



Provisional Record

Eighty-eighth Session, Geneva, 2000

Eighth item on the agenda

Measures recommended by the Governing Body under article 33 of the Constitution – Implementation of recommendations contained in the report of the Commission of Inquiry entitled *Forced Labour in Myanmar (Burma)*

I. Historical background

In 1996, a complaint was presented under article 26 of the ILO Constitution against the Government of Myanmar for non-observance of the Forced Labour Convention, 1930. The complaint recalled that “*Myanmar’s gross violations of the Convention [No. 29] have been criticized by the ILO’s supervisory bodies for 30 years*”.

In accordance with the aforementioned article, the Governing Body appointed a Commission of Inquiry. The Government of Myanmar did not authorize the Commission of Inquiry to visit the country, indicating that “such a visit would not contribute much towards resolving the case” and “would interfere in the internal affairs of the country”.

In accordance with article 28 of the Constitution, the Commission of Inquiry established the relevant facts and concluded that the alleged violations had occurred, and formulated recommendations regarding measures to be taken with a view to eliminating those violations.¹

The Director-General, in accordance with the provisions of article 29, paragraph 1, of the Constitution, communicated the report of the Commission of Inquiry to the Government of Myanmar. The Government, within the period of three months allowed under article 29, paragraph 2, of the Constitution, informed the Director-General that “*the authorities, therefore, will do their utmost to complete the process within the time frame referred to in the report [of the Commission of Inquiry]*”.²

No significant follow-up was noted by the Governing Body³ or by the International Labour Conference.⁴ The Committee on the Application of Standards in particular drew the attention of the Conference, at its 87th Session (Geneva 1999), to the fact that “the explanations provided by the Government did not respond to the detailed and well-substantiated findings and recommendations of the Commission of Inquiry and the Committee of Experts”. At the same session, the Conference adopted

a resolution on the widespread use of forced labour in Myanmar.⁵

At its 277th Session (March 2000), the Governing Body decided to include the following item on the agenda of the 88th Session of the Conference: Action recommended by the Governing Body under article 33 of the Constitution — Implementation of the recommendations contained in the report of the Commission of Inquiry entitled *Forced Labour in Myanmar (Burma)*. That is now the eighth item on the Conference agenda.⁶

II. Recommended action

According to article 33 of the Constitution of the International Labour Organization:

In the event of any Member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Inquiry, or in the decision of the International Court of Justice, as the case may be, the Governing Body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith.

Some indication regarding the scope of article 33 of the Constitution and the type of action that may be taken in application of that article is given in the extracts from the report submitted to the 277th Session of the Governing Body which are reproduced in the present report.⁷

In accordance with this article of the Constitution, the Governing Body adopted the following resolution:

The Governing Body of the ILO,

Recalling the discussions held at the 273rd, 274th and 276th Sessions of the Governing Body on the implementation of the recommendations of the Commission of Inquiry established under article 26 of the Constitution of the ILO to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29),

Noting that the Government of Myanmar has so far not complied with the recommendations of the Commission of Inquiry, despite the disapproval that the gravity of the Government’s failure to act must inspire in every-

¹ The substantive conclusions and the recommendations of the Commission of Inquiry are reproduced in the present report, part IIIA (1) and (2).

² The letter of the Government of Myanmar is reproduced in Part IIIB of the present report.

³ Documents GB.274/5 and GB.276/6.

⁴ ILC, 87th Session, 1999, Report of the Committee on the Application of Standards, paras. 195 and 198, *Record of proceedings pp 23/72 and 23/73*.

⁵ The text of the resolution is reproduced in Annex I of the present document.

⁶ Extracts from the report GB.277/6 submitted to the 277th Session of the Governing Body and the summary of the Governing Body’s discussions on this item are reproduced in the present report in Part IIIC(1), (2) and (3).

⁷ See Part IIIC(1), paras. 11-15.

one's conscience and the imperative need to put an end to this situation by every appropriate means as soon as possible,

Noting the provisions of article 33 of the Constitution of the ILO;

Recommends to the International Labour Conference, meeting at its 88th Session (May-June 2000), that it adopt measures including some or all of the following:

- (a) to decide that the question of the implementation of the Commission of Inquiry's recommendations and of the application of Convention No. 29 by Myanmar should be discussed at future sessions of the International Labour Conference, at a sitting of the Committee on the Application of Standards specially set aside for the purpose, so long as this Member has not been shown to have fulfilled its obligations;
- (b) to recommend to the Organization's constituents as a whole – governments, employers and workers – that they: (i) review, in the light of the conclusions of the Commission of Inquiry, the relations that they may have with the member State concerned and take appropriate measures to ensure that the said Member cannot take advantage of such relations to perpetuate or extend the system of forced or compulsory labour referred to by the Commission of Inquiry, and to contribute as far as possible to the implementation of its recommendations; and (ii) report back in due course and at appropriate intervals to the Governing Body;
- (c) as regards international organizations, to invite the Director-General: (i) to inform the international organizations referred to in article 12, paragraph 1, of the Constitution of the Member's failure to comply; (ii) to call on the relevant bodies of these organizations to reconsider, within their terms of reference and in the light of the conclusions of the Commission of Inquiry, any cooperation they may be engaged in with the Member concerned and, if appropriate, to cease as soon as possible any activity that could have the effect of directly or indirectly abetting the practice of forced or compulsory labour;
- (d) regarding the United Nations specifically, to invite the Director-General to request the Economic and Social Council (ECOSOC) to place an item on the agenda of its July 2000 session concerning the failure of Myanmar to implement the recommendations contained in the report of the Commission of Inquiry and seeking the adoption of recommendations directed by ECOSOC or by the General Assembly, or by both, to governments and to other specialized agencies and including requests similar to those proposed in paragraphs (b) and (c) above;
- (e) to invite the Director-General to submit to the Governing Body, in the appropriate manner and at suitable intervals, a periodic report on the outcome of the measures set out in paragraphs (c) and (d) above, and to inform the international organizations concerned of any developments in the implementation by Myanmar of the recommendations of the Commission of Inquiry.

The Conference is requested to examine, with a view to their adoption in the form of a resolution, one or more of the measures indicated in subparagraphs (a)-(e) of the resolution submitted to it by the Governing Body.

To assist the Conference, it was deemed useful to reproduce in an annex extracts from the relevant resolutions of the United Nations General Assembly and Commission on Human Rights,⁸ as well as copies of

⁸ Annex III.

the communications between the Office and the Government of Myanmar.⁹

Lastly, the Conference also has available to it the information contained in the report of the Committee of Experts on the Application of Conventions and Recommendations submitted to the present session of the Conference¹⁰ and may take note of any points brought up during discussions of the Committee on the Application of Standards. Other information regarding new developments may be brought to the attention of the Conference by the secretariat in an appropriate form.

III. Relevant information

A. Extracts from the report of the Commission of Inquiry on "Forced Labour in Myanmar (Burma)"¹¹

1. *Conclusions on the substance of the case*

528. There is abundant evidence before the Commission showing the pervasive use of forced labour imposed on the civilian population throughout Myanmar by the authorities and the military for portering, the construction, maintenance and servicing of military camps, other work in support of the military, work on agriculture, logging and other production projects undertaken by the authorities or the military, sometimes for the profit of private individuals, the construction and maintenance of roads, railways and bridges, other infrastructure work and a range of other tasks, none of which comes under any of the exceptions listed in Article 2(2) of the Convention.

529. The call-up of labour is provided for in very wide terms under sections 8(1)(g), (n) and (o), 11(d) and 12 of the Village Act and sections 9(b) and 9A of the Towns Act, which are incompatible with the Convention. The procedure used in practice often follows the pattern of those provisions, in relying on the village head or ward authorities for requisitioning the labour that any military or government officer may order them to supply; but the provisions of the Village Act and the Towns Act were never actually referred to in those orders for the call-up of forced labourers that were submitted to the Commission; it thus appears that unfettered powers of military and government officers to exact forced labour from the civilian population are taken for granted, without coordination among different demands made on the same population, and people are also frequently rounded up directly by the military for forced labour, bypassing the local authorities.

530. Failure to comply with a call-up for labour is punishable under the Village Act with a fine or imprisonment for a term not exceeding one month, or both, and under the Towns Act, with a fine. In actual

⁹ Annex II.

¹⁰ ILC, 88th Session, May-June 2000, *Application – International Labour Conventions*: Report III (1A), pp. 106-112.

¹¹ The footnotes referring to other paragraphs within the report of the Commission of Inquiry have not been reproduced. For the Commission's original text, see **Official Bulletin**, special supplement, Vol. LXXXI, 1998, Series B. The report is also available on the ILO's Internet site <<http://www.ilo.org/public/English/standards/reln/gb/docs/gb273/Myanmar.html>>.

practice, the manifold exactions of forced labour often give rise to the extortion of money in exchange for a temporary alleviation of the burden, but also to threats to the life and security and extrajudicial punishment of those unwilling, slow or unable to comply with a demand for forced labour; such punishment or reprisals range from money demands to physical abuse, beatings, torture, rape and murder.

531. Forced labour in Myanmar is widely performed by women, children and elderly persons as well as persons otherwise unfit for work.

532. Forced labour in Myanmar is almost never remunerated nor compensated, secret directives notwithstanding, but on the contrary often goes hand in hand with the exaction of money, food and other supplies as well from the civilian population.

533. Forced labour is a heavy burden on the general population in Myanmar, preventing farmers from tending to the needs of their holdings and children from attending school; it falls most heavily on landless labourers and the poorer sections of the population, which depend on hiring out their labour for subsistence and generally have no means to comply with various money demands made by the authorities in lieu of, or over and above, the exaction of forced labour. The impossibility of making a living because of the amount of forced labour exacted is a frequent reason for fleeing the country.

534. The burden of forced labour also appears to be particularly great for non-Burmese ethnic groups, especially in areas where there is a strong military presence, and for the Muslim minority, including the Rohingyas.

535. All the information and evidence before the Commission shows utter disregard by the authorities for the safety and health as well as the basic needs of the people performing forced or compulsory labour. Porters, including women, are often sent ahead in particularly dangerous situations as in suspected minefields, and many are killed or injured this way. Porters are rarely given medical treatment of any kind; injuries to shoulders, backs and feet are frequent, but medical treatment is minimal or non-existent and some sick or injured are left behind in the jungle. Similarly, on road building projects, injuries are in most cases not treated, and deaths from sickness and work accidents are frequent on some projects. Forced labourers, including those sick or injured, are frequently beaten or otherwise physically abused by soldiers, resulting in serious injuries; some are killed, and women performing compulsory labour are raped or otherwise sexually abused by soldiers. Forced labourers are, in most cases, not supplied with food – they sometimes even have to bring food, water, bamboo and wood to the military; porters may receive minimal rations of rotten rice, but be prevented from drinking water. No clothing or adequate footwear is provided to porters, including those rounded up without prior warning. At night, porters are kept in bunkers or have to sleep in the open, without shelter or blankets provided, even in cold or wet situations, often tied together in groups. Forced labourers on road and railway construction have to make their own arrangements for shelter as well as all other basic needs.

536. In conclusion, the obligation under Article 1, paragraph 1, of the Convention to suppress the use of

forced or compulsory labour is violated in Myanmar in national law, in particular by the Village Act and the Towns Act, as well as in actual practice in a widespread and systematic manner, with total disregard for the human dignity, safety and health and basic needs of the people of Myanmar.

537. Concurrently, the Government violates its obligation under Article 25 of the Convention to ensure that the penalties imposed by law for the illegal exaction of forced or compulsory labour are both really adequate and strictly enforced. While section 374 of the Penal Code provides for the punishment of those unlawfully compelling any person to labour against the will of that person, that provision does not appear to be ever applied in practice, even where the methods used for rounding up people do not follow the provisions of the Village Act or the Towns Act, which are in any event never referred to in practice.

538. A State which supports, instigates, accepts or tolerates forced labour on its territory commits a wrongful act and engages its responsibility for the violation of a peremptory norm in international law. Whatever may be the position in national law with regard to the exaction of forced or compulsory labour and the punishment of those responsible for it, any person who violates the prohibition of recourse to forced labour under the Convention is guilty of an international crime that is also, if committed in a widespread or systematic manner, a crime against humanity.

2. Recommendations of the Commission of Inquiry

539. In view of the Government's flagrant and persistent failure to comply with the Convention, the Commission urges the Government to take the necessary steps to ensure:

- (a) that the relevant legislative texts, in particular the Village Act and the Towns Act, be brought into line with the Forced Labour Convention, 1930 (No. 29), as already requested by the Committee of Experts on the Application of Conventions and Recommendations and promised by the Government for over 30 years, and again announced in the Government's observations on the complaint. This should be done without further delay and completed at the very latest by 1 May 1999;
- (b) that in actual practice, no more forced or compulsory labour be imposed by the authorities, in particular the military. This is all the more important since the powers to impose compulsory labour appear to be taken for granted, without any reference to the Village Act or Towns Act. Thus, besides amending the legislation, concrete action needs to be taken immediately for each and every of the many fields of forced labour examined in Chapters 12 and 13 above to stop the present practice. This must not be done by secret directives, which are against the rule of law and have been ineffective, but through public acts of the Executive promulgated and made known to all levels of the military and to the whole population. Also, action must not be limited to the issue of wage payment; it must ensure that nobody is compelled to work against his or her will. Nonetheless, the budgeting of adequate means to hire free wage labour for the public activities which

are today based on forced and unpaid labour is also required;

- (c) that the penalties which may be imposed under section 374 of the Penal Code for the exaction of forced or compulsory labour be strictly enforced, in conformity with Article 25 of the Convention. This requires thorough investigation, prosecution and adequate punishment of those found guilty. As pointed out in 1994 by the Governing Body committee set up to consider the representation made by the ICFTU under article 24 of the ILO Constitution, alleging non-observance by Myanmar of the Forced Labour Convention, 1930 (No. 29), the penal prosecution of those resorting to coercion appeared all the more important since the blurring of the borderline between compulsory and voluntary labour, recurrent throughout the Government's statements to the committee, was all the more likely to occur in actual recruitment by local or military officials. The power to impose compulsory labour will not cease to be taken for granted unless those used to exercising it are actually brought to face criminal responsibility.

540. The recommendations made by the Commission require action to be taken by the Government of Myanmar without delay. The task of the Commission of Inquiry is completed by the signature of its report, but it is desirable that the International Labour Organization should be kept informed of the progress made in giving effect to the recommendations of the Commission. The Commission therefore recommends that the Government of Myanmar should indicate regularly in its reports under article 22 of the Constitution of the International Labour Organization concerning the measures taken by it to give effect to the provisions of the Forced Labour Convention, 1930 (No. 29), the action taken during the period under review to give effect to the recommendations contained in the present report. In addition, the Government may wish to include in its reports information on the state of national law and practice with regard to compulsory military service.

B. Communication of the Government of Myanmar dated 23 September 1998

At its 273rd Session (November 1998), the Governing Body took note of a letter from the Government of Myanmar and requested the Office to submit to it at its 274th Session in March 1999 a report on the measures taken by the Government of Myanmar to give effect to the recommendations contained in the report of the Commission of Inquiry. The letter in question reads as follows:

Subject: Report of the Commission of Inquiry

Dear Mr. Director-General,

I acknowledge the receipt of the report of the Commission of Inquiry sent together with your letter of 27 July 1998, addressed to the Minister for Labour.

You will recall that Myanmar Government formed a High-Level Coordination Committee comprising senior officials from several Government Ministries to deal with the activities of the Commission of Inquiry. This Committee examined the details contained in the report of the Inquiry Commission.

The Coordination Committee considers that the information provided by some organizations from anti-government circles was politically motivated, highly biased, lacked objectivity and without any goodwill on the part of those organizations.

The Coordination Committee wishes to point out that the Myanmar Government has always been working at its utmost and in good faith for the cause of the country. There could be many different interpretations over a certain event. But it is a fact that the Government has been emphasizing on infrastructural development and socio-economic development programmes in various parts of the country including the remote border areas.

The Government has now made remarkable achievement in national reconsolidation. Seventeen armed groups have already come into legal fold and are joining hands with the Government to participate in the nation-building endeavours. There has prevailed unprecedented peace and stability which in the last several years could not even be dreamt.

I should like to call your attention to the fact that as stated in my previous correspondence to you, the Myanmar authorities have reviewed the Village Act and the Towns Act several times on their own initiatives so as to bring in line with present-day conditions in the country as well as to fulfil Myanmar's obligations (as a party to the Convention) or (as a Member of the International Labour Organization).

The authorities, therefore, will do their utmost to complete the process within the time frame referred to in the report. I may add that we do not see any difficulty in implementing the recommendations contained in paragraph 539 of the report.

Yours truly,

(U Tun Shwe)
Director-General

C. Consideration by the Governing Body of measures, including action under article 33 of the Constitution of the International Labour Organization, to secure compliance by the Government of Myanmar with the recommendations of the Commission of Inquiry established to examine the observance of the Forced Labour Convention, 1930 (No. 29)

At its 274th Session, the Governing Body decided to include the following item on the agenda of its 276th Session (November 1999): "Measures, including action under article 33 of the Constitution of the International Labour Organization, to secure compliance by the Government of Myanmar with the recommendations of the Commission of Inquiry". The item was discussed by the Governing Body at its 276th and 277th Sessions.

1. Extracts from the report submitted to the Governing Body¹²

11. Article 33 of the Constitution stipulates that "in the event of any Member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Inquiry, [...] the Governing Body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith". The wording of this article is the result of an amendment adopted in 1946 which replaced with a more general

¹² GB.277/6.

provision an exclusive reference to the “measures of an economic character” which could be imposed on a Member in the event of its failing to carry out the recommendations of a commission of inquiry. The Conference Delegation on Constitutional Questions noted that this general clause “would leave the Governing Body a discretion to adapt its action to the circumstances of the particular case, and permit it to make recommendations to the Member of the Organization or, if appropriate, to draw a case of such failure to the attention of the Security Council of the United Nations”.¹³

12. The discretion left to the Governing Body is very broad and allows it to choose between various options, ranging from measures involving the Member itself to measures that can be considered as penalties¹⁴ – on the understanding, however, that for the reasons already given to the Governing Body such measures cannot entail either expulsion from the Organization or suspension of a Member’s voting rights.¹⁵ On the other hand, the Conference is still at liberty to adopt a resolution inviting a Member to draw all the appropriate conclusions from its persistent refusal to comply with its international obligations under the Convention, which derive from a principle that has been recognized as being essential to membership of the ILO. The proposals that the Governing Body may be called upon to adopt must meet three criteria: they must come within the terms of reference of the Conference; they must derive from the recommendations of the Commission of Inquiry (the measures to be taken must correspond to the purpose of the recommendations of the Commission of Inquiry, which is to put an end to the widespread exaction of forced or compulsory labour in Myanmar); and they must be conducive to securing the implementation of the Commission of Inquiry’s recommendations.

13. With regard to measures designed to provide the Government of Myanmar with technical assistance, a Government member of the Governing Body recalled that the elimination of forced or compulsory labour, which is the ultimate objective of the forced labour Convention, is a complex, long and difficult process. However, so long as the Government of Myanmar has not shown its determination to meet its obligations under the Convention fully by making the first step, i.e. by taking the steps recommended by the Commission of Inquiry, it is difficult to contemplate any such measures of technical assistance. In its letter dated 23 September 1998 in which it undertook to comply with the Commission of Inquiry’s recommendations,¹⁶ the Government of Myanmar stated that it “did not see any difficulty in implementing the recommendations contained in paragraph 539 of the report [of the Commission of Inquiry]”. At no time has the Government of Myanmar

asked the Office for specific assistance in implementing the following recommendations: repeal of legislative texts that conflict with Convention No. 29; implementation of a provision that exists in the national legislation (section 374 of the Penal Code of Myanmar) in order to give effect to the provisions of Article 25 of the Convention; practical steps to be taken to ensure that no forced or compulsory labour can be imposed any longer by the authorities, in particular the military, and to ensure that nobody is compelled to work against his or her will. In its exchange of correspondence with the Government of Myanmar, the Office has nevertheless expressed its willingness to help it implement the recommendations of the Commission of Inquiry.

14. It should also be borne in mind that, at the invitation of the International Labour Conference,¹⁷ the Governing Body has instructed the Director-General to ensure that no technical cooperation or assistance to the Government of Myanmar, except for the purpose of direct assistance to implement immediately the recommendations of the Commission of Inquiry, is considered or undertaken by the Office; and to take the necessary steps to ensure that no proposal to invite or invitation to attend meetings, symposia or seminars organized by the ILO is extended to the Government of Myanmar, except for meetings that have the sole purpose of securing immediate and full compliance with the Commission of Inquiry’s recommendations.¹⁸ These measures are applicable for so long as the Governing Body, or its Officers acting on its behalf, has not noted the implementation of the Commission of Inquiry’s recommendations.¹⁹

15. Pursuant to article 33 of the Constitution, the Governing Body might thus propose to the Conference that it consider and adopt measures to induce the Government of Myanmar to take this first step towards complying with its obligations. The application of the measures set out below would be the responsibility of the relevant bodies of the Organization, of its constituents or of other international organizations acting within their own terms of reference.

MEASURE INVOLVING THE BODIES OF THE ORGANIZATION

16. The Conference might decide that the question of the implementation of the Commission of Inquiry’s recommendations and of the application of Convention No. 29 by Myanmar should be discussed at future sessions of the International Labour Conference, at a sitting of the Committee on the Application of Standards specially set aside for the purpose, so long as this Member has not been shown to have fulfilled its obligations.

¹³ *Constitutional questions, Part I: Reports of the Conference Delegation on Constitutional Questions*, Report II(1), International Labour Conference, 29th Session, Montreal, 1946.

¹⁴ The Commission on International Labour Legislation emphasized in 1919 that the objection and complaint procedures had “been carefully devised in order to avoid the imposition of penalties, except in the last resort, when a State has flagrantly and persistently refused to carry out its obligations under a Convention” [italics added], *Official Bulletin*, Vol. I, p. 266.

¹⁵ GB.276/6, para. 20.

¹⁶ GB.273/5, appendix.

¹⁷ See the resolution reproduced in Appendix IV of doc. GB.276/6.

¹⁸ GB.276/6, paras. 5-10.

¹⁹ GB.276/6, para. 6. In accordance with article 34 of the Constitution, “the defaulting government may at any time inform the Governing Body that it has taken the steps necessary to comply with the recommendations of the Commission of Inquiry [...] and may request it to constitute a Commission of Inquiry to verify its contention. In this case, [...] if the report of the Commission of Inquiry [...] is in favour of the defaulting government, the Governing Body shall forthwith recommend the discontinuation of any action taken in pursuance of article 33”.

17. The Conference might recommend to the Organization's constituents as a whole – governments, employers and workers – that they: (i) preview, in the light of the conclusions of the Commission of Inquiry, the relations that they may have with the member State concerned and take appropriate measures to ensure that the said Member cannot take advantage of such relations to perpetuate or extend the system of forced or compulsory labour referred to by the Commission of Inquiry, and to contribute as far as possible to the implementation of its recommendations; and (ii) report back in due course and at appropriate intervals to the Governing Body.

MEASURES INVOLVING
OTHER INTERNATIONAL ORGANIZATIONS
AND THE UNITED NATIONS

18. As regards international organizations, the Director-General might be invited: (i) to inform the international organizations referred to in article 12, paragraph 1, of the Constitution of the Member's failure to comply; (ii) to call on the relevant bodies of these organizations to reconsider, within their terms of reference and in the light of the conclusions of the Commission of Inquiry, any cooperation they may be engaged in with the Member concerned and, if appropriate, to cease as soon as possible any activity that could have the effect of directly or indirectly abetting the practice of forced or compulsory labour.

19. Regarding the United Nations specifically, the Conference might invite the Director-General to request the Economic and Social Council (ECOSOC) to place an item on the agenda of its July 2000 session.²⁰ The item would concern specifically the failure of Myanmar to implement the recommendations contained in the report of the Commission of Inquiry and would seek the adoption of recommendations directed by ECOSOC or by the General Assembly, or by both, to governments and to other specialized agencies and including requests similar to those proposed in paragraphs 17 and 18 above.

20. The Conference might invite the Director-General to submit to the Governing Body, in the appropriate manner and at suitable intervals, a periodic report on the outcome of the measures set out in the two preceding paragraphs. It would be the responsibility of the Director-General to inform the international organizations concerned of any developments in the implementation by Myanmar of the recommendations of the Commission of Inquiry.

²⁰ Such a request would be based on article III of the Agreement between the United Nations and the International Labour Organization, which reads as follows: "Subject to such preliminary consultation as may be necessary, the International Labour Organization shall include in the agenda of the Governing Body items proposed to it by the United Nations. Similarly, the Council and its commissions and the Trusteeship Council shall include in their agenda items proposed by the International Labour Organization."

2. *Communication from the Government of Myanmar dated 21 January 2000*²¹

Subject: Positive and effective measures taken concerning certain labour matters in Myanmar

Dear Director-General,

In recent years, there had been repeated allegations of practice of forced labour in Myanmar and also that the relevant sections of the existing Village Act of 1907 and the Towns Act of 1907 were incompatible with the Forced Labour Convention, 1930 (No. 29).

Under the instruction of the Government of the Union of Myanmar, the Ministry of Home Affairs, which oversees the execution of the Village Act of 1907 and the Towns Act of 1907, embarked on a review process in co-ordination with the relevant ministries, organs and departments of the country with a view to either amend or supplement or repeal the two acts in conformity with the changing security, administrative, economic and social situations and conditions.

As a result of the review process, the Ministry of Home Affairs issued Order No. 1/99 on 14 May 1999 under the Directive of the State Peace and Development Council, instructing the Chairmen of the Ward and Village Tract Peace and Development Councils and other local authorities concerned not to exercise the powers under those provisions relating to requisition for personal services, prescribed in the Village Act, 1907 and the Towns Act, 1907.

A Member of the International Labour Organization, which has ratified an ILO Convention, is required to bring the relevant internal legislation in line with the Convention which it has ratified. In taking necessary steps towards that end, however, it is the prerogative of the country concerned to decide on the most effective and appropriate means.

In this regard, I wish to emphasize that Order 1/99 of 14 May 1999 by the Ministry of Home Affairs was issued under the Directive of the State Peace and Development Council, the law making body and that it has the full force of law.

I wish to also underscore that various means at our disposal were utilized to give the widest possible publicity to the Order. First, the issuance of the Order was clearly explained to local and international media at the press conference held at the conclusion of the ASEAN Labour Ministers' Meeting held in Yangon from 14 to 15 May 1999. In addition, the Order was circulated to the state bodies and local authorities concerned (list attached).

Finally, the Order was promulgated and published in Gazette No. 26, Vol. V, dated 25-6-99 of the Official Myanmar Gazette, where all laws, notifications, rules, regulations, directives and orders are officially published.

With regard to enforcing penalties on those who exact unlawful forced or compulsory labour, I wish to state that action shall be taken under section 374 of the Penal Code of the Union of Myanmar in the event of any complaint by any individual subjected to unlawful forced or compulsory labour. Section 374 of the Penal Code provides as follows:

Whoever, unlawfully compels any person to labour against the will of that person, shall be punished with imprisonment of either description for a term which may be extended to one year with fine or with both.

According to the official records as of 15 January 2000, there have been no complaints and no charges made or actions taken under section 374 at any law court at the state/division, district and township levels.

Furthermore, the Ministry of Home Affairs directed the State and Divisional, District, Township, Ward and Village Tract Peace and Development Councils, which

²¹ Annex to doc. GB.277/6.

are local authorities, and all the police stations in the whole country to notify the Ministry of any complaint lodged under section 374. We have been informed in this regard that no complaints whatsoever have been made as of 15 January 2000.

I wish to inform you that, in view of the above, it is now amply clear that positive and effective measures have been virtually taken in accordance with the ILO Convention, 1930 (No. 29).

Myanmar has been a long-standing member of the International Labour Organization (ILO) and has maintained the tradition of closely cooperating with the Organization. I am confident that we will be able to keep up this tradition.

Yours sincerely,
(Soe Nyunt)
Director-General

3. *Summary of discussions at the 277th Session of the Governing Body*
(Wednesday, 29 March 2000, morning session)

The Chairperson drew attention to the various papers relating to this item. In addition to the main paper, which contained points for decision, the Governing Body also had before it a second report by the Director-General which reproduced a communication from the Government of Myanmar dated 22 March 2000, replying to comments made by the ICFTU, as well as an addendum containing the text of a letter sent to the Director-General of the ILO on 27 March 2000 by the Director-General of the Department of Labour of Myanmar. There was another addendum containing the text of a draft resolution that could be forwarded by the Governing Body to the Conference within the framework of the point for decision proposed in paragraph 21(b) of the main paper.

The latter recapitulated in Part A the available information concerning measures taken by the Government of Myanmar following the recommendations of the Commission of Inquiry and action taken in the ILO since the Governing Body's last session in November 1999. Part B listed a number of measures that might be recommended by the Governing Body to the Conference for possible adoption under article 33 of the Constitution. He stressed that the Governing Body was not invited at this stage to decide itself on measures which could be taken to ensure the implementation of the recommendations of the Commission of Inquiry, but to formulate proposals that would enable the Conference to take appropriate decisions at its next session in June 2000.

For this purpose, the Officers of the Governing Body had considered it useful to request the Office to prepare the text of a self-contained resolution that could be addressed to the Conference within the framework of the point for decision proposed in paragraph 21(b) of the main paper. The wording of that resolution was designed to give the Conference every latitude to retain one or other or even all of the measures proposed, while also making it possible for the Conference to add further measures in the light of any developments that might occur in the meanwhile. Finally, the Conference would have available to it a report reflecting the Governing Body's discussions, which would enable the Conference to take a fully informed decision on the basis of the preferences expressed in the Governing Body and any other useful elements.

Mr. Brett (Worker, United Kingdom; Worker Vice-Chairperson) considered that the Governing Body should not shirk from its responsibilities in tackling this serious issue. It was clear from Part A of the paper that the Government of Myanmar had shown no tangible commitment to comply with the recommendations of the Commission of Inquiry. While the workers would have been tempted to strengthen the language in paragraphs 16-20 of the document, they recognized that the decision of judgement was for the Conference to make. The essential task was to ensure that forced labour in Myanmar was brought to an end as soon as possible. Therefore, if between now and June 2000 the Government complied with its obligations, then, whatever views one might harbour about the regime in Myanmar, one should be prepared to recognize that it had met its obligations. By leaving unamended the wording of Part B of the paper and the draft resolution appended to it, the Governing Body would neither be rushing to judgement nor amending the judgement to be made by the Conference.

The speaker reminded those governments that might be inclined to give more time to the Government of Myanmar that the latter had already disposed of ample time to fulfil its obligations, but by placing the item on the Conference agenda the Governing Body would in fact be giving the Government three additional months to comply. However, any attempt to eliminate or attenuate the proposals in paragraphs 16-20 would amount to sending an entirely wrong signal to the Government of Myanmar. He therefore urged the Government and Employer members to join the Workers in supporting the points for decision in paragraph 21, thus effectively leaving the decision with the Conference, in the hope that the Director-General would in the meanwhile be able to report compliance on the part of the Government of Myanmar. If the latter did not take advantage of this last opportunity, it ran the risk of being judged very harshly by the world community.

Mr. Thiising (Employer, Germany; Employer Vice-Chairperson) pointed out that the Government of Myanmar had so far taken no concrete action to apply the recommendations of the Commission of Inquiry. The letter reproduced in addendum No. 2 only referred to an earlier invitation for the ILO to send a technical team to Myanmar to exchange views on matters of mutual interest, including measures taken by Myanmar with regard to Convention No. 29, and in no way altered the facts of the case.

This letter did not reveal any binding commitment or any genuine intention to request assistance as regards compliance with the report of the Commission of Inquiry. In these circumstances, two courses of action were possible. The first would be to close the case, but the Employers did not feel this to be the correct approach because the substance of the case involved the actual practice of forced labour and because the very credibility of the ILO in ensuring that its values were implemented was at stake here. Myanmar had ratified Convention No. 29 and therefore had to abide by the rules.

A further step was therefore required and, on the basis of the point for decision proposed, it would be for the Conference to choose freely among the various measures proposed or take other appropriate measures. This would be the first time in the 80 years'

history of the ILO that article 33 of the Constitution would be invoked and this would constitute a very strong signal on the part of the ILO. Such a decision would also leave the way open for further developments, and he appealed to governments in the region concerned to act bilaterally to try and persuade the Government of Myanmar to adopt a more positive attitude. He hoped that the Governing Body would be able to reach an agreed view in deciding to put the matter before the Conference and, once this decision was taken, the Office should communicate the decision to the Government of Myanmar together with a renewed offer to provide any useful help as regards the implementation by Myanmar of the recommendations of the Commission of Inquiry.

Mr. Mya Than (Government, Myanmar) stressed that his own presence as an observer delegate at this session demonstrated the seriousness of his Government on this issue. As a responsible Member of the ILO, Myanmar had fulfilled its obligations under all of the 19 ILO Conventions it had ratified and had in particular taken serious and effective measures to implement Convention No. 29 and would continue to do so.

In June 1999, the International Labour Conference had adopted a resolution on Myanmar which his Government had totally rejected. One of the main problems was that this resolution and the decisions of the Commission of Inquiry were based on distorted information emanating from one-sided sources such as the so-called Free Trade Union of Burma (FTUB), which in fact only counted a handful of members and was not in any way representative of the Myanmar population.

Even before the resolution was passed, the State Peace and Development Council had of its own accord instructed the Ministry of Home Affairs to review the Village Act and the Towns Act of 1907. As a result, the Ministry had issued Public Order No.1/99 of 14 May 1999, which suspended the relevant provisions of the two abovementioned Acts.

Although the Government had neither recognized nor accepted the mandate of the Commission of Inquiry, it had in practice achieved the latter's objectives because at the domestic level Public Orders had force of law and therefore had the effect of translating the Government's obligations under international law into national law. Moreover, the abovementioned Public Order had been published in the *Government Gazette* of 25 June 1999 and given the widest possible publicity at various levels.

As regards action taken against any persons responsible for alleged use of forced labour, the Penal Code of Myanmar already had a provision (section 374) which, in the event of any complaint lodged by an individual subjected to unlawful compulsory labour, enabled legal proceedings to be instituted against the persons responsible.

His Government had already reported to the ILO on all these implementation measures. As a further positive gesture, the Director-General of the Labour Department had on 14 October 1999 extended an official invitation to the ILO Director-General to send a technical team to Myanmar to discuss matters of mutual interest, with an open agenda that could cover anything including the implementation of Convention No. 29. On 27 March 2000, this invitation had been renewed and the speaker himself had engaged in pos-

itive internal consultations with senior ILO officials on the draft programme of the technical team.

The proposals now before the Governing Body outlined a number of drastic measures including resort to article 33 of the ILO Constitution. The usefulness of the latter lay solely in its deterrent effect and article 33 should therefore only be invoked as a last resort in very extreme cases. The present question was not an extreme case, and this view was shared by many members of the Governing Body.

Myanmar was a responsible member of the international community, with a long and positive record of cooperation with international organizations. For example, despite initial difficulties with the International Committee of the Red Cross (ICRC), which had closed its office in Myanmar in 1995, discussions had continued and this had finally led in May 1999 to the first visit by an ICRC delegate to all prisons in Myanmar. Similarly, after lengthy consultations between the Government and the UNHCR, his Government had accepted the presence of the UNHCR on the western border of Myanmar in order to help with the repatriation of returnees. These were concrete examples of how extremely delicate issues could be solved through a step-by-step diplomatic approach.

The speaker was a believer in the virtues of cooperation and, despite the fact that his Government had dissociated itself from the 1999 Conference resolution and all activities connected with it, he had been able to convince his Government to extend an official invitation to the ILO to send a technical team to Myanmar. His own presence at this session was a signal that the Government took this question seriously.

He therefore urged the Governing Body to weigh this matter very carefully. Article 33 of the Constitution had never been invoked before, and to apply it now would have far-reaching consequences not only for the ILO, but for the UN system as a whole. He therefore pleaded for a cooperative approach rather than coercive measures. The Governing Body should refrain from taking any drastic measures under article 33 but should instead adopt a prudent and pragmatic approach by agreeing to send a technical team to Myanmar and to engage in dialogue with his Government. The people of Myanmar, like other ASEAN countries, believed in pursuing consensus and avoiding extremes.

Mr. Fadil Azim (Government, Malaysia), speaking on behalf of the governments of the ASEAN countries, expressed appreciation of the positive gesture made by the Government of Myanmar in extending an invitation to the ILO to send a technical team. They believed that it was preferable and more effective to promote cooperation between the ILO and the member State concerned than to resort to drastic measures under article 33 of the ILO Constitution. They accordingly called upon the Governing Body and the Conference to refrain from taking measures under article 33, and to adopt instead a pragmatic approach and send a technical team to Myanmar to engage in dialogue on this issue.

Ms. Dvitiyananda (Government, Thailand) considered that there was an immediate need for both the Government of Myanmar and the ILO to adopt a cooperative approach in resolving this issue. She therefore urged that agreement on the mandate and timeframe of the ILO's technical team be reached as soon

as possible, as a first practical step towards the implementation of the recommendations of the Commission of Inquiry.

Mr. Warrington (Government, United Kingdom), speaking also on behalf of the Governments of Austria, Bulgaria, Canada, Croatia, the Czech Republic, Denmark, Finland, France, Germany, Hungary, Italy, Lithuania, the Netherlands, New Zealand, Norway, Portugal, Sweden, Turkey and the United States, commended the Director-General for his report which chronicled the failure of Myanmar to implement the recommendations of the Commission of Inquiry. Nearly two years after the latter had issued its findings, the Director-General had found that: (a) the Village Act and the Towns Act had not been amended; (b) the Public Order issued by the Government on 14 May 1999 did not exclude the imposition of forced labour in violation of Convention No. 29, and in actual practice forced or compulsory labour continued to be imposed in a widespread manner; and (c) no action had been taken under article 374 of the Penal Code to punish those exacting forced labour.

In short, the Government of Myanmar had wilfully ignored the Commission's recommendations and in so doing it had shown contempt towards the ILO. For these reasons, the governments for whom he spoke had been forced to consider what measures might be taken under article 33 of the Constitution. They had not done so lightly, as article 33 was designed precisely for very rare situations in which all other means had failed. He also recalled that Myanmar had been suspended from ILO regional and technical meetings other than those which would lead to the implementation of the Commission of Inquiry's recommendations.

If the ILO did not react to the continued defiance of the Myanmar Government, the whole credibility of the ILO would be threatened. He therefore believed that the proposals set out in paragraphs 16-18 and 20 of the Office paper constituted a sensible way forward and he supported the point for decision in paragraph 21 to place the item on the agenda of the 88th Session of the Conference.

Mr. Li Donglin (Government, China) supported the statement made on behalf of the ASEAN States. His own Government had always held the view that the international community should replace confrontation and sanctions with dialogue and cooperation. From the letter addressed by the Government of Myanmar to the Director-General and the statement just made by its representative, it was clear that the Government had already taken some effective steps to implement Convention No. 29 and aspired to strengthen its cooperation with the ILO, and this was to be welcomed.

Mr. Schlettwein (Government, Namibia) considered that Myanmar's non-compliance with Convention No. 29 was by now well established, and it was therefore appropriate to place the item on the agenda of the Conference in June 2000. Secondly, his own Government had voted in favour of the Conference resolution on Myanmar, adopted in June 1999, and hence for the implementation of the terms of that resolution. Should there be no progress regarding the effective implementation of the requirements of that resolution and the recommendations of the Commis-

sion of Inquiry, he supported the measures proposed in the Office paper and its annex. The ILO was the appropriate organization to ensure the protection of women and defenceless communities in Myanmar and he therefore supported an approach whereby Myanmar would only receive assistance from the ILO and other UN agencies for the exclusive purpose of ensuring compliance with Convention No. 29 and thus ending the sufferings of the exploited victims.

Mr. Samet (Government, United States) stated that the Governing Body was being called upon to deal with a matter of impelling urgency, which had not come before it hastily or without serious deliberation. It followed repeated and unheeded appeals to the Myanmar authorities to cease their violations of human rights regarding forced labour, and the ILO had already exhausted all other available supervisory and procedural action over some two decades of concern. The Governing Body was responding to the recommendations of the Commission of Inquiry, which it had adopted in 1998. Myanmar had not only ignored the appeals of the ILO, but also those of the UN Commission on Human Rights and the UN General Assembly, that forced labour be stopped.

The Commission of Inquiry's report had in particular stated that "all the information and evidence before the Commission shows utter disregard by the authorities for the safety and health as well as the basic needs of the people performing forced or compulsory labour" and had gone on to catalogue a horrifying list of occupational hazards, work accidents and sicknesses, lack of medical treatment and physical and sexual abuses suffered by the victims of compulsory labour.

In the light of these horrifying practices, the proposals in the Office paper might appear somewhat inadequate, but he agreed with the Worker and Employer members that the Governing Body should proceed with the document in its present form.

It was not an overstatement to say that the situation of Myanmar presented not only a human rights crisis but also a profound constitutional challenge to the ILO. There was therefore no alternative but to place the matter before the ILO Conference. To quote the Commission again, "this report reveals a saga of untold misery and suffering, oppression of large sections of the population inhabiting Myanmar ... the Government, military and the administration seem oblivious to the human rights of the people and are trampling upon them with impunity".

Failure to proceed on this matter would amount to committing an act of grave indifference towards the sufferings of the Burmese people. He therefore hoped that the Governing Body would achieve a consensus to move forward and allow the International Labour Conference to decide on the ILO's future course of action.

Mr. Sumi (Government, Japan) supported placing the issue on the agenda of the next session of the Conference. His Government believed that the international community shared concern about forced labour in Myanmar and that the ILO should continue its involvement in this problem. However, the Japanese Government expressed its concern about paragraph 21(b) of the Office paper which recommended measures under article 33 of the ILO Constitution and considered that this paragraph should be deleted from the points for decision.

It was understandable that many ILO constituents did not wish to defer this matter any longer as there had been little progress so far. However, his own Government believed that the aim should be to improve the situation without isolating Myanmar.

Secondly, according to the resolution adopted by the Conference in June 1999, the ILO should provide technical assistance to Myanmar to implement the recommendations of the Commission of Inquiry. Discussions were now proceeding with the Office on such technical assistance and under the circumstances it was important to encourage this dialogue between Myanmar and the Office.

Thirdly, it was important to consider thoroughly whether any satisfactory result could be achieved by invoking article 33 of the ILO Constitution, as the Organization had no previous experience in implementing this article. If measures based on article 33 were taken hastily, there was a real risk that Myanmar would turn its back on the ILO and lose any incentive to find a solution on this issue.

The speaker reiterated Japan's serious concerns about forced labour in Myanmar and sincerely hoped that the situation would be improved. To this end, two different approaches were possible. The first involved criticizing and trying to force the Government of Myanmar to change its practices. However, the Government of Japan preferred another approach, which consisted in encouraging patient dialogue between the ILO and the Myanmar Government with a view to promoting voluntary efforts by the latter to solve the problem.

Mr. Topan (Government, Burkina Faso) considered that this was a delicate and preoccupying issue as it touched upon the observance of basic rights at work, and impinged on measures to be taken in order to induce a member State to comply with the principles to which all ILO member States had freely subscribed. This matter should be addressed without undue haste, but taking into account the values and the credibility of the ILO. He therefore supported the points for decision in paragraph 21 of the Office paper, which would in effect leave the appropriate decision with the International Labour Conference.

Mr. Pirogov (Government, Russian Federation) favoured resolving this politically sensitive issue by means of dialogue. He therefore supported the statements made by the governments of a number of Asian countries. Efforts should be made to achieve a satisfactory resolution of this issue, particularly for the sake of the people and workers of Myanmar.

Mr. Oni (Government, Benin) considered that, bearing in mind the various admonitions addressed to the Myanmar Government and the present state of affairs in that country, it was necessary to place the matter on the agenda of the Conference so as to enable the latter to evaluate compliance with the resolution adopted in 1999.

Mr. Mejia Viedman (Government, Chile) found this issue extremely delicate both because of the very serious allegations made against the Government of Myanmar and because this would be the first time ever that the ILO had considered invoking article 33 of its Constitution. Nevertheless, he considered that more than sufficient time had been allowed for the recom-

mendations of the Commission of Inquiry to be implemented, but this had not yet occurred. In these circumstances, measures under article 33 would be perfectly valid, and it was imperative to place this item on the agenda of the 88th Session of the Conference. Chile was particularly sensitive to these issues because it recognized the usefulness of international vigilance in relation to human rights issues and in view of its own experience with regard to human rights violations.

Mr. Alfaro Mijangos (Government, Guatemala) believed that the Governing Body had no alternative but to invoke article 33 of the Constitution in this case. A great deal of time had passed since this matter had first arisen and there seemed to be no intention to apply Convention No. 29 on the part of the Government of Myanmar. The latter's representative had just stated that it did not accept the resolution adopted by the Conference in 1999. It should be clearly understood that international law in fact transcended all national legislation. While some might think that this undermined national sovereignty, it was one of the conditions which all member States had to accept when deciding to join an organization such as the ILO, and this was in the interest of the peoples of all countries. If some governments systematically disregarded human rights principles with respect to their citizens, it became necessary for the international community to take drastic measures. In this particular case, the limits on the State's sovereign rights had clearly been reached, and he therefore fully supported the points for decision in paragraph 21(a) and (b).

Mr. Mishra (Government, India) stated that his Government had repeatedly expressed grave concern regarding the persistence of forced labour in any form and in any part of the world. Forced labour was an outrage against human dignity and values and should therefore be energetically repudiated. There was no change in the Indian Government's total support for the principles enshrined in the ILO's Constitution and the Declaration of Philadelphia.

However, the question was how exactly these lofty principles should be translated into concrete reality. Should ILO Conventions be ratified and enforced through voluntary means or should one resort to punitive measures?

His own Government was of the view that the ratification of any ILO Convention was a voluntary process and its application should likewise be voluntary. By this voluntary process of ratification, a member State attempted to demonstrate its commitment to the principles espoused by that instrument. There could be genuine difficulties during the implementation of the Convention, either due to problems of interpretation of its provisions or because of specific economic and social difficulties at the national level. There was a method for resolving such difficulties through constructive dialogue between the member State concerned and the ILO supervisory bodies.

After hearing the representative of the Government of Myanmar, he was not entirely clear about the situation in terms of ground-level realities. In particular, there was a contradiction between the documentation before the Governing Body and the Government's statements with regard to the amendment of certain provisions of the Village Act and the Towns Act and other measures to prevent the occurrence of

any recourse to forced labour, and the exact situation needed to be clarified unequivocally.

As the Government had in October 1999 invited the Director-General of the ILO to send a technical team to Myanmar, and had reiterated this invitation recently, the speaker requested the ILO to consider the invitation so that the technical team could engage in constructive dialogue with the Government of Myanmar.

His own Government was of the view that any application of article 33 of the ILO Constitution should be judicious and circumspect, as otherwise it would not achieve the desired result of promoting the ILO's objectives. To use it for punitive purposes might in fact be a disincentive for member countries in their efforts to ratify ILO Conventions. His Government was therefore not in favour of any action of this nature but would prefer a solution to the case within the ILO itself instead of referring it to other UN bodies such as the Economic and Social Council. The advisability of proceeding with the whole set of measures suggested in paragraphs 16-20 of the paper should therefore be weighed very carefully.

Mr. Djouassab Koï (Government, Chad) considered that the Government of Myanmar's apparent willingness to participate in the work of the ILO could not be enhanced without respect for the fundamental principles of the ILO. The inclusion of this item in the agenda of the next session of the Conference was therefore justified.

Ms. Hernández (Government, Cuba) believed this to be an extremely difficult case both because of the allegations of forced labour made against Myanmar and the measures proposed. Such measures should be taken in a framework of cooperation and should not have the effect of breaking off the dialogue with that country. Recourse to article 33 should therefore only be envisaged with the utmost caution. It was appropriate that any decision to this effect should be analysed by the Conference and in the meanwhile efforts should be made to strengthen the dialogue in the interest of improving conditions in Myanmar.

Mr. Kettledas (Government, South Africa) stated that his Government had voted in favour of the resolution adopted by the Conference in June 1999, with the hope that the ILO was sending a clear message to the Government of Myanmar to the effect that the patience of the international community on this issue was running out and that the Government of Myanmar should take action. He therefore supported all efforts to bring an immediate end to forced and compulsory labour in Myanmar, as otherwise the ILO would be failing in its duty to protect the communities affected by that brutal practice. His Government therefore supported the points for decision in paragraph 21(a) and (b).

Mr. Rodríguez Cedeño (Government, Venezuela) felt that this was a delicate subject, particularly as regards applying article 33 of the ILO Constitution, which required careful reflection. His own Government believed that the provisions of the Forced Labour Convention, 1930 (No. 29), were of fundamental importance from the human rights point of view and was therefore in favour of the absolute abolition of forced labour and the repeal of any legislation which

allowed that practice to continue. However, the competent body to examine the issue and to take decisions on labour standards was the International Labour Organization. It was not opposed to the suggestion that the matter be referred to the Conference and that appropriate measures be taken on the basis of the conclusions of the Commission of Inquiry and the statements made by the Government representative of Myanmar. On the other hand, the Venezuelan Government had express reservations regarding decision paragraph 21(b) and particularly paragraph 18 of the document which referred to the involvement of other international organizations which had no competence in labour matters and might for example put into effect commercial sanctions which Venezuela had constantly opposed.

Mr. Albuquerque (Government, Dominican Republic) recalled that his Government had voted in favour of the resolution adopted by the Conference in June 1999. Since this resolution had not yet been implemented, as the Committee of Experts had clearly indicated, the ILO could not remain indifferent to this serious violation of human rights. His Government was therefore in favour of placing this question on the agenda of the Conference and supported the point for decision in paragraph 21(b).

Mr. Haydoub (Government, Sudan) agreed that forced labour was an inhuman practice and that member States must respect their constitutional obligations towards the ILO, especially those concerning the ILO's core Conventions. Nevertheless, he felt that the application of article 33 of the Constitution and the other measures proposed would be excessively harsh measures against the people of Myanmar. For this reason, he joined other governments which had advocated alternative solutions to this problem, namely through dialogue, especially since the representative of the Government of Myanmar had extended an offer of dialogue.

Ms. Missambo (Government, Gabon) said that her Government had recently organized in Gabon a sub-regional meeting on child victims of trafficking, which was a subject closely akin to forced labour. It was in favour of including the present issue on the agenda of the Conference in the hope that the ILO would play its proper role in ensuring the application of the Conventions protecting human rights and also in avoiding exposing workers to reprisals on the part of those who imposed forced labour.

Mr. Maimeskul (Government, Ukraine) supported the Office proposals in paragraph 21 of the paper, bearing in mind that it would be the Conference that would take the final decision in June 2000. There was still some time left before then, and it would be advisable to continue the dialogue in the meanwhile in order to enable the Conference to take the latest developments into account when reaching its decision.

Mr. Mya Than (Government, Myanmar) refuted the accusations made against his Government regarding the widespread use of forced labour, which were totally unfounded. In fact, the findings of the Commission of Inquiry, as well as the reports before the Governing Body were entirely based on one-sided and hostile sources. They emanated from small orga-

nizations which in no way represented the Myanmar population of 50 million.

There was a tradition in Myanmar whereby the people loved to contribute voluntary labour, which was considered to be a meritorious deed. All labourers employed on community projects received adequate remuneration and humane treatment, and this was entirely consistent with national and international law. The Government had also taken action by issuing Public Order No. 1/99 of 14 May 1999 and had reported to the ILO on the implementation measures it had taken over the past year. As seeing was believing, his Government had invited an ILO technical team to visit Myanmar and evaluate the situation on the spot. A balanced and unbiased judgement could only be reached by using sources from both sides.

Mr. Brett (Worker, United Kingdom; Worker Vice-Chairperson) was somewhat astonished by the last statement, which implied that all porters carrying heavy goods in Myanmar were volunteers and the soldiers were merely there for their protection. Although the Government of Myanmar had at the outset declared itself in favour of cooperation and consensus, it had rejected the report of the Commission of Inquiry, which was a consensus report, and had made no effort to comply with the Commission's findings. As evidenced in the report, the gross denial of human rights in Myanmar had now gone on for some 13 years. It was not a mere question of allegations of forced labour as those allegations had been tested in the Commission of Inquiry and had unanimously been found to be true. However, this continued situation of human rights violation did not appear to be a serious case in the eyes of the Government of Myanmar or the governments of the ASEAN countries.

It was perhaps not coincidental that those who were most opposed to taking any action against forced labour in Myanmar were the same group of countries that were opposed to doing anything about trade and labour in another forum. They should understand that if the ILO did nothing about forced labour in Myanmar, its credibility would be destroyed and solutions would have to be found in the WTO. The world community would not allow the situation in Myanmar to continue without some degree of progress.

Instead of trying to gain extra time, the apologists for Myanmar should persuade the Government that it now had ten weeks left to comply with the Commission's recommendations, failing which it would expose itself at the Conference to the risk of incurring all the measures set out in paragraphs 16-20 of the Office paper.

Mr. Thüsing (Employer, Germany; Employer Vice-Chairperson) noted that, while there was no real unanimity on this issue, a large majority of speakers had supported adopting a middle-of-the-road position, which could lead to constructive results and also send a clear message indicating that the Government of Myanmar should comply with the recommendations of the Commission of Inquiry.

The Chairperson noted that a large majority had expressed itself in favour of adopting the points for decision in paragraph 21(a) and (b) of the paper, and thus of placing the item on the agenda of the 88th Session of the Conference (May-June 2000). In considering this item, the Conference would have before it a

full record of the Governing Body's present discussion, in which all the objections and reservations expressed concerning paragraph 21(b) would be duly recorded. The Conference would have every discretion to adopt the measures it wished to take on this matter.

The Governing Body, taking into account the statements made and reservations expressed, and recalling that the continuation of dialogue with the Government of Myanmar must be based on the resolution on the widespread use of forced labour in Myanmar adopted by the International Labour Conference in 1999, and that such dialogue should deal with the implementation of the recommendations of the Commission of Inquiry –

- (a) *decided to place on the agenda of the 88th Session of the Conference (May-June 2000) an item entitled: "Action recommended by the Governing Body under article 33 of the Constitution – Implementation of the recommendations contained in the report of the Commission of Inquiry on Forced Labour in Myanmar (Burma)";*
- (b) *decided to submit to the International Labour Conference, at its 88th Session (2000), the resolution contained in document GB 277/6 (Add. 1);*
- (c) *noted that the Conference would take its decision on the draft resolution in the light of the discussions held at this session of the Governing Body as reflected in the report to the Conference and of any new developments.*

Mr. Mya Than (Government, Myanmar) categorically rejected the decision just taken by the Governing Body and its recommendation to the International Labour Conference to take drastic measures against Myanmar under article 33 of the ILO Constitution. This action was both unreasonable and unjust. His own delegation dissociated itself totally from this decision and any activities and effects deriving therefrom, and he placed on record the Government of Myanmar's protest in the strongest terms.

Annexes

Annex I

Resolution on the widespread use of forced labour in Myanmar adopted by the International Labour Conference at its 87th Session (June 1999)

The International Labour Conference,

Reaffirming that all member States have an obligation to apply fully, in law and in practice, the Conventions that they have voluntarily ratified,

Recalling that Myanmar ratified the Forced Labour Convention, 1930 (No. 29), and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), on 4 March 1955,

Taking note of the provisions of United Nations General Assembly resolution 53/162 of 9 December 1998 and of United Nations Commission of Human Rights resolution 1999/17 of 23 April 1999, which also address the use of forced labour in Myanmar,

Recalling the decision of the Governing Body to place on the agenda of its November 1999 session an

item entitled: “Measures, including recommendations under article 33 of the ILO Constitution, to secure compliance by the Government of Myanmar with the recommendations of the Commission of Inquiry”;

Gravely concerned by the Government’s flagrant and persistent failure to comply with the Convention, as concluded by the Commission of Inquiry established to examine the observance of the Forced Labour Convention, 1930 (No. 29),

Appalled by the continued widespread use of forced labour, including for work on infrastructure projects and as porters for the army,

Noting the report (dated 21 May 1999) of the Director-General to the members of the Governing Body on measures taken by the Government of Myanmar following the recommendations of the Commission of Inquiry in its report on “Forced Labour in Myanmar (Burma)”;

1. Deeply deplores that:

- (a) the Government has failed to take the necessary steps to bring the relevant legislative texts, in particular the Village Act and Towns Act, into line with the Forced Labour Convention, 1930 (No. 29), by 1 May 1999, as recommended by the Commission of Inquiry;
- (b) at the end of the twentieth century, the State Peace and Development Council (SPDC) has continued to inflict the practice of forced labour — nothing but a contemporary form of slavery — on the people of Myanmar, despite repeated calls from the ILO and from the wider international community for the past 30 years;
- (c) there is no credible evidence that those exacting forced labour in Myanmar have been punished under section 374 of the Penal Code.

2. Reaffirms that this issue should be further considered by the Governing Body in November 1999.

3. Resolves:

- (a) that the attitude and behaviour of the Government of Myanmar are grossly incompatible with the conditions and principles governing membership of the Organization;
- (b) that the Government of Myanmar should cease to benefit from any technical cooperation or assistance from the ILO, except for the purpose of direct assistance to implement immediately the recommendations of the Commission of Inquiry, until such time as it has implemented the said recommendations;
- (c) that the Government of Myanmar should henceforth not receive any invitation to attend meetings, symposia and seminars organized by the ILO, except such meetings that have the sole purpose of securing immediate and full compliance with the said recommendations, until such time as it has implemented the recommendations of the Commission of Inquiry.

Decision of the Governing Body adopted at its 276th Session, November 1999 concerning the application of the Conference Resolution

The Governing Body invited the Director-General —

- (a) to ensure that no technical cooperation or assistance to the Government of Myanmar, except for

the purpose of direct assistance to implement immediately the recommendations of the Commission of Inquiry, was considered or undertaken by the Office; and

- (b) to take the necessary steps to ensure that no proposal to invite or invitation to attend meetings, symposia or seminars organized by the ILO was extended to the Government of Myanmar, except for meetings that have the sole purpose of securing immediate and full compliance with the Commission of Inquiry’s recommendations;

for so long as the Governing Body, or its Officers acting on its behalf, had not noted the implementation of the Commission of Inquiry’s recommendations (Second sitting; GB.276/6, para. 10, and statement by the Legal Adviser).

Annex II

Exchange of correspondence between the Government of Myanmar and the International Labour Office

Subject: *A technical team from the International Labour Office*

COMMUNICATION FROM THE GOVERNMENT
DATED 14 OCTOBER 1999

Dear Director-General,

As you are aware, Myanmar became a member of the International Labour Organization just a few months after she regained here independence in January 1948. Since then we have had excellent cooperation with the ILO in the cause of promoting labour rights. I intend to continue this traditional cooperation and I should like to invite a technical team from the International Labour Office at a mutually convenient date. I would like to suggest that the team be headed by a director or any other appropriate senior official, comprising of two additional members, to visit Myanmar for approximately one week, preferably before the forthcoming Governing Body meeting in November. This will give us an opportunity to discuss matters of mutual interest and to exchange views on ways of increasing cooperation with your Office.

I should be very much grateful to receive your reply to my proposal as early as possible.

Yours sincerely,
(Signed) (Soe Nyunt)
Director-General

COMMUNICATION FROM THE OFFICE
DATED 16 DECEMBER 1999

Dear Director-General,

I refer to your letter of 14 October 1999 inviting the International Labour Office to send a technical team in order to discuss matters of mutual interest.

As you are aware, the Office acts subject to the directions of the Constitutional organs of the International Labour Organization, namely the General Conference and the Governing Body. In the light of the decisions previously taken by these organs, the only matter of mutual interest which the International Labour Office may discuss with your Government is the immediate implementation of the recommendations of the Commission of Inquiry established to examine the observance by your

Government of the Forced Labour Convention, 1930 (No. 29), with a view to ensuring full compliance with the said Convention.

Yours sincerely,
(Kari Tapiola)
Executive Director for
Fundamental Principles
and Rights at Work

COMMUNICATION FROM THE GOVERNMENT
DATED 27 MARCH 2000

Dear Mr. Director-General,

I wish to refer to my letter of 14 October 1999 in which Myanmar extended an invitation for a technical team from the International Labour Office to visit Myanmar at a mutually convenient date. This will enable us to exchange views on matters of mutual interest, including the measures taken by Myanmar with regard to Convention No. 29.

May I again renew the invitation and hope that you will be able to send a technical team at the earliest convenience.

Yours sincerely,
(Soe Nyunt)
Director-General

COMMUNICATION FROM THE OFFICE
DATED 31 MARCH 2000

Dear Sir,

The Governing Body of the International Labour Organization decided on 28 March 2000 to include in the agenda of the International Labour Conference at its 88th Session (June 2000) an item entitled: "Action recommended by the Governing Body under article 33 of the Constitution — Implementation of the recommendations contained in the report of the Commission of Inquiry on Forced Labour in Myanmar (Burma)".

It also approved a resolution recommending the Conference to adopt measures according to article 33. That resolution is annexed to this letter.

In this respect, I wish to transmit to you the general desire expressed during the discussion of this issue that the Government of Myanmar take action before the Conference to comply with the recommendations of the Commission of Inquiry. That would make it unnecessary for the Conference to act on the recommendations of the Governing Body.

I wish to reiterate that the Office is prepared to field — upon your Government's request — a technical cooperation mission. The sole object of such a mission would be to provide direct assistance to implement immediately the recommendations of the Commission of Inquiry under the terms of the resolution adopted on this subject by the International Labour Conference at its 87th (1999) Session.

Since the Office has to report to the Conference at the latest by mid-May, it would be desirable to receive your answer in appropriate time.

Yours faithfully,
(Juan Somavia)
Director-General

COMMUNICATION FROM THE GOVERNMENT
DATED 19 APRIL 2000

Dear Director-General,

I thank you for your letter of 31 March 2000. In this regard, I wish to seek your clarification regarding the tech-

nical team. As you are aware, I wrote to you on 14 October 1999 and again on 27 March 2000 extending an invitation for a technical team from the International Labour Office to visit Myanmar to exchange views on matters of mutual interest, including the measures taken by Myanmar with regard to ILO Convention No. 29. It is therefore my understanding that the technical cooperation mission mentioned in your letter of 31 March is in response to the invitations previously extended by Myanmar. I shall therefore be most grateful if you can kindly confirm this.

Yours faithfully,
(Signed) (Soe Nyunt)
Director-General

COMMUNICATION FROM THE OFFICE
DATED 3 MAY 2000

Dear Sir,

I am in receipt of your letter of 19 April in which you seek clarification of mine of 31 March concerning the possibility of fielding a technical cooperation mission to your country in respect of the implementation of the recommendations contained in the report of the Commission of Inquiry entitled Forced Labour in Myanmar (Burma).

I am bound to recall that the terms under which such a mission could take place are clearly set out in the resolution adopted by the International Labour Conference at its 87th Session (1999) (copy attached) and are reiterated in my letter of 31 March. They are also well known to your Government's representatives in Geneva.

In these circumstances, I cannot but repeat that a technical cooperation mission could be fielded, at your Government's request, with the sole object of providing direct assistance to implement immediately the recommendation of the Commission of Inquiry under the terms of the above Conference resolution.

Since your letters of 14 October 1999 and 27 March 2000 do not meet these requirements, my letter of 31 March cannot be construed as anything other than an invitation to your Government to request the technical cooperation that the Conference has approved in principle.

I trust that these matters are totally clear. Let me also take the opportunity to express once again the sincere hope that your Government will take early action to comply with the recommendations of the Commission of Inquiry.

Yours faithfully,
(Juan Somavia)
Director-General

COMMUNICATION FROM THE GOVERNMENT
DATED 8 MAY 2000

Dear Director-General,

I wish to refer to your letter of 3 May 2000 concerning the possibility of fielding a technical cooperation mission to Myanmar.

I thank you for your clarification, particularly the willingness to field a technical cooperation mission at our request. Accordingly, may I invite you to send this technical cooperation mission at a mutually convenient date.

Yours sincerely,
(Signed) (Soe Nyunt)
Director-General

*Resolutions adopted by United Nations bodies
(Extracts)*

Dear Sir,

I acknowledge receipt of your letter of 8 May by which your Government requests the ILO to field a technical cooperation mission to your country whose sole object, having regard to the terms of my letter of 3 May, will be to provide direct assistance to implement immediately the recommendations of the Commission of Inquiry under the terms of the resolution adopted by the International Labour Conference at its 87th (1999) Session.

In accordance with the Conference's resolution, this technical cooperation will be based on the conclusions (paras. 528-538 of the report) and cover the three recommendations (paras. 539 and 540 of the report) adopted by the Commission of Inquiry. A three-member team from the ILO could visit your country later this month in order to help your Government to establish a credible plan of action to ensure the full implementation of those recommendations. This plan will cover the three areas concerned — legislation, concrete action to stop the practice of forced labour, and prosecution of offenders.

It is essential that the members of the team should have the necessary facilities and freedom of action to make contacts that they consider useful for the preparation and implementation of the plan. Since Myanmar is not a party to the 1947 Convention on the privileges and immunities of the specialized agencies in respect of the ILO, I would appreciate if an authority of your Government who is empowered to make the necessary commitment on behalf of Myanmar could provide me with an undertaking that the ILO officials concerned will be accorded all the privileges and immunities provided for in that Convention.

I look forward to receiving your Government's formal confirmation of the above by 15 May, so that the team is able to carry out the mission before the International Labour Conference, i.e. before 29 May.

Yours sincerely,
(Juan Somavia)
Director-General

COMMUNICATION FROM THE GOVERNMENT
DATED 15 MAY 2000

Dear Director-General,

I wish to thank you for your willingness to send a three-member team from the ILO to visit Myanmar later this month as mentioned in your letter of 10 May 2000 and we would like to assure you that this technical cooperation mission will be accorded a warm welcome. We shall be most happy to meet with this mission which will surely serve to build confidence between us and help us resolving the matter.

I would therefore like to invite you to send the technical cooperation mission, the exact timing of which our mission in Geneva will work out with your Office to make the necessary preparations.

Yours sincerely,
(Signed) (Soe Nyunt)
Director-General

RESOLUTION ADOPTED BY THE UNITED NATIONS
GENERAL ASSEMBLY AT ITS 54TH SESSION
(17 DECEMBER 1999) (EXTRACTS)

54/186. Situation of human rights in Myanmar

The General Assembly,

[...]

Gravely concerned at the continuing and intensified repression of civil and political rights in Myanmar, as reported by the Special Rapporteur,

Deeply regretting the failure of the Government of Myanmar to cooperate fully with the relevant United Nations mechanisms, in particular the Special Rapporteur, while noting the recent increased contacts between the Government of Myanmar and the international community,

[...]

5. *Deplores* the continuing violations of human rights in Myanmar, including extrajudicial, summary or arbitrary executions, enforced disappearances, rape, torture, inhuman treatment, mass arrests, forced labour, including the use of children, forced relocation and denial of freedom of assembly, association, expression and movement, as reported by the Special Rapporteur;

[...]

11. *Notes with grave concern* that the Government of Myanmar has failed to review its legislation, to cease to inflict the practice of forced labour on its people and to punish those exacting forced labour, which has forced the International Labour Conference to exclude further cooperation with the Government until such time as it has implemented the recommendations of the Commission of Inquiry of the International Labour Organization regarding the implementation of the Forced Labour Convention, 1930, Convention No. 29, of the International Labour Organization;

12. *Strongly urges* the Government of Myanmar to cease the widespread and systematic use of forced labour and to implement the recommendations of the Commission of Inquiry, while noting the order by the Government of Myanmar issued in May 1999 directing that the power to requisition forced labour under the Towns Act and the Village Act not be exercised, as well as the invitation to visit addressed to the International Labour Organization in October 1999;

13. *Deplores* the continued violations of human rights, in particular those directed against persons belonging to ethnic and religious minorities, including summary executions, rape, torture, forced labour, forced portering, forced relocations, destruction of crops and fields and dispossession of land and property, which deprives those persons of all means of subsistence;

14. *Also deplores* the continuing violations of the human rights of women, especially women who are refugees, are internally displaced or belong to ethnic minorities or the political opposition, in particular forced labour, sexual violence and exploita-

tion, including rape, as reported by the Special Rapporteur;

15. *Strongly urges* the Government of Myanmar to ensure full respect for all human rights and fundamental freedoms, including economic and social rights, to fulfil its obligation to end the impunity of perpetrators of human rights violations, including members of the military, and to investigate and prosecute alleged violations committed by government agents in all circumstances;

[...]

RESOLUTION OF THE UNITED NATIONS COMMISSION
ON HUMAN RIGHTS ADOPTED AT ITS 56TH SESSION
(MARCH-APRIL 2000) (EXTRACTS)

2000/23. Situation of human rights in Myanmar

The Commission on Human Rights,

[...]

Gravely concerned at the systematic and increasingly severe violations of civil, political, economic, social and cultural rights in Myanmar,

Recognizing that these severe violations of human rights by the Government of Myanmar have had a significant adverse effect on the health and welfare of the people of Myanmar,

Deeply regretting the failure of the Government of Myanmar to cooperate fully with the relevant United Nations mechanisms, in particular the Special Rapporteur, while noting the recent increased contacts between the Government of Myanmar and the international community,

[...]

Mindful that Myanmar is a party to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Geneva Conventions of 12 August 1949 on the protection of victims of war and the Forced Labour Convention, 1930 (No. 29) and the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) of the International Labour Organization,

Recalling the concluding observations of the Committee on the Elimination of Discrimination against Women (CEDAW/C/2000/I/CRP.3/Add.2/Rev.1) on the initial report submitted by Myanmar to that treaty monitoring body in which, inter alia, it expresses its concern at violations of the human rights of women, in particular by military personnel,

Noting the resolution adopted by the International Labour Conference at its 87th Session on the widespread use of forced labour in Myanmar, and also of the recommendation of the Governing Body of the International Labour Organization of 27 March 2000,

[...]

5. *Expresses* its grave concern:

[...]

(d) That the Government of Myanmar has failed to review its legislation, to cease its widespread use of forced labour of its own people and to punish those exacting forced labour, which has forced the International Labour Organization to exclude further cooperation with the Government

until such time as it has implemented the recommendations of the Commission of Inquiry, except for the purpose of implementing those recommendations;

6. *Deplores:*

- (a) The continuing pattern of gross and systematic violations of human rights in Myanmar, including extrajudicial, summary or arbitrary executions, particularly in areas of ethnic tension, and enforced disappearances, torture, harsh prison conditions, abuse of women and children by government agents, arbitrary seizures of land and property, and the imposition of oppressive measures directed in particular at ethnic and religious minorities, including systematic programmes of forced relocation, destruction of crops and fields, the continued widespread use of forced labour, including for work on infrastructure projects, production of food for the military and as porters for the army;
- (b) The lack of independence of the judiciary from the executive and the wide disrespect of the rule of law, including of the basic guarantees of due process, especially in cases involving exercise of political and civil rights and freedoms, resulting in arbitrary arrests and detentions, non-existence of judicial control over detentions, sentences passed without trial, keeping the accused in ignorance of the legal basis of the charge brought against them, trials held in secrecy and without proper legal representation, want of knowledge by the family and counsel of the accused about the sentence and detentions beyond the end of prison sentences;
- (c) The continued violations of the human rights of, and widespread discriminatory practices against, persons belonging to minorities, including extrajudicial executions, rape, torture, ill-treatment and the systematic programmes of forced relocation directed against ethnic minorities, notably in Karen, Karenni, Rakhine and Shan States and in Tenneserim Division, resulting in the large-scale displacement of persons and flows of refugees to neighbouring countries, thus creating problems for the countries concerned, and particularly the condition of statelessness, the confiscation of land and the restrictions on movement faced by returning Rohingya refugees, which have prevented the establishment of stable conditions for their voluntary return in safety and dignity and for their reintegration and have contributed to movements out of the country;
- (d) The continuing violations of the human rights of women, in particular forced labour, trafficking, sexual violence and exploitation, often committed by military personnel, and especially directed towards women who are returning refugees, internally displaced or belong to ethnic minorities or the political opposition;
- (e) The continuing violations of the rights of children, in particular through the lack of conformity of the existing legal framework with the Convention on the Rights of the Child, through conscription of children into forced labour programmes, through their sexual exploitation and exploitation by the military, through discrimination against children belonging to ethnic and religious

minority groups and elevated rates of infant and maternal mortality and malnutrition;

[...]

7. *Calls upon* the Government of Myanmar:

- (a) To establish a constructive dialogue with the United Nations system, including the human rights mechanisms, for the effective promotion and protection of human rights in the country;

[...]

9. *Strongly urges* the Government of Myanmar:

- (a) To implement fully the recommendations made by the Special Rapporteur;

[...]

- (j) And all other parties to the hostilities in Myanmar to respect fully their obligations under international humanitarian law, including article 3 common to the Geneva Conventions of 12 August 1949, to halt the use of weapons against the civilian population, to protect all civilians, including children, women and persons belonging to ethnic or religious minorities, from violations of humanitarian law, to end the use of children as soldiers and to avail themselves of services offered by impartial humanitarian bodies;
- (k) To cease the widespread and systematic use of forced labour and use of exploitative child labour, and to implement the recommendations of the Commission of Inquiry of the International Labour Organization regarding the implementation of the Forced Labour Convention, 1930 (No. 29) of the International Labour Organization, while noting the order by the Government of Myanmar issued in May 1999 directing that the power to

requisition forced labour under the Towns Act and the Village Act not be exercised, as well as the invitation to visit, addressed to the International Labour Organization in October 1999;

- (l) To adopt, as a matter of urgency, appropriate measures to fulfil its obligations as a State party to the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) of the International Labour Organization and to implement the conclusions of the Commission of Inquiry of the International Labour Organization;
- (m) To cease the laying of landmines, in particular as a means of ensuring forced relocation, and to desist from the forced conscription of civilians to serve as human minesweepers, as indicated in the report of the Commission of Inquiry;
- (n) To end the enforced displacement of persons and other causes of refugee flows to neighbouring countries and to create conditions conducive to their voluntary return and full reintegration in safety and dignity, including returnees who have not been granted rights of full citizenship, in close cooperation with the international community, through the United Nations system and its specialized agencies, governmental and intergovernmental organizations, as well as non-governmental organizations;
- (o) To fulfil its obligations to end impunity of perpetrators of human rights violations, including members of the military, and to investigate and prosecute alleged violations committed by government agents in all circumstances;
- [...]

CONTENTS

	Page
I. Historical background	1
II. Recommended action	1
III. Relevant information	2
A. Extracts from the report of the Commission of Inquiry on “Forced Labour in Myanmar (Burma)”	2
1. Conclusions on the substance of the case	2
2. Recommendations of the Commission of Inquiry	3
B. Communication of the Government of Myanmar dated 23 September 1998 ..	4
C. Consideration by the Governing Body of measures, including action under article 33 of the Constitution of the International Labour Organization, to secure compliance by the Government of Myanmar with the recommendations of the Commission of Inquiry established to examine the observance of the Forced Labour Convention, 1930 (No. 29).....	4
1. Extracts from the report submitted to the Governing Body	4
2. Communication from the Government of Myanmar dated 21 January 2000.....	6
3. Summary of discussions at the 277th Session of the Governing Body	7

Annexes

Annex I

Resolution on the widespread use of forced labour in Myanmar adopted by the International Labour Conference at its 87th Session (June 1999).....	13
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Annex II

Exchange of correspondence between the Government of Myanmar and the International Labour Office	14
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Annex III

Resolutions adopted by United Nations bodies (Extracts).....	16
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