



Governing Body

313th Session, Geneva, 15–30 March 2012

GB.313/INS/6(Add.)

Institutional Section

INS

Date: 19 March 2012

Original: English

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)

Addendum

1. As stated in paragraph 2 of document GB.313/INS/6, the Supplementary Understanding was extended for an additional one-year trial period until 25 February 2013. The text of this Agreement for Extension is reproduced in Appendix I.
2. In paragraph 27 of document GB.313/INS/6, the Office announced the signature of a Memorandum of Understanding regarding the development of a comprehensive, joint and benchmarked strategy for the elimination of all forms of forced labour in Myanmar by 2015. The Memorandum of Understanding was signed by both the ILO and the Government of Myanmar on 16 March 2012. Its text is reproduced in Appendix II.

Appendix I

An Agreement for Extension of the Supplementary Understanding and its Minutes of the Meeting dated 26 February 2007, for an additional one year trial period from 26 February 2012 to 25 February 2013

This Agreement is hereby concluded between the Government of the Republic of the Union of Myanmar and the International Labour Organization represented by the undersigned authorized representatives.

Noting clause 10 of the "Supplementary Understanding" (hereinafter SU), the "Minutes of the Meeting" dated 26 February 2007 being an integral part of the SU (hereinafter Minutes of the Meeting),

Noting the four preceding Extensions of the SU and its Minutes of the Meeting, of 26 February 2008, 26 February 2009, 26 February 2010 and 26 February 2011,

It is herewith agreed as follows:

1. Both parties agree to extend, on the same trial basis, the SU and the Minutes of the Meeting, for one year with the extension period commencing on 26 February 2012, to the day one year thereafter being 25 February 2013.
2. The spirit and letters of the SU and the Minutes of the Meeting remain *in toto* unchanged.
3. The SU and the Minutes of the Meeting shall continuously remain in legal effect upon signing by the authorized representatives of the parties mentioned below.
4. This agreement will be submitted to the forthcoming session of the Governing Body of the International Labour Office.

This Agreement is done at Nay Pyi Taw, the Republic of the Union of Myanmar on the 23rd day of January 2012.



(U Myint Thein)
Deputy Minister
Ministry of Labour

The Government of the Republic
of the Union of Myanmar



(Mr. Guy Ryder)
Executive Director
International Labour Office

Appendix II

MEMORANDUM OF UNDERSTANDING

This understanding is reached between: The Government of the Republic of the Union of Myanmar (Hereinafter referred to as 'the Government'),

and

The International Labour Organization (Hereinafter referred to as 'the ILO')

Jointly referred to as 'the Parties',

The Memorandum of Understanding records the Parties agreement to develop, by no later than 31 May 2012, a comprehensive, joint, benchmarked strategy for the elimination of all forms of forced labour in Myanmar by 2015.

In so agreeing the Parties recall:

- the obligation placed on the Government through its ratification in 1955 of the Forced Labour Convention, 1930 (No. 29);
- the 1998 recommendations of the Commission of Inquiry appointed under article 26 of the ILO Constitution and the subsequent decisions of the International Labour Conference and the conclusions of the Governing Body;
- the commitment of the Government and the ILO for the elimination of forced labour as contained in the Understanding between them dated 19 March 2002; and
- the progress made through the co-operative, joint application of the Supplementary Understanding dated 26 February 2007.

The joint strategy will be administered by a Joint Working Group consisting of the members of the current Government Working Group for the elimination of forced labour supplemented by up to three nominated representatives from each of the Ministry of Defence and the ILO. The Deputy Minister of Labour, a senior nominee of the Ministry of Defence and the ILO Liaison Officer shall act as joint secretaries and the operational focal points of this new body.

It is agreed that the joint strategy shall encompass all necessary activities for the total elimination of forced labour by 2015 including:

- An enhanced awareness raising/training project targeting all sectors of society including the civilian authorities, defence services personnel, the police, justice system personnel, civil society (UN, INGO's, NGO's and CBO's), employers and employers' Organizations, workers and workers' organizations, ceasefire groups and national races organizations, and the general public, towards full understanding of their respective rights and responsibilities under the law.
- Continued and increased co-operation and co-ordination in the operation of the Supplementary Understanding including in the strengthening of the existing capacity of the defence services, Ministry of labour and ILO liaison office to receive, assess, investigate and resolve forced labour complaints and to undertake necessary follow up and monitoring.

- Undertaking investigations and taking necessary remedial action in response to all, as yet, unanswered allegations of the use of forced labour as documented in the comments of the ILO supervisory bodies.
- Jointly agreed and prioritized, time-bound action plans designed to stop forced labour practices nationwide and to, where appropriate, identify alternative operational solutions to each identified element of forced labour including but not limited to the following:
 - a. Forced labour directly or indirectly associated with Public Works and major construction projects.
 - b. Forced labour directly or indirectly associated with energy projects.
 - c. Forced labour resulting from the absence of necessary funding at local level for local authority services and infrastructure requirements.
 - d. Forced recruitment into the defence services and militia.
 - e. Underage (under 18 years) recruitment into the defence services and militia.
 - f. Human trafficking for forced labour.
 - g. Forced/bonded child labour.
 - h. Forced labour in the private sector including in domestic work.
 - i. The use, by the defence services, of civilian (and convict) porters particularly in combat zones.
 - j. The forced use, by the defence services and civilian authorities, of civilians on guard and/or sentry duty.
 - k. Forced labour imposed through land acquisition/confiscation activities.
 - l. Forced labour associated with the Ministry of Defence self-sufficiency policy.
 - m. Forced labour in association with the construction and/or maintenance of military camps.
- Supporting the final agreement of a joint action plan in respect of children in armed conflict (Security Council Resolution 1612) and collaborating in its implementation.
- Supporting the justice system (civilian and military) and other institutions such as parliamentary committees/commissions and the human rights commission in the evolution of their roles particularly in the context of the continued development and enforcement of legislation and policy against the use of forced labour.
- Supporting, in cooperation with the appropriate authorities and other International organizations, the peace process including in such areas as the social and economic reintegration of member of ceasefire groups, small and medium enterprise development and the provision of necessary infrastructure and community facilities with particular focus on the prevention of the use of forced labour.

Any differences between the parties shall, to the extent possible, be settled through consultation amicably.

In reaching this agreement the parties demonstrate their commitment to the objective – namely the elimination of all forms of forced labour by 2015 – in the context of the reform agenda of the Government, and their intent to work together to that end.

This Memorandum of Understanding shall enter into force on the date of signing and shall remain in force up to the 31st day of December 2015.

In WITNESS WHEREOF, the undersigned representatives being duly authorized thereto by their respective parties, done at Nay Pyi Taw on the 16th day of March 2012.

For and on behalf of
The Government of the Republic of
the Union of Myanmar



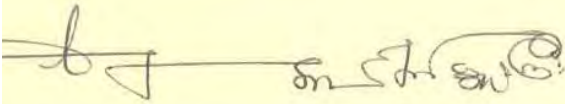
U Myint Thein
Deputy Minister
Ministry of Labour

For and on behalf of
the International Labour Organization

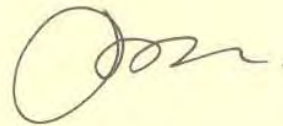


Mr. Steve Marshall
ILO Liaison Officer
International Labour Organization

WITNESSES



Captain (Navy) Aung Thaw
Deputy Minister
Ministry of Defence



Ms. Piyamal Pichaiwongse
Deputy ILO Liaison Officer
International Labour Organization



U Chit Shein
Director General
Department of Labour