69.** Since the printing of document GB.286/6/1, a further exchange of correspondence has taken place, which is reported to the Governing Body in the attached appendices.

Geneva, 25 March 2003.

Appendix 1

Communication dated 13 March 2003 from Mr. K. Tapiola, Executive Director, ILO, to Mr. U Tin Winn, Minister for Labour, Myanmar.

Dear Minister,

As you are aware, the report of the Liaison Officer under the item Development concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29), has already been made available as GB.286/6. It refers to the successive draft plans of action presented respectively on 12 December 2002, 26 December 2002 and 6 February 2003 by the authorities and discussed with the Liaison Officer in Yangon.

This report is going to be shortly complemented by an addendum covering subsequent developments including the formal submission of a plan of action by the authorities on 23 February 2003 and the account of a meeting which the Liaison Officer had at her request with you on 5 March 2003 to express her concerns about the situation.

It is clear from the above that contrary to mistaken information which has been given, in particular in a recent article published in the *Myanmar Times*, 10-16 March, there is no agreement at this stage on any plan of action between the authorities and the ILO, as some key elements are missing, in particular an understanding on the parameters for the establishment of a “mediator” or an equivalent institution.

I would like to emphasize, on behalf of the Director-General of the ILO, that this situation is very serious. The lack of progress in recent months is liable to undermine the confidence in the real commitment of the authorities to eradicate forced labour, as well as the credibility of the step-by-step approach which seemed to have so far produced some results. Needless to say, however, that the Liaison Officer and the Office remain ready, at any time, to continue the discussions.

Yours sincerely,
(signed) Kari Tapiola.

Appendix 2

Communication dated 21 March 2003 from Soe Nyunt, Director-General, Department of Labour, Myanmar, to Mr. Juan Somavia, Director-General, ILO.

Excellency,

I acknowledge receipt of Mr. Kari Tapiola's letter of 13 March 2003, addressed to His Excellency U Tin Winn, Minister of Labour, concerning the Plan of Action for the elimination of forced labour practices in Myanmar.

With reference to the abovementioned letter of Mr. Kari Tapiola and the discussions between His Excellency U Tin Winn, Minister of Labour and Madame Hong-Trang Perret-Nguyen on the Plan of Action at the Minister's Office in Yangon on 5 March 2003, I wish to inform you that the Myanmar side is ready to continue further consultations with the International Labour Office on the abovementioned Plan of Action, regarding the elimination of forced labour.

Concerning the article in the *Myanmar Times*, 10-16 March, that was mentioned in that letter, the newspaper is private-owned one and has the right to freedom of press and the content of the article was their own views and opinion.

Yours sincerely,
(Signed) Soe Nyunt.

I. Extracts from document GB.286/PV: Minutes of the discussion at the 286th Session (November 2003) of the Governing Body of developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)

Extracts

FIFTH SITTING

Thursday, 27 March 2003, morning

The sitting opened at 11.25 a.m., with Lord Brett in the Chair.

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)**

The Ambassador of Myanmar recalled that the Myanmar Government had been cooperating fully with the United Nations, the Commission on Human Rights and the ILO. Cooperation with the ILO had been significant, and substantial progress had been made. Myanmar and the ILO had signed, in March 2002, the Understanding on the appointment of the ILO Liaison Officer, Ms. Hong-Trang Perret-Nguyen was in place and able to exercise her functions fully and effectively. She had been travelling freely in Myanmar. The Minister for Labour himself had frequently assisted her in overcoming any practical difficulties and in facilitating her travels. Following a series of consultations with the ILO Liaison Officer, the Ministry of Labour had drawn up a Plan of Action, covering a wide range of concrete measures binding the Myanmar Government to the elimination of forced labour.

Progress had been made in the dissemination of information: Order No. 199 and Supplementing Order No. 199, prohibiting the use of forced labour, had been translated into the Mon, Kayin, Shan, Kachin and Kayah languages and distributed to the regions concerned, to raise public awareness. Copies of these translations had been transmitted to the ILO. Order No. 199 and Supplementing Order No. 199 were promulgated in 1999 and 2000 respectively, and were issued, with specific instructions, to all ministries, including the Ministry of Defence, and all departments. They were published in the Government's *Official Gazettes*, posted on the notice boards of the Office of Peace and Development Councils, and were widely disseminated in the weekly *Myanmar Times*.

The Government had selected Myat Township in southern Myanmar as a pilot project area in consultation with the ILO Liaison Officer. A Plan of Action would be implemented there and extended to other parts of the country. The Myanmar authorities had also assigned three observation teams to visit various parts of the country for inspections and investigations into instances of alleged use of forced labour, and to raise public awareness. Another concrete measure would be the expansion of the army mule company to the battalion level to provide necessary transport as an alternative to porters.

The Plan of Action had a separate section, which outlined the role of the facilitator in reviewing cases relating to the alleged use of forced labour, and Mr. Léon de Riedmatten,

who had served as interim Liaison Officer from May to October 2002, had been proposed for the post. Informal discussions and consultations with the ILO regarding the Plan had begun in December 2002.

The Government of Myanmar was concerned by the term “mediator”, and preferred the term “facilitator”. The ILO had indicated that there could be flexibility in this and that the functions of the facilitator were more important than the name. Another concern related to elements in certain groups, not based within Myanmar territory, which opposed the Government. If these elements were to be given full access to the facilitator it would be in contravention of Myanmar law.

The Employer Vice-Chairperson recognized the good will that the Government of Myanmar, and the Ambassador, had shown in providing information, but said the reported progress did not cover the expectations of the group. The point had still to be reached where forced labour no longer existed in Myanmar and where any attempt to perpetuate or to bring back forced labour could be punished through appropriate legal mechanisms.

Verification could be advanced through pilot projects, which would enable the facilitator to check from place to place whether or not there was forced labour. Progress had certainly been made, but more was needed to conclude the work. The Employers’ group wanted to arrive at a point where there could be talks with Myanmar as with the authorities of any other government on issues other than forced labour. Then they could be helped to solve other problems which their society faced. Specific steps should be included in the Plan of Action to achieve the objectives set by the Liaison Officer and to establish the post of a facilitator empowered to carry out verification in the field. If infringements or violations occurred and forced labour continued or returned, then victims should have access to the legal system with punishment for the perpetrators.

The Worker spokesperson agreed that the work done so far by the Government of Myanmar fell far short of expectations, although the Government’s attitude had apparently changed. According to the Liaison Officer’s assessment, the situation remained serious in areas where there was a heavy army presence. This had been little altered by the dissemination of government-issued orders prohibiting forced labour. The army, or at least that part which was stationed in the field, lacked alternative measures to the forcible recruitment of porters. Contrary to the information in the Liaison Officer’s report that the army no longer issued written orders to obtain forced labour, the Workers’ group had received, in the last few days, copies of written orders addressed by military units to village heads in various locations of Karin State, the English translation of which amounted to about 23 pages. The oldest of these orders dated back to 27 June 2002 and the most recent one, signed by a commander of the Kia Army Camp, belonging to the 61st Infantry Battalion, was dated 9 March 2003. These were identical to the thousands of forced labour orders examined over the years, firstly by the ILO Committee of Inquiry and subsequently by the Committee of Experts on the Application of Conventions and Recommendations, and found by those bodies to constitute clear evidence of forced labour.

In addition, the Workers were in possession of dozens of recent reports of forced labour in Karin State and Mon State, such as a detailed account of forced labour on a road construction project. In this case, an army major identified as Mint Ring Ayung, ordered forced labourers to hide in the forest while the road project was being inspected by General Teniyo, in charge of the armies of the Eastern Command.

Among the many disturbing facts reported by the Liaison Officer were numerous incidences of the Government attempting to hinder her free movement and access. In the preparation of a Plan of Action, the Government continued to refuse to accept the appointment of a mediator who would be entrusted with identifying violations of Convention No. 29, or any other mechanism that would result in having offenders

prosecuted and sanctioned. The latest version of the Government's Plan of Action as presented still fell far short of the Liaison Officer's suggestions, particularly regarding the appointment of the mediator; the absence of a comprehensive review of the current use, and possible alternatives to, forced labour; the Plan's failure to address adequately or credibly the issue of forced labour imposed by the army; and the absence of any commitment by the Government to issue strict instructions enforcing the prohibition of forced labour in the pilot region. Moreover, the Government's investigation into six serious allegations of forced labour had resulted in a complete denial of forced labour in any of the cases. This seriously called the Government's stated desire to eliminate forced labour into question.

The Workers' group felt that there were only two positive recent elements: the Government's acceptance of the opening of an ILO Liaison Office, and the fact that the authorities no longer denied that forced labour existed in the country, even though they denied all concrete cases presented to them.

The Liaison Officer's report was objective and professional. The Workers' group was more than ever committed to doing all it could to advance the full implementation of the resolution adopted by the Conference in June 2000. The Director-General should send a second letter to all ILO member States, and to all other parties mentioned in the resolution, to have them report on the action they had taken to give effect to the resolution and should inform the Governing Body on this matter in June. The Director-General should use the full capacity of the Department of Communication to give the highest level of publicity to this additional action.

A Government representative of Indonesia, speaking on behalf of the ASEAN member States, welcomed the commitment of the Government of Myanmar to observing ILO Convention No. 29, and its sincere determination to eradicate forced labour. He hoped that the cooperation between the Government of Myanmar and the ILO would continue until this issue was fully resolved.

A Government representative of New Zealand, speaking also on behalf of the Government of Australia, urged the Government of Myanmar to make strenuous and effective efforts to fulfil its obligations under Convention No. 29. This commitment should include an agreed Plan of Action, covering amongst other things, an independent facilitator to receive complaints of forced labour. The dialogue was not delivering enough tangible results. There were no signs of a plan of work being put into effect, as the Governments of New Zealand and Australia had urged in November 2002. It was disappointing that such modest expectations had not been met. Appropriate technical assistance, within the terms of the resolutions passed by the International Labour Conference in 1999 and 2000, should continue to be supplied.

A Government representative of Canada regretted that the Liaison Officer's report showed very little real progress since the Commission of Inquiry. The Plan of Action must take into account the recommendations of the High-Level Team led by Sir Ninian Stephen in September 2001. It should be comprehensive and address in earnest key aspects of the problem, such as investigation and prosecution mechanisms, alternatives to forced labour, wide dissemination of the orders in all ethnic languages, and serious implementation of these measures. It was regrettable that the senior military representative, now included on the Implementation Committee, was from military intelligence and would thus have limited authority to represent the regular army. This raised serious doubts about any intention to establish a credible complaint mechanism.

An independent mechanism, ombudsman or facilitator, must also be part of the Plan of Action. It was unacceptable that the Liaison Officer had still not received written reports on any investigation. Given the lack of meaningful progress, the Government of Canada

continued to support the imposition of the measures under article 33 of the ILO Constitution.

A Government representative of Italy, speaking on behalf of the European Union, the acceding countries – Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic and Slovenia, and the associated countries – Bulgaria, Romania and Turkey, as well as Switzerland, expressed grave concern that very few steps had been taken by Myanmar since the Commission of Inquiry. The few initiatives regarding dialogue, as well as the dissemination of information on forced labour, had not had any impact. Moreover, serious difficulties had impeded the establishment of a reformed system of investigation into allegations, particularly those concerning the army. The report reflected a general lessening of the Myanmar authorities' interest in pursuing change in Myanmar: the stalling of the political reform process with Aung San Suu Kyi and the continued absence of credible policies to tackle the worsening economic situation bore witness to this. National reconciliation in Myanmar was essential if the use of forced labour was to be ended. The structure and the size of the Myanmar armed forces and their use for internal security reasons contributed significantly to the overall incidences of forced labour and the reported acts of associated violence. It was also clear that it was the armed forces who were most resistant to cooperation with the ILO.

Regarding the Plan of Action, there appeared to be a policy of unnecessary delay and an attempt to minimize the scope of the Plan, indicating the lack of high-level political will to progress. Advances were made grudgingly, and often only shortly before Governing Body meetings or the Conference. It was particularly worrying that the authorities had failed, firstly, to set up a reformed system of inspection and verification of allegations, including an independent mediator, to identify violations and have offenders prosecuted and sanctioned; secondly, to use the military chain of command to end the army's use of forced labour; thirdly, to establish a working group to identify and recommend comprehensive alternatives to the current use of forced labour; and fourthly, to implement a prohibition pilot area project, with a clear view of bringing about countrywide enforcement as quickly as possible. Concrete action in this sense should be taken before the forthcoming June 2003 session of the International Labour Conference.

Given the lack of progress to date, it would be inappropriate for any consideration to be given to removing the measures imposed under article 33.

A Government representative of Norway noted that the state of affairs remained serious in Myanmar, in particular, close to the Thai border, where uncertainty reigned and the military presence was heavy. Conditions were also believed to be grave in Northern Rakhine State. The manner in which forced labour was being put into practice was changing. It appeared that the dissemination of the orders to prohibit forced labour had not significantly affected the practice. Failure to provide alternatives to the use of forced labour could be one of the primary reasons underlying the difficulty in enforcing orders.

The Myanmar Government should clarify the authority of the military representative on the Implementation Committee, investigate the allegations before the Committee and provide written reports of investigations as called for by the Liaison Officer in her report. The Liaison Officer should assist in this urgent matter.

The current draft of the Government's Plan of Action contained a number of positive elements, but provided mainly for an intensification of the current public information and observation measures which, thus far, had not led to any significant results. The Norwegian Government therefore urged the authorities to take immediate steps to finalize the development of a Plan of Action, which should include the following four elements: firstly and most crucially, an outline for a reformed system of inspection and verification of allegations, with an independent mediator; secondly, identification and recommendation

of alternatives to the current use of forced labour, the immediate implementation of two alternatives – local road construction with greater utilization of machinery instead of manual labour and the use of animals to replace porters; thirdly, identification of a pilot area in which the Government could demonstrate its ability to reduce the extent of forced labour in Myanmar; and lastly, a public information campaign. The Plan should be submitted well before the June Conference, to allow time for proper consideration.

A Government representative of Pakistan noted with satisfaction that the negotiations on the finalization of the proposed Plan of Action were under way.

A Government representative of the United States noted that the Government of Myanmar had only taken small steps to implement the recommendations made by the Committee of Inquiry five years previously, in 1998, and was still a long way from demonstrating a genuine commitment to eradicating forced labour. Numerous reports from non-governmental organizations confirmed this. In five years there had not been a single prosecution. The case of the murdered Shan State villagers had still not been adequately investigated. It would therefore be premature to consider any review of the measures the ILO had taken to try to ensure Myanmar's compliance with its obligations under Convention No. 29.

A Government representative of India took note with satisfaction of the appointment of the Liaison Officer. The Government of India had continuously supported the adoption of a promotional approach by the ILO and had opposed any punitive action. The pilot project was perhaps an example of such cooperation and technical assistance. It was encouraging that attempts to hold dialogue and extend mutual cooperation had started bearing fruit.

A Government representative of Lithuania endorsed the European Union statement and encouraged the Government of Myanmar to improve the development of the Plan of Action, taking into account the suggestions of the High-Level Team.

A Government representative of Japan stressed that the very purpose of the Plan of Action was to encourage the authorities in their efforts to ensure the prompt and the effective elimination of forced labour. The ILO and the Government of Myanmar should work together to agree on the remaining issues in the Plan of Action as early as possible, without losing the momentum and mutual confidence created over the past year. The Japanese Government's position had always been to resolve this question through dialogue and cooperation.

A Government representative of China said that the Liaison Officer had made considerable advances since her last report in November 2002. The Government of China hoped that the Plan of Action could be implemented and that the Government of Myanmar would intensify its cooperation and dialogue with the ILO to continue to make progress.

A Government representative of the Republic of Korea appreciated the work of the Liaison Officer and welcomed the commitment of the Government of Myanmar in drawing up the Plan of Action.

A Government representative of Bangladesh also welcomed the Plan of Action, which would enable Myanmar to move gradually forward to complete adherence to Convention No. 29. The initiatives of the Government of Myanmar should be complemented by the international community.

The Employer Vice-Chairperson remarked that the Government of Myanmar must continue along the line that it had already started but needed to go deeper into matters, together with the Liaison Officer, in order to find effective solutions to the problems.

The Chairperson summarized the discussions and proposed a conclusion. Simply to note the report would not satisfy the views expressed. The most recent text of the Plan of Action did not meet the minimum requirements to be meaningful and credible. The two main elements missing were the attribution to the facilitator of a system of confidential examination of complaints, and a systematic examination of concrete alternatives to forced labour. The Government of Myanmar proposed that the present dialogue should continue. While positive, a strict time limit should be observed, otherwise the lack of progress could damage the credibility of the ILO. A meaningful Plan of Action should be adopted before the Conference in June, and this should include the appointment of a mediator/facilitator with the necessary authority, as well as concrete measures prohibiting forced labour, as applied in the pilot area.

It was so decided.

The sitting closed at 1 p.m.

