

Conclusions of the Committee on the Application of Standards at its Special Sitting on Myanmar, 13 June 2008

The Committee extended its sympathies and condolences to the people of Myanmar in the wake of cyclone Nargis. It expressed its sincere hope that the continuing humanitarian needs would be met and that the required rehabilitation and reconstruction work would be undertaken, without any use of forced labour and in a spirit of cooperation and constructive dialogue, in full respect of civil rights and international labour standards.

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

The Committee noted that certain steps had been taken in the application of the Supplementary Understanding, and that some awareness-raising activities had taken place since the last session of the Conference in June 2007. However, it expressed its concern that these steps were very small and considered that much more needed to be done with commitment and urgency. In particular, the Government should, as requested by the Governing Body, make, without delay, an unambiguous statement at the highest level that the exaction of forced labour was prohibited and that violators would be prosecuted and convicted. It also expressed concern at the restrictive provisions in the newly adopted Constitution which could raise issues of compliance with Conventions Nos 29 and 87 ratified by Myanmar.

The Committee expressed its profound concern that forced labour in Myanmar, including the recruitment of children into the armed forces, remained as widespread as before, as reflected in the observation of the Committee of Experts. None of the recommendations of the Commission of Inquiry had yet been implemented, and the exaction of forced labour continued to be widespread, particularly by the army. Any instructions to cease the practice of utilizing

forced labour appeared to have been disregarded regularly and with impunity. Similarly, although it was now some 15 months since the coming into effect of the Supplementary Understanding, a translation of it had only recently been approved for distribution. The Committee continued to be concerned that awareness of the existence of both the legal provisions against forced labour (Order 1/99) and the complaints mechanism under the Supplementary Understanding, remained very low. The Committee urged the Government to give early approval to the translation, in all local languages, of an easily understandable brochure, for wide public distribution, explaining the law and the procedure for lodging a complaint under the Supplementary Understanding.

The Committee took note that the complaints mechanism on forced labour continued to operate and that the authorities were investigating cases referred to them by the Liaison Officer. However, the Committee expressed its continued concern that penalties imposed on perpetrators of forced labour had, in general, not been imposed under the Penal Code. As a result, no criminal convictions of members of the armed forces had taken place.

The Committee noted that an international professional staff member has been appointed to assist the Liaison Officer. The Committee emphasized that it was critical that the Liaison Officer had sufficient resources available to undertake his responsibilities. The Committee underlined that there was an urgent need that the Government accepts a strengthened network of facilitators to deal with complaints from all over the country. The Committee noted with concern the reported cases of retaliation and harassment against complainants and volunteer facilitators who cooperated with the Liaison Officer. Such action was a fundamental breach of the Supplementary Understanding. The Committee called on the Government to ensure that all retaliation and harassment – based on any legal or other pretext – ceased with immediate effect and that the perpetrators were punished with the full force of the law.

The Committee recorded with extreme concern that many people remain in prison for exercising their rights to freedom of expression and association. The Committee called for the immediate release of these persons and, in particular, for the release of Daw Su Su Nway, U Min Aung and U Thurein Aung and his associates: U Kyaw Kyaw, U Shwe Joe, U Wai

Lin, U Aung Naing Tun and U Nyi Nyi Zaw. These persons all had links with the ILO and were labour activists legitimately seeking to achieve acceptance of international labour standards and, in particular, those ratified by the Government of Myanmar. The Committee re-emphasized the expectation of the Governing Body that U Thet Wai remain free from further persecution and detention.

The Committee also stressed the need to allow all citizens of Myanmar to fully exercise their civil rights, and called on the Government to immediately end the detention of Daw Aung San Suu Kyi. It also recalled the recommendations of the Committee on Freedom of Association, in March 2008, with respect to trade union rights and the recognition of trade union organizations, including the Federation of Trade Unions of Burma (FTUB).

The Committee also recalled the continued relevance of the decisions adopted by the Conference in 2000 and 2006 concerning compliance by Myanmar with Convention No. 29.

The Committee strongly urged the Government to take all the necessary measures to give full effect to all of the recommendations of the Commission of Inquiry, without any further delay. It urged the Government of Myanmar to provide full information to the Committee of Experts in time for its next session later this year, including concrete and verifiable evidence of action taken with a view to the full implementation of the recommendations of the Commission of Inquiry.

The Worker members stated, in their acceptance of the conclusions, that they also understood that the reference in the conclusions to the discussion and decisions of the Governing Body in March 2007, November 2007 and March 2008, and to the decisions adopted by the Conference in 2000 and 2006 concerning compliance by Burma with Convention No. 29, effectively incorporated the Worker members' suggestions for this year's conclusions, including an International Court of Justice advisory opinion at the necessary time. The Worker members also reiterated the need for the ILO Liaison Officer to be able to submit complaints and make the necessary investigations.