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Morning

Committee on the Application of Standards

Eighth sitting, 4 June 2005, 10.10 a.m.

Chairperson: Mr. Sergio Paixao Pardo

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

The Government representative (Mr. SHEIN) indicated that, in their determination to eliminate forced labour and to continue Myanmar's cooperation with the ILO, the authorities in his country had taken significant actions in response to the conclusions and the aide-memoire of the very High-Level Team (vHLT) which had visited Myanmar in February. The vHLT had been received by the Prime Minister of the Government of the Union of Myanmar on behalf of the State Peace and Development Council (SPDC) on 22 February 2005. The Prime Minister, in his letter of 10 March 2005 to the vHLT, had reiterated Myanmar's commitment to the elimination of the vestiges of forced labour in close cooperation with the ILO.

Turning to the case of U. Shwe Mahn, he recalled that U. Shwe Mahn had originally been sentenced to death for high treason, a sentence which had later been commuted to life imprisonment and then again reduced to five years' imprisonment. Hardly any nation would release someone who had committed such a serious crime. But the Myanmar authorities had released him, as requested the Governing Body, to show the Myanmar authorities' willingness to further build confidence and as a sign of positive cooperation with the ILO. As such, this was a major concession on the part of the Myanmar Government. A focal point in the armed forces for dealing with Convention

No. 29, headed by Deputy Adjutant-General Colonel Khin Soe and assisted by seven General Staff Officers Grade-1, had been established on 1 March 2005. Colonel Khin Soe and two members of the focal point had met with the ILO Liaison Officer a.i. on 12 May at the Department of Labour at the latter's request. There could be further meetings between them as and when necessary.

Indeed, the Minister for Labour had already informed the Director-General of the ILO of the aforementioned actions and had given such assurances by his letter dated 21 May 2005. He had also emphasized Myanmar's readiness to consider a new approach for the elimination of forced labour and to begin discussions at an appropriate time and level to be determined between the two sides. The Government of Myanmar had fully cooperated with the ILO Liaison Officer a.i. in dealing with the complaints related to requisitions of forced labour. All 50 cases in 2004 and further eight cases in 2005 reported by the ILO Liaison Officer a.i. had been disposed of.

Turning to three cases of complaints for exacting forced labour which were mentioned in the report of the Liaison Officer a.i. of June 2005 (Document No. C.App./D 6), the speaker noted that this document reported that there had been no further developments regarding the Toungup and Hinthada cases and that in the Aunglan case, the complainants had withdrawn the case under duress. Actually, in the Toungup case, actions had been taken against those responsible and the case had already been closed. In the Hinthada instance, the complaints against the head of the Village Peace and Development Council (VPDC) had been rejected by the Township Court as there was no evidence of forced labour. Then the head of VPDC, in his personal capacity, had lodged charges against the complainants for false complaints and defamation against him. The complainants had been found guilty and were fined accordingly. They had since been released after settling the fine. As for the Aunglan case, the Field Observation Team (FOT) had filed a report that Nga-pyin village road had been reconstructed annually by the villagers on a voluntary basis and there had been no forced labour nor forced cash

contribution. In fact, U Win Lwin, the person who had died accidentally when a mound of laterite had collapsed on him, was the major beneficiary of the road since he was the sole owner of a motor vehicle in the village. His relatives had been deceived by a third person that had told them that they could receive financial compensation. Later on, they had withdrawn the complaint with their full consent. There had been no undue pressure from the authorities to force them to withdraw the case. In recent times, the authorities had encountered an increasing number of false complaints. They were ready to discuss with the ILO at an appropriate time and level to find a solution to this problem.

The ILO Liaison Officer a.i. had been accorded the same freedom of movement accorded to diplomats and UN personnel within the established procedures. The Liaison Officer a.i. had mentioned in his report that he was able to freely undertake travel in line with the previously established practice, and that he could visit parts of Mon State and southern Kayin State from 18 to 20 May at a very short notice. The above-mentioned actions of the Myanmar Government clearly testified to its political will and the commitment to eliminate forced labour in the country and its willingness to continue its cooperation with the ILO.

The speaker protested against the participation in the Committee by Mr. Maung Maung, who in his Government's view was a civil servant turned traitor, a criminal, a fugitive from justice and a terrorist. Myanmar had been put under constant pressure on the issue of forced labour by the ILO based on false, distorted and exaggerated information provided by him. He concluded by stating that his Government was firmly committed to the eradication of forced labour in the country.

The Worker members stated that once again the situation in Burma/Myanmar had worsened. Forced labour continued to rage with even greater brutality and the Government demonstrated its bad faith, as established by numerous sources, to mention only two, which would not raise any doubt: the report of the Committee of Experts and documents Nos. 6 and 7 prepared by the Office concerning recent developments.

The Committee of Experts had once again examined the follow-up given to the following recommendations of the Commission of Inquiry of 1998: (1) a legislative recommendation to modify the basic laws of 1907 and 1908, so as to bring them into conformity with Convention No. 29 by abolishing any possibility of requisitioning labour; (2) an administrative recommendation to ensure that, in practice, no forced labour could be imposed by the army, nor by other authorities; and (3) a judicial recommendation to apply effective criminal sanctions in cases of forced labour.

The report of the Committee of Experts was implacable: the laws were still not amended or modified in spite of 30 years of promises. The Orders left the laws unchanged and proved to be inefficient. At the very least, they had to be accompanied by concrete measures which would ensure that, in practice, no labour could be imposed. To that effect, the Committee of Experts recommended four types of action: (1) that specific and concrete instructions be issued to the civilian and military authorities. However, if they were in fact issued, they did not provide for or indicate the various forms of prohibited labour; (2) that publicity was given to the Orders. However, although they had been translated into all dialects, apparently they had not been distributed or displayed in ethnic areas, where the prevalence of forced labour appeared to be the highest; (3) the need to budget adequate means to hire free wage labour for public activities which were based on forced labour. In its latest report, the Government provided no information on this subject; and (4) that monitoring machinery be established. The Committee of Experts observed that the Convention 29 Implementation Committee, as well as field observations teams, lacked credibility. The allegations of forced labour were examined by the very same authorities that imposed the forced labour - the administration and the army - and were therefore systematically rejected. The cases brought before the courts were systematically rejected and declared not receivable. For the first time, the complaints were brought before the courts, but none of the six complaints lodged in 2004 had been declared receivable. Even

worse, following their contacts with the ILO Liaison Officer, certain victims had been arrested or imprisoned for alleged defamation.

The observation of the Committee of Experts was to a large extent corroborated by the recent information provided by the Liaison Officer and the ICFTU, as well as by the specifics concerning the places, the factual dates and the names of implicated army officers. Thus, the ICFTU already had numerous incidents of forced labour and recruitment recounted by the victims to be included in its next report: other documents provided by the NGO mentioned other cases of exactions suffered by civilians and ethnic minorities. The political context had deteriorated. The Government had changed faces but not policy. The permanent representative of the Government in Geneva could not continue to carry out his functions and Aung San Suu Kyi was still strictly assigned to her residence where she was virtually held incommunicado.

The total lack of cooperation with the ILO had been demonstrated on several occasions: the vHLT had not been received at the appropriate level and the Liaison Officer did not dispose of the initially accepted freedom of movement. Certainly, two or three positive facts could be noted: the liberation of U. Shwe Mahn, who nevertheless remained convicted of terrorism and high treason; the fact that the Supreme Court had declared that the contacts with the ILO had not constituted an offence; several proceedings instituted against several guilty persons - civilians - and not military ones, who were mainly responsible for forced labour.

After reviewing the case of Myanmar once again, the conclusion stayed clear; the sentiment was that, unfortunately, forced labour was "far from being a practice on the way to extinction", that the Government was not at all disposed to eliminate forced labour in the country and that moreover, henceforth, proceedings would be instituted against those complainants who submitted a complaint based on motives found to be groundless.

Finally, the Worker members protested against the accusations brought by the Government against the persons who strove for freedom of association and freedom of speech - a familiar method in the history of infamous governments.

The Worker member of the United States (Mr. FISHMAN) quoted from the 2004 Conference Committee conclusion that "the Governing Body at its next session should be ready to draw the appropriate conclusions, including reactivation and review of the measures and action taken including those regarding foreign direct investment, called for in the resolution of the International Labour Conference of 2000, unless there was a clear change in the situation in the meantime".

The speaker observed that the Governing Body had discussed Burma and Convention No. 29 in November 2004 and March 2005, and, given the absence of any significant change, drew the appropriate conclusions. If anything, the situation had deteriorated both politically and in regard to the Government's cooperation with the ILO.

The speaker pointed out that the development of a new Constitution lacked credibility inside the country and within the international community, as the National League for Democracy (NLD) was still barred from participating and its leader remained under house arrest. He understood that there had been no access to her for many months and there were growing concerns about her health.

A number of ethnic areas such as Shan State and Arakan State had experienced new suppression, arrests and turmoil. The International Confederation of Free Trade Unions (ICFTU) had documented an increase in forced labour in these areas. The discussion was not about the degree to which the Government was cooperating with the ILO, but about what the ILO could do on behalf of victims of forced labour. He said that the ineffectiveness of actions over many years had condemned many people to fundamental human rights abuses.

Quoting the Director-General's document, he pointed out that a broad majority of Governing Body members were of the opinion that the reactivation of the measures to be taken under article 33 of the ILO Constitution in accordance with the 2000 Conference resolution would be fully justified. The vHLT was obliged to abort its mission after only two days having failed to secure meetings at the highest level.

The Governing Body of March 2005 attempted to ascertain what few positive developments had taken place and he accepted that some were not unimportant. However, forced labour was still being exacted with absolute impunity, not a single military official having been prosecuted. In addition, most of the concrete steps outlined in the aide-memoire of the vHLT had not been implemented. The ILO's patience had almost run out. The March Governing Body agreed to a reactivation of the measures under article 33 and this was acted on by the Director-General in April. The reactivation was carried out in a 'soft' manner in the hope of positive developments with regard to the strengthening of the ILO presence among others.

But, even given the belated release of U. Shwe Mahn and his apparent good health, he still remained guilty of high treason for simply providing information on forced labour to the ILO and his association with the Federation of Trade Unions-Burma (FTUB). This could not be allowed to stand. Furthermore, there had been more negative developments over the past few weeks: the strengthening of the ILO presence was being hampered by visa refusal for an additional staff member and the Liaison Officer's freedom of movement was severely restricted. He now had to submit an itinerary 14 days in advance.

Finally, and most insidious of all, the Liaison Officer had been informed that "false complaints of forced labour were placing a great drain on government resources and undermining the dignity of the State ... and that legal action would be taken against complainants or their representatives who lodged false complaints". The ILO had directed the Liaison Officer to suspend contacts in view of the seriousness of this development.

Referring to the Liaison Officer's report it appeared that not a single case of forced labour that he had brought to the attention of the authorities since March 2005 had been found to be valid. Those who had provided the information to the Liaison Officer were now liable to prosecution under the new policy. He sought assurances that this would not happen.

The speaker found it ominous that the notion of voluntary labour had crept back into the response of the Implementation Committee to explain away the allegations.

The Worker members were of the opinion that the Government had quite deliberately set out to undermine the ILO presence and neutralize the ability of the Liaison Officer to receive complaints or even talk to people.

In view of the foregoing, the Worker members presented a number of proposals. The constituents should give particular attention to ensuring that no direct foreign investment, imports or exports, grants, loans or credits should be made to state or military-owned enterprises, including those operated by international private equity funds, would contribute directly or indirectly to the perpetuation or extension of forced or compulsory labour. Several States and organizations had already taken steps along these lines. Secondly, the Worker members proposed that the constituents should report regularly on the abovementioned issue in time for the November Governing Body to allow the situation to be assessed and a plan of action to be undertaken by the ILO.

The speaker called on the Conference Committee to request the Director-General to invite all international organizations referred to in the 2000 resolution to reconsider any cooperation with the Government and to assess and report on any forms of material and financial assistance extended to the country which could affect directly or indirectly the practice of forced labour. The request applied to international and regional financial institutions, multilateral development agencies, and international lending agencies.

The Worker members also proposed that the Director-General be invited to renew the ILO's request to the ECOSOC that it place on the agenda of its July 2006 session, an item concerning Myanmar's consistent failure to implement the recommendations contained in the report of the ILO Commission of Inquiry.

The Worker members further proposed that the Committee share the view of the vHLT and the Governing Body with regard to the necessity to further strengthen the Liaison Office, insisting on the importance of its field capacity, and that the Liaison Office concentrate on reinforcing policy dialogue with national authorities, including members of the State Peace and Development Council (SPDC) and the military at all levels, taking advantage of the authorities' commitment to "constructive cooperation with the ILO", as expressed in the Minister of Labour's letter of 21 May 2005.

Finally, the Worker members proposed that ILO monitoring activities on forced labour be further developed, especially with respect to ethnic areas. The Worker members called on the Government to guarantee the complete freedom of movement of the Liaison Officer and issue visas without further delay for additional staff. They demanded that the Government completely exonerate those convicted of high treason because of their contact with the ILO and the FTUB, as well as an end to the new policy of prosecuting those considered to be providing false information regarding forced labour to the ILO.

The ILO's credibility was at stake and it must continue to compel the Government to live up to its obligations under Convention No. 29, as well as to demonstrate to all those affected by forced labour that the international community, led by the ILO, actively supported their expectations for a better life.

The Employer members shared the concerns of the Worker members in relation to this long-standing and troublesome case. They observed that the Conference Committee's mandate to examine the measures taken to implement the resolution adopted by the ILO Conference in 2000 was straightforward. As a fundamental matter, there was a gross

failure by the Government of Myanmar to meet the international obligations that it had voluntarily undertaken 50 years ago to eliminate forced labour.

The Employer members considered that the fact that the Government's failure to implement Convention No. 29 was so obvious, rendered incomprehensible its failure to remedy the situation. The legal authority for the exaction of forced labour continued to be in place, as the Village Act and the Towns Act continued to confer broad authority on local authorities to requisition labour in violation of Convention No. 29. Noting that the Government representative had spoken of constraints in this respect, the Employer members observed that the only constraint they could identify was a lack of political will. Besides failing to revoke the Village and Towns Acts, no other concrete action had been taken to immediately bring to an end the exaction of forced labour in practice, in particular by the military, as called for by the Commission of Inquiry and the Committee of Experts. In paragraph 6 of its observation, which highlighted the heart of the matter, the Committee of Experts had identified four areas in which action should be taken by the Government to achieve this outcome, namely issuing specific and concrete instructions to civilian and military authorities to end the practice of forced labour, ensuring that the prohibition of forced labour be given wide publicity, providing budgeting of adequate means for the replacement of forced labour and ensuring the enforcement of the prohibition of forced labour. As the Government had never said that it could not put a stop to forced labour, it was obvious to the Employer members that it simply lacked the will to do so.

The Employer members observed that in contrast to previous years, when the Government used to take some small steps just before the Conference, the situation this year involved a regression in the Government's attitude and backsliding from the previous state. Following a discussion at the November 2004 Governing Body a vHLT had arrived in Yangon only to find out that it would be unable to meet with the highest authorities in Myanmar even though the Government had been aware of the vHLT's terms of reference. Moreover, the Conference Committee had now been informed that the ILO Liaison Officer

had limited freedom of movement. The fact that the Governing Body had decided to transmit the 2000 resolution adopted by the Conference under article 33 of the ILO Constitution, to the ILO member States and international organizations for appropriate action, indicated that it had lost its "wait-and-see" attitude and was losing patience.

The Employer members considered that the begrudging attitude of the Government to the release of prisoners and its minimalist proposal for a "new approach" hardly inspired any confidence. In their view, the bottom line was not the "process" but the achievement of substantive outcomes in the elimination of forced labour. It was now time for concrete action. Anything else was a travesty of international justice and the rights of forced labourers in Myanmar. The Employer members concluded by inviting the Myanmar Government to do the right thing by effectively eliminating forced labour.

The Government member of Luxembourg (Mr. BERNES), speaking on behalf of the Member States of the European Union, as well as Bulgaria and Romania as countries in the accession process; Turkey and Croatia as candidate countries; Albania, the former Yugoslav Republic of Macedonia, Bosnia and Herzegovina and Serbia and Montenegro as countries of the Stabilisation and Association Agreement and potential candidate countries; Norway as a member of the European Free Trade Association (EFTA) and of the European Economic Area; and Switzerland and Liechtenstein as members of EFTA, observed that no convincing steps had been taken by the authorities in Burma/Myanmar as a follow-up to the aide memoire of the vHLT who had visited the country in February 2005 as well as the letter of the Director-General of the ILO. This run against the request made by the March 2005 session of the Governing Body for the Burma/Myanmar authorities to take urgent and well-defined steps to eradicate forced labour, and the European Union's request for these steps to be implemented "well before the June 2005 International Labour Conference". The European Union shared the Committee of Experts' grave concern at the lack of implementation by the authorities in Burma/Myanmar of the 1998 recommendations of the Commission of Inquiry suggesting that legislation be brought into line with Convention

No. 29, that the local authorities, especially the military, no longer impose forced or compulsory labour, and that those imposing forced labour be brought to justice. Although these recommendations were made seven years ago and were still valid, no significant and sustained action had been taken for their implementation.

Although the European Union continued to believe in the value of the Joint Plan of Action, designed to eradicate forced labour, they shared the concerns of the vHLT with regard to its future as recent actions by the Burma/Myanmar authorities had called into question their commitment to this Plan of Action. The authorities' persistent policy of unnecessary delay indicated a lack of will which was further reflected in the fact that the authorities had still not created an environment in which victims of forced labour could be assured that they would not suffer retaliation for their cooperation with the ILO. In this respect, the European Union called for assurances from the Burma/Myanmar authorities at the highest level that no action would be taken against any person who lodged a complaint on forced labour.

The European Union and the other delegations noted that in spite of the Burma/Myanmar authorities' repeated assurances of good intentions, in practice forced labour continued to be exacted on a very broad scale in many parts of the country, in particular by the military, and sometimes in circumstances of severe cruelty and brutality as had been noted by the Committee of Experts. While changes could not occur overnight, the ILO had been considering this issue for nine years, the Commission of Inquiry had provided a set of recommendations, High and very High-Level Teams had visited the country, and an aide memoire containing concrete steps to facilitate the effective eradication of forced labour had been presented to the authorities, and even a joint Plan of Action had been elaborated. A period of nine years seemed to be more than adequate for the Burma/Myanmar authorities to have brought their practices into line with the ILO recommendations. Despite this, the measures taken had been too few to address effectively the continuous practice of forced labour in the country.

Although the European Union and the other delegations welcomed the release of U. Shwe Mahn, they also considered that neither he nor the other two persons should have been charged in the first place, simply for having contacts with the ILO, and that the charges against all three persons involved should be lifted altogether. Moreover, although they welcomed the fact that the Liaison Officer ad interim had been able to meet with the Foreign Minister and had been promised "interaction" with the military focal point, they considered that convincing evidence of a substantive change in political will, approach and corresponding action by the authorities was still lacking. They continued to believe that the ILO should have access to the authorities at the highest level on a regular basis.

The European Union had therefore come to the following conclusions. First, the European Union asked for measures under article 33 of the ILO Constitution to be revisited with a view to their reinforcement, considering that a wait-and-see approach was no longer acceptable when forced labour was continuing, and in some cases leading even to the death of those involved. Second, the European Union demanded that the authorities in Burma/Myanmar took immediate and concrete steps to eradicate forced labour, as outlined in the report of the Commission of Inquiry in 1998 and in the aide-memoire of the vHLT in February 2005, and further asked for an explicit reference in the proposed draft Constitution banning the practice of forced labour, in line with Myanmar's commitments to the ILO. Third, the European Union strongly supported maintaining and reinforcing the ILO's presence in Burma/Myanmar to achieve this goal. The implementation of a facilitator mechanism, as outlined in the Joint Plan of Action would be a step in the right direction.

The Government member of the United States (Ms. MISNER) pointed out that once again, the reports before the Conference Committee presented a mixed picture of developments concerning the Government of Myanmar's observance of Convention No. 29. The Government representative indicated that in February 2005, the authorities had informed the ILO Liaison Officer that a township court had convicted and sentenced four

local officials under section 374 of the Penal Code in three separate trials. Though the Government of the United States could not confirm that the officials were serving their sentences, this was the first time that a complaint had been lodged under this section of the Penal Code. She recalled that one of the Commission of Inquiry's recommendations was that penalties under this section be strictly enforced. Three trials in one court did not constitute strict enforcement in a country where forced labour was as widespread as it was in Myanmar, but she indicated that the Government of the United States did not discount this development. And, although U. Shwe Mahn should never have been imprisoned, his release in April and the Liaison Officer's meeting with the army focal point for forced labour in May were steps in the right direction.

But these steps were overshadowed by the many other indications that the Government's stated commitment to eliminate forced labour was mere rhetoric. The vHLT had not been received at the appropriate level in Yangon and had to cut short its visit. The Government had not approved the ILO's request to send another official to Myanmar to assist the Liaison Officer. The Convention 29 Implementation Committee's response to the numerous complaints of forced labour submitted to it by the Liaison Officer had been inadequate, and in April, the Government had informed the Liaison Officer that legal action would be taken against so-called "false complaints", a development that struck at the heart of the Plan of Action to which the Government had once said it was committed. None of the three recommendations of the Commission of Inquiry had been carried out. Finally, all the available evidence indicated that the use of forced labour, particularly by the army, continued unabated and was sometimes accompanied by acts of extreme violence.

Finally, the speaker stated that under these circumstances, the Minister of Labour's offer to the Director-General to consider a new approach for the elimination of forced labour appeared to be little more than a delaying tactic. The speaker considered that the authorities had had an opportunity to discuss a new approach when the vHLT visited

Rangoon in February, but had declined to do so. The Government needed to demonstrate by its deeds that its commitment to the Plan of Action was genuine and that it was prepared to create the conditions under which the Plan could be implemented. It should comply fully with the suggestions made by the vHLT in its aide-memoire. The time was long past when the ILO could be satisfied with discussions of a new approach for the elimination of forced labour in the absence of evidence that the Government was prepared to carry them out. The speaker therefore repeated her strong plea to demand action instead of promises for the sake of Myanmar's workers and workers everywhere.

The Worker member of Singapore (Ms. YACOB) expressed regret at the fact that the issue of forced labour in Myanmar had been under discussion for 11 years without much progress, which demonstrated the Government's contempt for the ILO supervisory mechanism. The feeble explanations given each time in order to obfuscate and divert attention from the real issues had generated growing frustration. The Conference Committee should no longer maintain a "wait-and-see" attitude while Burmese people were being forced into bondage and tortured if they refused to do so and while children were being forced into the army. The Conference Committee should not forget that each of the complaints of forced labour received by the Liaison Officer and the thousands of documented complaints by the ICFTU, FTUB and other human rights organizations represented human lives which had been subjected to the cruellest form of deprivation, i.e., of one's freedom to decide whether or not to work.

The speaker emphasized that, according to the Liaison Officer, the worst forms of this cruel treatment had taken place against the ethnic minorities primarily in the remote border areas where there was heavy military presence. The Asia Forum for Human Rights and Development (Forum-Asia) had reported the continued persistence of forced labour, extortions and exactions concerning the Rohingya Muslims in the Northern Rakhine state. They were forced to do sentry duty and erect gates and bamboo fences around the hamlets of Maungdaw purportedly to protect the villagers, but they had to provide their own

construction materials, such as bamboo and wooden poles and were also required to maintain the gate and fences. Two hundred fifty Rohingya Muslim villagers in Maungdaw were forced to build a model village with houses for those resettled from other parts of Burma. In the words of one Rohingya villager from the Gaw Yah Khar Li Village Tract in Maungdaw Township, "we are living like slaves inside our own country. We have no rights there. They can confiscate our land any time. They can use us as labour whenever they want". The speaker deplored this situation and emphasized that the Burmese Government should be made to stop this.

The speaker further noted with grave concern the intimidation and harassment conducted against those who complained of forced labour including through the applicable legal processes, noting that the ability to complain without fear of persecution was absolutely essential to preserve the integrity of the system. Three forced labour complaints had been rejected by the courts purportedly because of lack of evidence. The speaker found it appalling that two of the three dismissed complainants had been prosecuted for defamation and imprisoned for six months. She further took note of the grave concerns raised by the Liaison Officer in his report with regard to his meeting with the Director-General for Labour on 26 April 2005 during which the latter had again stressed that legal action would be taken against those who lodged false complaints. Furthermore, on 9 March 2004, three persons had been convicted of high treason including on the basis of contacts with the ILO Liaison Officer. Although the Court had decided that such contacts were legal, it nevertheless seemed to imply that the ILO was some kind of an illegal or clandestine body for which a special ruling was necessary. This undermined the very basis for having the Liaison Officer. In addition to this, there had not been a single conviction under section 374 of the Penal Code, despite numerous complaints of forced labour. Moreover, specific complaints brought to the attention of the Convention 29 Implementation Committee had been systematically denied. Finally, the Liaison Officer had indicated in his report that two individuals had been arrested after returning to their

village following a visit to him in Yangon to lodge a complaint. This demonstrated the systematic failure to investigate forced labour cases and raised serious doubts about the credibility of the system. The speaker concluded by urging the Government to stop the persecution of minorities through the use of forced labour, the forced recruitment of child soldiers and the harassment against those filing complaints of forced labour. She called for a strengthening of the ILO's presence in Burma and supported the Liaison Officer's suggestion to second an ILO official to Yangon.

The Government member of Australia (Mr. SAWERS) expressed strong support for the role played by both the vHLT and the ILO Liaison Officer in Yangon, in assisting the Myanmar authorities to observe Convention No. 29, and further supported the Office's expansion to provide greater technical cooperation, calling upon the Myanmar Government to take the simple step of granting a visa allowing an additional ILO staff member to join the Liaison Office. Noting that the elimination of forced labour practices throughout the country should be given high priority based on the firm commitment of the Government, the speaker deeply regretted the circumstances which prevented the vHLT from successfully completing its mandate and again called upon Myanmar to cooperate fully with the ILO so as to demonstrate its commitment to eliminating forced labour. Critical to this would be urgent action on all the four points set out in the vHLT's aide-memoire of 23 February 2005. The speaker further commended the decision to release U. Shwe Mahn but also expressed disappointment at the fact that he continued to be impugned. Noting the Government's willingness to consider a new approach to the elimination of forced labour, he urged it to move quickly to engage the ILO at a senior level to ensure that this commitment was translated into concrete action. He noted that despite commitments made, the Conference Committee still awaited real results and should therefore recommend to the Governing Body to closely consider progress in the Government's new approach at its meeting in November 2005.

He further noted the establishment of a focal point on forced labour in the military to address the serious problems of requisition of forced labour by the Tatmadaw, and urged the Myanmar Government to ensure its full and effective cooperation. A critical first step in this respect would be to establish clear protocols for cooperation with the Liaison Officer and this could only be achieved through regular and open contacts. He further called on the Government of Myanmar to take genuine steps to ensure that Myanmar citizens could cooperate with the ILO with full confidence that they would not face retribution for doing so. The principle of unfettered access to the Liaison Officer and any facilitator was central to cooperation between the ILO and Myanmar and was a key requirement for the future implementation of the Plan of Action.

The speaker concluded by emphasizing his country's deep concern over the situation in Myanmar. The Government had failed to address the troubling issues raised in the ILO and other international forums regarding forced labour and had failed to meet its international obligations in this respect. His country remained particularly concerned about the lack of concrete progress made toward political reform and national reconciliation in Myanmar, and the continued detention of political prisoners including Aung San Suu Kyi.

The Worker member of Italy (Ms. BRIGHI) pointed out that the military Government representative failed to address fundamental problems such as a highly centralized decision making structure, severe restrictions on private commercial activity, disproportionate military spending (49.9 per cent of public expenditure) to create the largest army in Southeast Asia. The country ranked 142 in the corruption ranking of 145 countries. Myanmar was the leading producer of methamphetamine and second producer of opium. The garment and textile industry was the conduit for money-laundering and clandestine export of narcotics. Business could not be carried out without the involvement of the junta under a 1989 law. The monopoly of economic production was in the hands of the Union of Myanmar Economic Holdings and its branch, Myanmar Economic Corporation. European Union foreign direct investment represented 30.37 per

cent of total FDI, mostly in the oil and gas sector, the major funding instrument of the military regime. The EU's share of garment imports from Myanmar was about 66 per cent. Five ASEAN countries had invested some US\$3.9 billion as of March 2004, representing 51.08 per cent of total FDI.

The speaker said that 15 years of constructive engagement and threats of political sanctions had failed to bring about even a single democratic reform aimed at ending forced labour. The fact that discussion on violations of Convention No. 29 were still ongoing demonstrated the Government's uncompromising attitude. Only coordinated international action could bring effective change. It was time for ILO constituents, international financial institutions, including the ADB, the Greater Mekong Subregion and the related Trade and Investment Flagship Programme to take effective measures. But international organizations and NGOs which had any dealings with the junta should also reconsider their cooperation. Governments, employers and workers should review their relations with Myanmar and take suitable steps, including recourse to the International Court of Justice, to fight against the continuation or extension of forced labour. The speaker appealed to them to ensure that no foreign direct or indirect investment, imports or exports, grants, loans or credits that could lead to the continuation or extension of forced labour be made to the regime. She also appealed to governments and the European Union to implement Article XX of the GATT, which referred to measures relating to the protection of human health and products of prison labour. Finally, she appealed to governments and enterprises to contribute to the changes necessary to bring democratic development and a stable economy.

The Government member of Canada (Mr. FETZ) expressed his country's grave concern at the lack of improvement in Burma's situation which remained extremely serious. He thanked the vHLT, the ILO Liaison Officer and the Office for their efforts in trying to engage the Burmese authorities and regretted the lack of cooperation by the authorities who prevented the vHLT from successfully completing its mission. The speaker

welcomed the release of U. Shwe Mahn and noted that the Labour Minister's letter of 21 May 2005 to the ILO Director-General had indicated that Burma was ready to consider a new approach for the elimination of forced labour. Nevertheless, the absence of any significant improvement, and in particular the authorities' failure to implement the measures recommended by the Commission of Inquiry and the aide-memoire of the vHLT, was deeply disappointing. His country had watched with growing unease the unfavourable developments that had been unfolding in Burma and had made clear on many occasions that Aung San Suu Kyi and other leaders of the democratic movement should be liberated immediately and unconditionally while noting that the current National Convention process lacked any credibility. His country remained concerned about human rights violations, which were being perpetrated throughout the country, particularly in situations of conflict, including in addition to forced labour, extra-judicial executions, torture, rape, internal displacement and destruction of villages and livelihoods.

He concluded by calling on the Burmese authorities: (1) to take immediate and effective measures to eliminate forced labour as outlined in the report of the Commission of Inquiry of 1998 and in the aide-memoire of the vHLT of February 2005; (2) to facilitate the addition of an ILO staff member to the Liaison Office; (3) to reinstate the freedom of movement necessary for the Liaison Officer to effectively fulfil his mandate; (4) to permit the establishment of a facilitator mechanism and ensure that no action be taken against any person who made a complaint concerning forced labour; (5) to undertake a dialogue with the ILO at the highest level to develop a new approach for the elimination of forced labour. The speaker finally indicated that in the absence of concrete results in the eradication of forced labour, his country supported strengthening the implementation of the measures enumerated in the 2000 resolution of the Conference.

The Worker member of the Netherlands (Mr. ETTY) drew the Committee's attention to the role of the OECD Guidelines for Multinational Enterprises in the context of the implementation of the 2000 resolution of the Conference and the reporting thereon.

The 2004 decision of the OECD Investment Committee to limit the scope of application of the Guidelines to FDI and FDI-related trade had considerably restricted the use of the Guidelines for this purpose. This was a fact even in countries such as the Netherlands where the Government had previously suggested that trade unions should address all economic relations of enterprises under the OECD Guidelines. As the ILO was stepping up its efforts to ensure implementation of the 2000 resolution, it was important also to review the role of these Guidelines. The speaker recalled that the National Contact Points set up by OECD member States had the task of promoting better awareness of the OECD Guidelines. In the context of Burma, this could mean giving more publicity to the reviewed economic relations of a given government with Burma. The Contact Points should also draw attention to the fact that, under the Guidelines, enterprises should make a contribution to the elimination of forced labour and should respect established government policies, for instance, as in the case of the Netherlands, a policy of discouragement of economic relations. The National Contact Points should seek the support of employers' organizations for such an awareness raising campaign, while the trade unions should play a role in such an effort at the enterprise, national and international levels, including through the European Works Councils. The Trade Union Advisory Committee of the OECD had held two workshops in 2005 to draw the attention of European Works Councils to the OECD Guidelines. In cases of FDI and FDI-related trade, where enterprises refused to take the action demanded by the 2000 Conference Resolution and the OECD Guidelines, trade unions would continue to bring complaints to the National Contact Points. In the past, several such complaints had led to changes in the behaviour of companies. Where cases were outside the scope of the OECD Guidelines, the Government should open an alternative way for addressing them. In the Netherlands, efforts were being made to address the continued timber import from Burma by Dutch enterprises. Following appeals by the Netherlands Burma Center, some firms had agreed to stop their imports, while four enterprises had not, i.e. Worldwood, Bruijnzeel, Boogaerdt, and Van der Stadt.

The Government member of Indonesia (Mr. SARWONO), speaking on behalf of the Government member of the Association of South-East Asian Nations (ASEAN) countries, expressed appreciation to the ILO for its continuing support and cooperation with the Government of Myanmar in its effort to eliminate the practice of forced labour in the country. The ASEAN countries acknowledged the importance of the ILO presence in Myanmar and the role played by the Liaison Officer in assisting the Myanmar authorities in the observance of Convention No. 29. The commitment of the Government of Myanmar to observe the Convention and to eliminate the practice of forced labour in the country was welcomed. The positive developments as contained in the letter dated 21 May 2005 from the Minister of Labour of Myanmar to the Director-General were noted with interest, in particular the Government's readiness to consider a new approach in addressing the issue, the freedom of movement extended to the Liaison Officer, the release of U. Shwe Mahn, in response to the aide-memoire presented by the vHLT and the conclusions adopted by the Governing Body in March 2005, as well as the recent meeting of the Liaison Officer with the Ministry of Labour and the Army Focal Point, in compliance with ILO's request. It was important to continue the process of dialogue and cooperation rather than to adopt alternative measures. In this regard, the Government of Myanmar had expressed its willingness to continue to cooperate with the ILO. The ASEAN countries therefore called on the Myanmar Government and the ILO to continue their dialogue, while the Conference Committee should continue to play a constructive role in this matter.

The Government member of New Zealand (Ms. DEMPSTER) recalled that her country had repeatedly called for immediate action by the Government of Myanmar to cease the deplorable practice of forced labour, to empower the victims of forced labour, and to set in place clear and tangible measures to punish perpetrators. However, she observed with deep concern and frustration that once more there had been little tangible improvement. She deeply regretted that the patience of the international community continued to be tried, that the small concessions made by the Government had not gone far

enough, and most significantly, that these direct violations of the human rights of Myanmar's people continued to go unaddressed by their Government.

Concerning cooperation with the ILO, particularly through the resident presence in Yangon, which was an essential element of the Government of Myanmar's response to this serious situation, she remained concerned that the interim Liaison Officer had not regained the full range of freedom of movement granted to him previously and did not understand why it had not been possible for the Government to remove administrative barriers to the strengthening of the office. She looked forward to a credible explanation and corrective action in this regard. The international community required concrete evidence of the commitment of the Government of Myanmar to end forced labour. She took note of the interim Liaison Officer's meeting with the military focal point and looked forward to more such meetings so that identifiable progress could be achieved. She also noted with interest the release of U. Shwe Mahn and trusted he would not suffer further harassment for carrying out his legitimate peaceful political activities.

She expressed concern however at the report of intimidation of those coming forward to the interim Liaison Officer with complaints of forced labour. She wished to express her country's support for the Plan of Action and noted that its implementation would depend on the establishment of the necessary political environment whereby complaints could be received by the Facilitator without fear of retribution. The fact that such conditions did not yet exist, and that the ILO Office had as a consequence been placed in an extremely difficult situation as outlined in the Report of the Director-General, should be of deep concern to the Conference Committee. She also noted that her country looked forward with interest to learning details of the "new approach" mentioned by the Government in their letter to the Director-General of 21 May 2005 and urged that this approach be based on the policy of zero tolerance to the use of forced labour and an immediate end to the culture of impunity.

She concluded by observing that although the ILO, through special sittings of the Conference Committee and discussions at the Governing Body, had registered time and time again its deep concerns at the situation in Myanmar, the Government of Myanmar did not seem to have registered fully the seriousness of these concerns or share them. The time for concrete and credible action was well and truly overdue.

The Worker member of Japan (Mr. INOKUCHI) stated that despite the promises of the Government, forced labour was being widely practised in Myanmar, as pointed out by the Committee of Experts. Political and financial support given by some countries to the Government of Burma through the Asian Development Bank (ADB) projects was one reason for the survival of the military regime and forced labour in Burma. Foreign investment in Burma had increased since the 2000 Conference resolution on Myanmar, with one-third of it being concentrated in the oil and gas sector. The ADB was involved in supporting the military regime through its Program of Economic Cooperation in the Greater Mekong Subregion (GMS Program) launched in 1992. In November 2001, the 10th Greater Mekong Sub-Region Ministerial Conference adopted a strategic framework for an integrated and prosperous Mekong subregion, identifying flagship programmes in areas such as transport and economic corridors, telecommunications and energy interchanges, and cross-border trade and investment. These programmes played an important role in encouraging ASEAN countries and multinational companies to invest in the energy sector in Burma. ADB had provided US\$887 million in these projects, which included the Mawlamyine deep-sea port project and the Mawlamyine road section project in Burma. It was very regrettable that such financial and political support assisted the military regime to survive and thus forced labour continued to exist. Not only all ILO Members but also the ADB was responsible to eradicate force labour in Burma. The speaker urged governments and employers to cease giving any advantages to the military regime of Burma.

The Government member of India (Mr. CHATERJEE) noted that since the March 2005 session of the Governing Body the Liaison Officer had been able to visit certain parts of Mon State and southern Kayin State and had met with the Minister for Labour. He further took note of the assurances of continuing cooperation with the ILO provided by the Government of Myanmar and the new approach for the elimination of forced labour mentioned by the Minister of Labour in his letter dated 21 May 2005 to the ILO Director-General. The speaker noted that his country viewed these new developments positively and considered that the Government of Myanmar needed to be encouraged in its efforts to eliminate forced labour. He expressed the hope that the discussion before the Conference Committee would be constructive in helping the Government of Myanmar to move in the direction of further cooperation with the ILO.

The Worker member of the Republic of Korea (Mr. KANG) raised the issue of the Shwe Natural Gas Project in Arakan State, in which Daewoo International and the Korea Gas Corporation were involved. Great concern had been expressed about these projects and their possible serious effect on local people, both in Arakan and Chin States, particularly with the increase in deployment of the armed forces under the pretext of guarding the pipeline. Forced relocation, forced labour, summary executions, torture and other human rights violations were claimed to have taken place, in relation to Unlocal and Total corporations. These claims seemed to be well founded, according to Nyi Nyi Lwin, who participated in the workshop on "What are the problems in the Shwe Natural Gas Project?", held in Seoul. Local fisherfolk entering the Shwe field were deprived of their ships and tortured. In addition, local inhabitants were drafted forcibly to cut down forests to build the Daewoo International Project Office. He requested the Government to ensure that measures would be taken to prevent the cases of Total and Unlocal being repeated. He called for the postponement of the extraction of the Shwe natural gas field until the time when the people of Western Burma could participate directly in decisions about the use of their resources and related infrastructure development without fearing persecution,

including forced labour. He also called on the Government to provide more detailed information on the Shwe Natural Gas Project and to monitor it more closely. Finally, he also urged the Government of the Republic of Korea to suspend the Project and provide information to the Committee, taking all necessary measures in line with the Conference resolution of 2000 on the Shwe Natural Gas Project calling on constituents, the UN and other multilateral agencies to review relations with Myanmar and cease any relations that might aid the military junta to abet forced labour.

The Government member of Belarus (Mr. MOLCHAN) declared that his country followed with attention developments in the situation of Myanmar, as appeared in the documents presented by the ILO and the information provided by the Government representative of Myanmar. Belarus took note of the progress which had taken place in the short period of time since the Governing Body's session of March 2005. He took note of positive dynamic, which demonstrated that a constructive dialogue with the authorities was taking place. Numerous facts attested to it: the extension of the dialogue between the ILO representative and the authorities and the confirmation of his freedom of movement in the country; the liberation of U. Shwe Mahn; the follow-up given to 56 complaints concerning forced labour, out of 58 in total; and the continuing progress in various directions provided for in the Plan of Action. The Government of Myanmar demonstrated by its deeds its engagement to fight sincerely the problem of forced labour in the country, the phenomenon which, according to the document "Alliance against forced labour in the world", today concerned more than 12 million individuals in all corners of the world. The speaker pointed out that progress in this domain would only be possible through constructive dialogue and cooperation with the ILO. The eradication of forced labour needed time and history had taught that when complex problems, especially social ones, were solved by force, the innocent population was the first to suffer and, in the end, the objectives were not reached.

The Worker member of Pakistan (Mr. AHMED) recalled that the issue of forced labour in Myanmar had been under discussion in the ILO since 1964 and that there was now urgency in making progress in eliminating this practice in the country. Forced labour was a violation of fundamental human rights and dignity, as emphasized by the 2005 Global Report under the Declaration of Fundamental Principles and Rights at Work. The Government of Myanmar had not yet amended the provisions of the Towns Act and the Village Act, which allowed for the exaction of forced labour, as requested by the Commission of Inquiry. The Government's argument that amendments could not be made due to the absence of a legislative body was devoid of truth, as it in fact recently had made legislative changes in other areas. He also urged the Government to implement all other recommendations of the Commission of Inquiry and the vHLT.

The Government member of the Russian Federation (Mr. STEPANOV) stated that the Russian Federation, like other participants in this discussion, was unconditionally devoted to the goal of eradicating forced labour in Myanmar. Energetic efforts undertaken by the Office to that end deserved to be commended. In fact, there had been recently some positive developments, such as the release of the third person originally convicted of high treason. Many members of the Committee had not considered these developments sufficient. The most effective way to achieve progress in this case was to continue dialogue with the Myanmar authorities, to preserve and develop the existing mechanisms of cooperation between the ILO and the Government of this country.

An observer representing the World Organization Against Torture (Ms. BASTOS DUARTE) stated that her organization was alarmed by the continued use of forced labour against hundreds of thousands of people in Myanmar, often associated with torture and other types of physical and psychological abuse. The Committee of Experts had been stressing its concern about the use of forced labour in Myanmar and the existence of legislation in contradiction with Convention No. 29 since 1964. However, no substantive measures had been taken by the Government to ban forced labour. As was

noted by the ILO Director-General in his 2005 Global Report, still today there existed no political will in Myanmar to take strong measures against military and local authorities that benefited economically from forced labour.

The speaker emphasized that forced labour was always cruel, inhuman and degrading and it could be considered as an act of torture per se. In Myanmar, it was often accompanied by other forms of torture, including enforced displacement, rape, as well as food and health care deprivation or other ill-treatment resulting in death. Where resistance to forced labour was raised, further ill-treatment, detentions and extra-judicial executions followed. Furthermore, forced labour frequently entailed sexual exploitation, child labour, human minesweeping, the extortion and forced eviction of civilians, and extremely harsh labour conditions. Recent reports from the field spoke of government officers who had forced civilians to risk their lives by performing sentry duties, and a military commander who had beaten a civilian to death in Shan State for refusing to provide his vehicle for forced labour. Forum-Asia had provided evidence of renewed use of forced labour in the Northern Arakan State in construction work, harvesting, portering and other duties for the military. The enforced enrolment of children in the army, with the threat of imprisonment, was also a common practice throughout the country. She recalled that torture in Myanmar was by no means restricted to its direct association with forced labour and was often exerted upon pro-democracy activists, monks, or women in the form of sexual abuse.

She concluded by urging that all necessary measures be taken in order to ensure the compliance by Myanmar with the absolute interdiction of forced labour and other human rights abuses associated with it, and that concrete and energetic measures would be taken by the International Labour Conference to ensure the full implementation of Convention No. 29 and of the provisions of the June 2000 resolution.

The Government member of Japan (Mr. FUJISAKI) said that it was clear from the discussion so far that many members were far from satisfied with the situation of forced labour in Myanmar. The question that therefore faced this Committee was whether

to pursue punitive options or to further impress upon the Government of Myanmar the need to engage in dialogue and cooperation with the ILO. After long and agonizing consideration, his delegation had decided that the best way forward was to further encourage the Myanmar authorities to engage in dialogue with the international community. A number of positive steps had been noticed in this case, including the release of U. Shwe Mahn, who, in his view, could not be guilty of treason for having had contacts with the ILO, and the establishment of a focal point in the military for dealings with the ILO. Undoubtedly these positive steps needed to be further elaborated.

All positive steps that had been taken in Myanmar were due to the pursuance of dialogue between the international community and Myanmar. This should not be underestimated or undermined. The ILO was, and would be, an important contact in the country. As an outcome, it was important to ensure an improvement in the situation in the country, not just a demonstration of political will.

At the same time, excuses could not be made for the Myanmar Government. It was regrettable that improvement only occurred under pressure from the international community. His Government was not advocating a continuation of a "wait-and-see" attitude. To the contrary, he urged the Myanmar Government to take the concrete steps of facilitating contacts between the focal point in the armed forces on Convention No. 29 and the ILO at the appropriate high level, and ensuring full freedom of movement for the Liaison Officer. He also called for Members to use every multilateral and bilateral meeting at which Myanmar was present to remind the Government of its obligations. The situation should be further examined at the subsequent Governing Body session.

The Worker member of Germany (Ms. ENGELEN-KEFER) recalled that the Governing Body had for years been dealing with the case of forced labour in Myanmar - an endless tragedy in which hundreds of thousands of people were subject to compulsory labour in road building and other infrastructure projects and services for the military, abduction of children by military forces, and, most recently, prosecution for having had

contacts with the ILO. For years the Government of Myanmar had issued assurances that it was eliminating forced labour and cooperating with the ILO. Yet she wondered why, if this were the case, instances of forced labour continued to be reported, no action had been documented by the Government in response to such complaints, no legal action had been taken against authorities that had used forced labour, the Liaison Officer was denied freedom of movement in the country, the vHLT had not been able to complete its mission, and the ILO had been disparaged at a press conference held by the authorities in Yangon. Patience was at an end in this case, and the credibility of the ILO and its Members was at stake. The ILO had already outlined a possible framework of action in its resolution of the International Labour Conference in 2000, and it was time to take such measures in collaboration with other international organizations.

The Government member of Cuba (Ms. HERNANDEZ-OLIVA) said that the question of the application of the Forced Labour Convention, 1930 (No. 29) by the Government of Myanmar had been closely followed by her delegation since the adoption of the Conference resolution in 2000. Since that date, some joint action had been taken by the ILO and the Government of Myanmar - action which, according to the report, had yielded positive results. The presence of the ILO Liaison Officer, who had been granted the same status as diplomats and United Nations personnel, had been an important factor in furthering dialogue and cooperation.

The speaker took note of the recent meeting between the Minister for Labour and the ILO Liaison Officer, as well as the meeting held between the ILO Liaison Officer and the army focal point, both of which provided a good example of the Government's willingness to enter into dialogue and cooperation. She indicated that she considered in a positive light the letter dated 21 May 2005 from the Minister for Labour to the Director-General. In considering the possibility of continued constructive dialogue and cooperation with the Government of Myanmar, her Government felt that coercive measures relating to trade and international investment were not suitable mechanisms for achieving progress in any

country and, on the contrary, such measures created even greater difficulties for the people one wanted to protect.

Finally, the speaker expressed her hope that the Government of Myanmar and the ILO would find, within the framework of a mutual commitment to constructive cooperation, solutions to the complex problems under discussion.

The Government member of the Republic of Korea (Mr. PARK) said that his delegation had carefully considered the recent developments reported by the representative of the Government of Myanmar. His delegation had perceived the establishment of a focal point in the armed forces, the subsequent meetings between the focal point and the ILO Liaison Officer a.L, and the release of U. Shwe Mahn as positive developments. The ILO needed to maintain a solid presence and active engagement in Myanmar. At the same time, he associated himself with the concerns expressed by other delegations regarding the current situation in Myanmar and requested that the country demonstrate its political will to eliminate forced labour, with immediate and concrete actions. He urged the Myanmar Government to make clear at the highest level its intention to eliminate forced labour.

The Government member of China (Ms. LU) stated that the instances of progress which had been cited by the Government representative of Myanmar fully demonstrated its commitment to eradicating forced labour. These positive steps had been the result of cooperation and dialogue between the ILO and Myanmar. This dialogue and cooperation should be encouraged and confrontation should be avoided. Her delegation agreed with the statement made by the Government member of Indonesia who had spoken on behalf of ASEAN. She hoped the ILO and the Government of Myanmar would strengthen their cooperation.

A representative of the International Confederation of Free Trade Unions (ICFTU), speaking with the authorization of the Officers of the Committee (Mr. MAUNG, General Secretary of the Federation of Trade Unions-Burma)

observed that, since the last special sitting at the 2004 Conference, the political and social situation of the Burmese people had worsened. After the internal coup which had destituted General Kyn Nyunt and most of the military intelligence, the repressive situation all over the country had worsened dramatically, particularly in ethnic areas and along the borders, where there was an increase of violence from the army. The Nobel Peace Prize winner Aung San Suu Kyi remained under house arrest and totally incommunicado; U. Shwe Mahn, though finally released at the request of the ILO, was still accused of high treason by the Minister of Labour in his recent letter to the Director-General of the ILO.

During the last few months, there had been evidence of hundreds of cases of forced labour, not only in the border areas, where the army used forced labourers as porters and minesweepers, but throughout the country. He pointed to one case where the chairperson of the State Peace and Development Council (SPDC) of Myawaddi township in Karen State gave instructions obliging six villages and more than 2,000 people to implement the summer rice cultivation. Forced labour was also used in the construction of the India-Burma border trade road in Chin State. The army also used the labour of prisoners for road construction.

Moreover, during the last Governing Body session in March, the junta had organized a press conference in Yangon where the ILO was accused of exerting one-sided pressure on Myanmar by siding with expatriate destructionists, and during which the exaction of forced labour in Myanmar was presented as a cultural tradition of this country.

The speaker was very concerned by the number of persons who had come to the Liaison Officer a.i. to report on cases of forced labour that had been subsequently arrested and detained, and the fact that the vast majority of cases raised by the Liaison Officer had been declared false. The Committee should therefore take immediate steps to develop a mechanism enabling the victims of forced labour to seek and obtain redress, with full guarantees of security against reprisals, thus contributing to the fight against impunity. The speaker also urged both the Governments and the Employers to follow up the decisions of

last November's Governing Body session, as regards the foreign direct investments in all their forms, in order to stop immediately any private investment and any other economic dealings with the regime, which might contribute to its stability and perpetuate forced labour. Moreover, the ILO's field capacity should be strengthened, in order to attain full freedom of movement and access to the people outside Yangon. The speaker urged the Committee to take the necessary measures which would allow the ILO, its constituents and other international organizations to force the junta to respect the fundamental human right not to be subjected to forced labour.

The Worker member of Australia (Ms. BURROW) stated that this case was a matter of political will - the choice to stand up for a people oppressed and abused by forced labour in a nation without democratic rights or a rule of law that met any test of judicial fairness. She referred to the report of Earth Rights International, which contained further disturbing information on prisoner porters, forced farming, sexual slavery, food theft and harassment of local leaders and villages, which seemed unbelievable in the twenty-first century.

The speaker emphasized that the Myanmar regime was well-known to the Governments, Employers and Workers of this Committee. It had tested their diplomacy to the limits and now mocked the Committee: not only had it enslaved its citizens in forced labour, but it held its democratic leader imprisoned. Despite this, its representative presented another set of excuses for some of the worst crimes against humanity and another set of false promises. While U. Shwe Mahn had been released, though he was guilty of no crime except standing up for his people's rights, another union organizer, Moe Naung, had been murdered for doing his job, and there was information of at least one more case of a trade unionist's murder.

Though the Workers and the Employers in this Committee stood together on this matter, the Governments' support was needed. The speaker urged the Governments to scale up their efforts to end trade and foreign direct investment, and called on the

international financial institutions, including regional banks, to withdraw loans, grants and banking services from Myanmar, in order to make further economic and diplomatic relationships with this regime conditional on both the end of forced labour, and more broadly on genuine democratic process.

The speaker thanked the Governments of the European Union, United States, Canada, New Zealand, India, Japan, the Republic of Korea and Australia for their commitment, but expressed the hope to see all the Governments in the Asia-Pacific region take a stand on the side of humanity and human rights, and to take the strongest possible stand against this regime. This would be especially important in 2006 when ASEAN and other governments would begin negotiations on a potentially significant trading bloc. Trade was not acceptable with a nation guilty of some of the worst violations of human and worker rights. In this regard she expressed her disappointment with the statement of the Indonesian Government, since the Indonesian Parliament had recently issued a resolution urging the Government to boycott the ASEAN meeting if military-ruled Myanmar took the rotating chair; the resolution also stated that the struggle of the people of Myanmar to improve the democratic process in the country should be supported also by South-East Asian companies, including those from Indonesia.

While the speaker was aware of concerns expressed by the Governments of Singapore, Malaysia and the Philippines on this matter, she urged these Governments to take a stronger stand and called on the majority in the Committee to take the strongest possible measures under article 33 of the ILO Constitution.

The Government member of Ukraine (Mr. YAMPOLSKYI) stated that his delegation fully supported the statement made by the Government member of Luxembourg, who had spoken on behalf of the European Union.

The Government member of the Libyan Arab Jamahiriya (Mr. IDRIS AZARUG) emphasized that the important matter under discussion should be examined in

the light of the application of the Convention. The Government of Myanmar must take into account the observations made and take all necessary measures to implement the ILO resolutions.

The Government representative (Mr. SHEIN) recalled that in his previous interventions at the Governing Body, he had expressed his fear that the discussion of this case would become politicized by some nations. He regretted that these fears had come true. Many speakers had touched on political matters which were not related to Convention No. 29. He strongly objected to this.

The Employer members expressed their disappointment with the closing statement of the Government representative of Myanmar. They had expected him to indicate what Myanmar would do as a positive response to the discussion of this case. Instead, he had simply confirmed their view that there was no political will to solve the problem. The matter that had been discussed was a correct legal policy question, which the vast majority of interventions had addressed. The issues at hand were relatively simple. The Employers were looking for an indication that Myanmar would amend or revoke the Village and Towns Acts, and widely publicize the prohibition of forced labour. Yet the Government had not addressed these issues, which was extremely disappointing.

The Worker members recalled that this Committee had a long tradition of objectively reviewing the facts. The facts in this case were clear: there was no evidence that practices of forced labour in Myanmar were diminishing. Forced labour continued to be exacted on the population by the military rulers of the country. The picture set forth in document D.6 was not positive, as it indicated that cooperation with the ILO was restrained. The lack of response by the Government to this case called the authority of this Committee into question. The facts of this case could not be ignored for political or economic reasons.

The Worker members also said that they were extremely disappointed with the statements made by the representative of the Government of Myanmar regarding a situation that was, to all intents and purposes, clear. It would therefore be counter-productive to continue waiting, since the Government would take no concrete measures. Like the Employer members and most of the Governments, the Worker members asked the Government to take action without delay. They also requested that their concrete proposals be considered in the conclusions. Their proposals, which were not punitive measures, aimed to direct the economy and the labour situation in Myanmar towards the observance of ILO standards. It was therefore appropriate to reactivate the measures taken under article 33 of the Constitution.

After taking note of the information from the Government representative, the Committee noted with grave concern the observation of the Committee of Experts which examined the measures taken by the Government to give effect to the recommendations of the Commission of Inquiry. The Committee of Experts had once again pointed out in its observation that the recommendations of the Commission of Inquiry had still not been implemented. The Committee of Experts and the vast majority of speakers in the Committee had expressed its strongest condemnation and urged the Government to demonstrate its stated determination to eliminate forced labour and to take the necessary measures to ensure compliance with the Convention. The extent of forced labour had not significantly changed in most areas, including ethnic areas, and its worst forms - including forced labour for the army and forced recruitment of child soldiers - continued.

In this regard, the Committee had taken note of the latest developments reported by the Director-General as well as by the interim Liaison Officer. The Committee welcomed the release of the third person in the high treason case, but regretted that he was not exonerated of the charges. The Committee could only deplore the fact that the Government had failed to demonstrate sufficient commitment to the elimination

of forced labour, as reflected both by its treatment of the very High-Level Team (vHLT), and by its response to the concrete steps recommended by the vHLT and by the Governing Body. The Committee was alarmed in particular by the Government's stated intention to prosecute people it accuses of lodging false complaints of forced labour, and by the apparent intimidation of complainants.

In the view of the Committee, recent developments had further confirmed the conclusions of the Governing Body at its March 2005 session that the "wait-and-see" attitude that prevailed among most members since 2001 had lost its *raison d'être* and could not continue. The Committee's general view was that Governments, Employers and Workers, as well as other international organizations, should now activate and intensify the review of their relations with Myanmar that they were called upon to make under the 2000 resolution, and to urgently take the appropriate actions, including as regards foreign direct investment in all its various forms, relations with State- or military-owned enterprises in Myanmar. In accordance with the conclusions of the Governing Body in March, the present conclusions should be transmitted to all those to whom the 2000 resolution was addressed. The results of such reviews should be fully reported to the Director-General so that the Governing Body could have a complete picture in November. As regards the Economic and Social Council (ECOSOC), it should be requested to reactivate its consideration of the item placed on its agenda in 2001 in this regard, and Members in ECOSOC should be ready to support such a move.

The Committee noted that a number of serious issues, some of which were already identified by the vHLT in its aide-memoire, needed to be urgently resolved:

1. The Government should give clear assurances that no action would be taken against persons lodging complaints of forced labour, or their representatives, in order that the Liaison Officer could fully continue to accept and channel such complaints to the competent authorities, and urgent discussions should be

undertaken with a view to making available the safeguards and protection built into the Facilitator mechanism.

- 2. A number of serious allegations of forced labour that were still outstanding, including those concerning the army, should be resolved in a credible manner.**
- 3. The ILO's presence in Myanmar should be strengthened to enhance its capacity to carry out all its various functions, and the Government should issue the necessary visas without delay.**
- 4. The freedom of movement of the Liaison Officer as recognized by the Understanding and necessary to the discharge of his functions should be fully respected.**

The Committee was of the view that the test of the real commitment of the authorities was and still remained their willingness to urgently discuss the outstanding issues at the highest level and to commit to a substantive policy dialogue that can finally address the forced labour problem. This commitment should moreover be reflected in changes to the law as well as in any future Constitution. Depending on developments in this regard, the general view was that the Governing Body at its next session should not limit itself to reviewing the steps taken under the 2000 resolution, but should also be ready to consider further steps.

The sitting closed at 2.25 p.m.