
Conclusions on item GB.297/8: Developments concerning the question of the observance by the Government of Myanmar of the Forced Labour Convention, 1930 (No. 29)

The Governing Body considered all the information before it, including the comments of the Permanent Representative of Myanmar, in the framework of the conclusions adopted by the International Labour Conference in June 2006. In this regard, regret was expressed by the Workers' group and some Governments that not all options contemplated by the Conference had been followed up. It was recalled in this context that the Conference conclusions, *inter alia*, provided that "*in the light of the developments or lack thereof, the Governing Body would have full delegated authority to decide on the most appropriate course of action, including as appropriate on the basis of the ... proposals for the enhanced application of the measures*".

It was acknowledged that the Myanmar authorities had released Aye Myint and ended the prosecutions in Aunglan. The Permanent Representative furthermore gave assurances in his opening comments that the moratorium on prosecution of complainants would remain in place.

However, the Workers, Employers and the majority of Governments, expressed great frustration that the Myanmar authorities had not been able to agree on a mechanism to deal with complaints of forced labour within the framework set out in the Conference conclusions. The authorities had therefore missed a critical opportunity to demonstrate a real commitment to cooperating with the ILO to resolve the forced labour problem, which once again raised serious questions as to whether any such commitment existed. There was widespread and profound concern that, at the same time, the practice of forced labour continued to be prevalent in Myanmar.

The general conclusions were that:

- The Myanmar authorities should, as a matter of utmost urgency and in good faith, conclude with the Office an agreement on a mechanism to deal with complaints of forced labour, on the specific basis of the final compromise text proposed by the ILO mission.
- Irrespective of the status of the moratorium on prosecutions of complainants, it must be clearly understood that any move to prosecute complainants would be a violation of Convention No. 29 and would open the way to the consequences contemplated in paragraph 2 of the Conference conclusions.
- Following the Conference conclusions in June 2006, a specific item would be placed on the agenda of the March 2007 session of the Governing Body, to enable it to move on legal options, including, as appropriate, involving the International Court of Justice. The Office should therefore make necessary preparations for the Governing Body to request an advisory opinion of the International Court of Justice on specific legal question(s), without prejudice to the possibility that a member State could take action on its own initiative.
- As regards the question of making available a record of the relevant documentation of the ILO related to the issue of forced labour in Myanmar to the Prosecutor of the International Criminal Court for any action that may be considered appropriate, it is

noted that these documents are public and the Director-General would therefore be able to transmit them.

- In addition, the Director-General could ensure that these developments are appropriately brought to the attention of the United Nations Security Council when it considers the situation in Myanmar, which is now on its formal agenda.
- As provided for in the Conference conclusions, the Governing Body in March will revisit the question of placing a specific item on the agenda of the 2007 session of the International Labour Conference to allow it to review what further action may then be required, including the possibility of the establishment of a special committee of the Conference.
- The other options contained in the Conference conclusions should also be appropriately followed up by the Office.