



FOR DEBATE AND GUIDANCE

FIFTH ITEM ON THE AGENDA

**Developments concerning the question
of the observance by the Government
of Myanmar of the Forced Labour
Convention, 1930 (No. 29)****Introduction and summary**

1. This report updates the activities of the Liaison Officer since the 303rd Session of the Governing Body in November 2008. It covers information on the operation of the Supplementary Understanding regarding the treatment of complaints on the use of forced labour; various other activities undertaken by the Liaison Officer, Mr Stephen Marshall, and his assistant, Ms Piyamal Pichaiwongse; a report of the mission from headquarters to Myanmar from 24 February to 1 March 2009 concerning, inter alia, the extension of the trial period of the Supplementary Understanding; a progress report on the ILO activities as a response to cyclone Nargis; and information on ILO participation in the UN Country Team activities in Myanmar.
2. This report highlights a number of issues. The first relates to the mechanism for treating complaints on forced labour, which has now been extended for another year. This mechanism continues to function but the overall forced labour situation remains serious in the country. Certain steps for awareness raising have been taken or agreed upon. The report refers to the public statement by the Minister of Labour on the Government's commitment concerning the prohibition of forced labour. A serious issue is the ILO's concern about the potential harassment of facilitators and complainants. One of the former facilitators, U Thet Wai, has only recently been released from prison. Other issues dealt with concern about the announcement by the Government of its intention to review the practice of prison labour and the further activities planned by the ILO regarding children in armed conflict. Finally, the report contains information on ILO activities for post-Nargis recovery which are proceeding and could have wider application in the country.

Update on the Supplementary Understanding

3. In the period since the 303rd Session of the Governing Body, 13 new complaints on the use of forced labour have been received. While the number may be low as compared to earlier reports, a considerable number of follow-up negotiations and communications on previously lodged complaints continue to take place. The status of complaints is shown in the attached Register (see Appendix I). As of 9 March, the Liaison Officer had received altogether 137 complaints since the mechanism became operational in early 2007. Of

these, 81 have been assessed and submitted to the Government for investigation and action. Sixty-three complaints lodged have been closed, of which 55 were recorded as having a satisfactory outcome while in respect of eight a degree of dissatisfaction at the result has been expressed and/or recommendation made for further action. Eighteen complaints are currently under consideration by the Government. A further eight complaints are currently under assessment by the Liaison Officer for a submission decision. Of the 81 submitted cases, 45 relate to forced and/or under-age recruitment resulting in 35 victims receiving their discharge papers with eight cases still under investigation by the Government. Generally, the Government has provided a reply within four months of the lodging of a case.

4. Booklets with the text of the Supplementary Understanding and related documents exist in English and in the Myanmar language. A booklet containing the official translation of the Supplementary Understanding and associated documents has now been approved and printed. Its distribution has started with 2,500 copies through government channels to Headquarters and Township Officers in the General Administration Department, Department of Labour, the Supreme Court and the Attorney-General's Office. The Liaison Officer has distributed a further 3,500 copies through international organizations, INGOs and NGOs. These translations are much in demand. Whilst the production of a simply worded brochure has not yet been agreed upon by the Government, alternative practical methods of increasing awareness are under discussion.
5. Awareness-raising activities have been undertaken in formal meetings and seminars with the local authorities and the public at district/township level as well as in informal village-level meetings held during in-country missions. The Liaison Officer and the Ministry of Labour carried out a joint investigation mission to Magwe Division from 15 to 17 December 2008. The Liaison Officer made an inspection tour of the jade mining area in Kachin State from 16 to 18 January 2009 and a tour of agricultural and irrigation projects in Magwe Division on 28 January 2009. On 15 and 16 February the Liaison Officer participated in a joint mission to Kayin State with the UN Special Rapporteur on the Situation of Human Rights in Myanmar. A further joint investigation mission with the Ministry of Labour was planned to take place in Magwe Division on 11 and 12 March 2009.
6. Presentations have been made to the Inter-Agency Standing Committee, INGOs, NGOs and civil society groupings explaining the complaints mechanism and seeking their support in community awareness raising and forced labour observation and reporting as they undertake their normal programme of activities. The Government has advised that the General Administration Department has issued instructions through the state and divisional administrative structures reconfirming the prohibition of forced labour. According to the Government, this instruction has been transmitted to township and village tract level with a requirement that forced labour be a standing agenda item for all regular meetings and any issues arising therefrom be reported to the General Administration Department on a monthly basis.
7. With respect to complaints concerning under-age recruitment, where a complaint is accompanied by the documentation of age, clear identification details and the specific location, the victim is invariably discharged to his parents or guardian. This has been the outcome in 35 cases to date. There is no agreement yet for initiating an investigation where an alleged under-age recruit is identified by other means than a complaint from a parent or relative. The Government has accepted the principle that an under-age recruit cannot be found guilty of desertion. In two cases, desertion sentences have been quashed and the victim has been released from prison and discharged. However, it is not clear whether the policy itself has been amended to ensure that minors are not charged with desertion in the first place. Over recent months the penalties imposed on military personnel held

responsible for under-age recruitment have been extended beyond the previous standard of a reprimand recorded on the personnel file to encompass serious reprimands, the loss of one month's wages and the loss of seniority. Except in the first case (March 2007), there has been no prosecution under criminal law. Although perpetrators have been identified under the mechanism of the Supplementary Understanding, to date no military perpetrators have been dishonourably discharged or prosecuted under the Penal Code for their actions.

8. Two cases raising concern of the use of forced prison labour have recently been closed. One concerned the use of forced prison labour in private sector business activity. The person concerned was seriously injured and has subsequently been released from prison, received a compensation lump sum and support for both ongoing medical treatment and the fitting of an artificial limb. In the second case a prisoner was delivered to the army as a porter. When he was due for release it was established that he went missing from his portering duties in 2005 and has not been heard of since. This outcome is unsatisfactory. During the discussions of the ILO mission with the Government Working Group, the Government announced a review of the *Jail Manual* as it relates to the use of prison labour. The ILO has offered technical support for that review in order to ensure compliance with the obligations under Convention No. 29.
9. In a number of forced labour complaints the situation has its origins in the current agricultural and land use policy of the Government. The absence of land tenure in agricultural land, together with mandated cropping in line with irrigation investment, means that farmers can lose income as the result of instructions to grow new crops on their land. Frequently the land is not receptive to these designated crops or the new crop takes many years to reach harvest maturity, creating major livelihood problems. In such situations, complaints on the use of forced labour arise when farmers are required to plant the specified crop under threat that they will otherwise lose the right to use their traditional land.
10. The number of new complaints has diminished since November 2008. This cannot be taken as an indication of changes in the situation; nor is it an indication of the nature or severity of cases received. The reach of the mechanism in a country of the size of Myanmar is still very limited. The reduction in complaints is more prevalent in other forced labour cases than those concerning under-age recruitment. Information through Internet services and the external media have suggested a link between the detention and severe sentencing of activists and their support of complaints to the ILO. A number of persons with a record of active support in the facilitation of complaints to the ILO have over recent months been sentenced to lengthy prison terms. The formal charges against them appear to have no direct bearing to their ILO relationship and the government authorities regularly underline that sentences are unrelated to their facilitator activities. There are indications that in some such cases evidence presented which refers to the ILO or the complaints mechanism under the Supplementary Understanding has been declared irreceivable and struck from the record, thus removing any legal basis for ILO follow-up action. The ILO continues to raise these cases with the Government as the possibility of a link between the charges laid, the sentences imposed and the facilitation of forced labour complaints can in practice deter people from pursuing their rights under the Supplementary Understanding.

11. The persons concerned are:

| | |
|----------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ma Su Su Nway | A total of twelve-and-a-half years for five charges covering offence to public tranquility, rioting, public mischief, libel against a foreign power and incitement of unrest. All charges relating to a single incident. Sentence reduced to eight-and-a-half years in February 2009. |
| U Min Aung | Two years for allegedly giving offence to Buddhism and a further ten years on a charge laid under the Electronics Act just prior to completion of first term. |
| U Thet Wai | Two years' hard labour for allegedly obstructing an official in discharging his duties. Released February 2009 in general amnesty. |
| U Zaw Htay | Ten years under the Official Secrets Act. |
| U Nyi Pu | Fifteen years for alleged offences including charges under the Electronics Act and defaming the Government. |
| U Than Zin Oo | Six months for reading out loud the provisions of the <i>Jail Manual</i> in the visiting room of Insein prison. |
| U Po Phyu | A lawyer charged under Special Act, section 6, for allegedly trying to establish an illegal association. Case continues. |
| U Aye Myint | Loss of lawyers' practising licence. |
| U Thein Hlaing | Loss of tutors' licence. |

Extension of the trial period of the Supplementary Understanding

- 12.** Kari Tapiola (Executive Director, Standards and Fundamental Principles and Rights at Work) led a mission to Myanmar from 24 February to 1 March 2009. In addition to the Liaison Officer, the mission included Mr Drazen Petrovic (Principal Legal Officer, Office of the Legal Adviser). Discussions took place with the Labour Minister, U Aung Kyi, and the Government of Myanmar Working Group for the Elimination of Forced Labour in Nay Pyi Taw on 25–26 February 2009. Following the discussions, the trial period of the Supplementary Understanding was extended under the same terms for a further 12 months. A copy of the new agreement signed on 26 February 2009 can be found in Appendix II. At the same time, it was agreed that the Myanmar language version could be immediately included in the published compilation of the relevant texts.
- 13.** During the discussions, the Minister of Labour, U Aung Kyi, said that the Government wished to spread information on the complaints mechanism under the Supplementary Understanding as wide as possible, including to remote areas of the country. The existing booklets had already been distributed to all district, county and other offices of the ministry. Mr Tapiola raised both with the Minister and the Working Group the potentially negative effect on the mechanism of situations where facilitators or complainants may be subject to negative repercussions, including detention and imprisonment. The Minister indicated that no one has been charged for activities relating to the ILO but people could not claim exemption from violations of civilian laws on the basis that they are facilitators. Mr Tapiola stated that the complaints mechanism was strictly neutral as regards the other activities and affiliations of facilitators or complaints and that the concern remains that in certain cases being involved with the ILO could have had an influence on the charges and sentences.

14. The Minister noted that one of the facilitators, U Thet Wai, whose release the Governing Body had called for, had just been freed. From the ILO side, this was noted as a positive step; a number of other cases remained, however, and their details continue to be discussed with the Government. Prior to the mission, a request had been made for a visit to U Thet Wai in Insein prison where he was serving a sentence of two years of hard labour. He was released in a general amnesty on 21 February 2009, and the mission later met with him in Yangon.
15. The Minister of Labour issued a press release announcing the renewal of the trial period of the Supplementary Understanding. This was reproduced in both English- and Myanmar-language newspapers nationwide. A copy of the press release is included in Appendix III. The Minister confirms in his statement: “the Government of Myanmar’s high-level commitment to its policy for the prohibition of forced labour”. The press release also underlines the right of Myanmar citizens to, with protection from reprisal, seek justice under the law if they are subjected to forced labour.
16. In conjunction with the renewal of the Supplementary Understanding, it was agreed that there should be joint awareness-raising activities at state and divisional levels on a regular basis throughout the current year. The locations for the first three such sessions have been identified and it was specifically agreed that two of them would take place before the end of May 2009.
17. During discussions with the Working Group, the operation of the Supplementary Understanding was discussed in detail. It was stressed that, whilst the cooperation of the Government was recognized in the prompt management and forthcoming responses to individual complaints, the problem of forced labour remained an important one. The issue of ensuring awareness and understanding as to the rights and responsibilities on the part of both government personnel and the general public remains critical. The ILO mission drew attention to the request, also made by the Governing Body, for a brochure explaining in simple terms the Supplementary Understanding. The Working Group explained that questions of agricultural policy should be addressed by the future Parliament, following the elections foreseen for 2010. Regarding prison labour, there was an intention to revise the relevant manual. The ILO mission again highlighted the expectation stemming from the Commission of Inquiry recommendations and subsequent Conference and Governing Body conclusions that proven complaints would lead to the prosecution of perpetrators of forced labour under the Penal Code.
18. In the context of the recruitment of minors and the application of UN Security Council Resolution 1612, the Working Group agreed that the ILO – as a member of the UN Country Team’s 1612 Task Force – could deal directly with the Government Monitoring and Reporting Taskforce on Prevention of Military Recruitment of Underage Children.
19. The ILO mission briefed the UN Country Team on the outcome of its discussions with the Government and the extension of the trial period of the Supplementary Understanding. The mission held briefings with a number of ambassadors and other representatives of Yangon-based embassies. The mission also met with the Myanmar Chamber of Commerce.

Project activities

20. Following the discussion at the Governing Body session in June 2008, a project was put in place, in agreement with the Government, in response to the devastation caused by cyclone Nargis in the Irrawaddy Delta area in May 2008. This project aims at being a practical best practice employment model, specifically against the use of forced labour, through a “cash

for work” scheme based on community contracting for the rehabilitation and reconstruction of village-level footpaths, pedestrian bridges and jetties.

21. With the support of the Director-General, regular budget funding was provided for the establishment of a pilot project. This project, which commenced in September 2008 and ended in December 2008, created 5,556 person days of work for 518 villagers (60 per cent men, 40 per cent women) providing a cash injection of \$64,000 through wages and local materials procurement into the local economy. The output was the provision of 20,599 feet of raised concrete footpaths which can be used in all weather conditions, five pedestrian bridges, two jetties and a 60 feet x 12 feet concrete pad outside the local school. All this has given the occupants of five villages inter-village mobility and supported their access to markets. Under the guidance of ILO personnel, 16 community contractors received training in the necessary business and employment skills for the operation of a sustainable enterprise. The project owners are community committees established in conjunction with the UNDP for the purpose of creating opportunities for the transfer of both governance and community development knowledge.
22. The project was extended after the pilot project showed the capacity to deliver and had positive community outcomes. The second phase is currently operational in a further 60 villages with funding from the Government of the United Kingdom. On 28 February 2009 the ILO mission visited the project sites together with representatives of the Government and the donor.
23. The project has played a valuable role in raising awareness in the cyclone-affected area as to the rights and responsibilities in employment, in particular those relating to the prohibition of forced labour. On 25 February 2009 the Labour Minister, U Aung Kyi, expressed in Nay Pyi Taw the Government’s appreciation regarding the completed pilot project and the ongoing second phase. In discussing this activity with the Government, the ILO mission suggested that activities of the same kind, and with the purpose of preventing the use of forced labour, could also be carried out in other parts of the country. This will be an item for future discussions, both with the Government and with potential donors as well as, naturally, with the ILO’s constituents.

ILO participation in UN activities in the country

24. In response to the conclusions relating to Myanmar issued in July 2008, under Security Council Resolution 1612 (2005), the UN Country Team established a task force on monitoring and reporting on children and armed conflict. The task force is required to monitor and report to the Security Council on the five areas of grave child rights violations, one of which is the recruitment and use of children in the armed forces. Given the ILO mandate in Myanmar and the existence of the mechanism under the Supplementary Understanding, the ILO Liaison Office will have the responsibility for the child soldier monitoring and reporting element. The Government of Germany has recently agreed in principle to provide the additional resources required for such an activity during the first year of the project. In December 2008, the assistant to the Liaison Officer assisted the Save the Children organization in the preparation of a training programme for military recruitment personnel and social welfare department staff. Further sessions are planned to be held shortly.
25. The ILO Liaison Officer participated on 5 February 2009 in the first meeting between the Government of Myanmar Human Rights Body and the Human Rights Subgroup of the UN Country Team in Nay Pyi Taw. A further meeting will be held in April 2009 at which potential areas for ongoing discussion can be identified. The Government Group consists of senior representatives of the government departments responsible for the various human

rights policy areas (including the Ministry of Labour). Their objective, in line with the ASEAN Human Rights Charter and the obligation under the Paris Principles, is the establishment of an independent human rights body.

26. The Liaison Officer was invited by the Government and the UN Special Rapporteur on Human Rights in Myanmar, together with the UN Resident Coordinator and the UNICEF representative, to join the Special Rapporteur on his mission to Kayin (Karen) State on 15 and 16 February 2009. This was an opportunity to visit a special region with active insurgent activity and to meet local senior government officials as well as meeting the leaders of armed groups with ceasefire agreements with the Government of Myanmar.

Geneva, 12 March 2009.

Submitted for debate and guidance.

Appendix I

Register of cases

| Case | Date received | Accepted | Intervention-date | Status | Comments |
|------|---------------|----------|-------------------|--------|-----------------------------------------------------------------------------------------------------------------------|
| | 10-Mar-09 | | 1:07:04 p.m. | | |
| 001 | 28-Feb-07 | Yes | 9-Mar-07 | Closed | Prosecution – 2 x imprisonment, 1x acquitted, land use remains in dispute. |
| 002 | 28-Feb-07 | Yes | 29-May-07 | Closed | Child released, disciplinary action – formal reprimand. |
| 003 | 5-Mar-07 | No | | Closed | Not related to mandate (worker welfare issue). |
| 004 | 13-Mar-07 | Yes | 20-Mar-07 | Closed | Not forced recruitment-under age-discharged to parents. |
| 005 | 29-Mar-07 | No | | Closed | Not related to mandate (land issue). |
| 006 | 6-Apr-07 | No | | Closed | Not related to mandate (pension issue). |
| 007 | 6-Apr-07 | No | | Closed | Not related to mandate (pension issue). |
| 008 | 6-Apr-07 | Yes | 16-May-07 | Closed | Compensation paid. Instigator dismissed. |
| 009 | 9-Apr-07 | Yes | 10-Apr-07 | Closed | Civil Sanctions and reprimands. |
| 010 | 9-Apr-07 | No | | Closed | Insufficient basis to proceed at this stage. |
| 011 | 19-Apr-07 | No | | Closed | Insufficient information at this stage. |
| 012 | 19-Apr-07 | No | | Closed | Not related to mandate (employment dispute). |
| 013 | 23-Apr-07 | No | | Closed | Complaints unwilling to be identified. |
| 014 | 23-Apr-07 | No | | Closed | Complaints unwilling to be identified. |
| 015 | 23-Apr-07 | Yes | 16-May-07 | Open | Further government information awaited. |
| 016 | 25-Apr-07 | No | | Closed | Not related to mandate (employment dispute). |
| 017 | 26-Apr-07 | Yes | 22-Aug-07 | Closed | Administrative instructions issued and educative activity undertaken. |
| 018 | 9-May-07 | Yes | 22-May-07 | Closed | Military officer disciplined-joint training seminar undertaken |
| 019 | 9-May-07 | No | | Closed | Not related to mandate (property dispute). |
| 020 | 9-May-07 | No | | Closed | Insufficient basis to proceed. |
| 021 | 9-May-07 | Yes | 10-May-07 | Closed | Victim discharged to parents-disciplinary action as the result of Military Inquiry inadequate. |
| 022 | 18-May-07 | No | | Closed | No evidence that the work constituted forced labour. |
| 023 | 18-May-07 | Yes | 23-May-07 | Closed | Field visit, education activity undertaken. |
| 024 | 25-May-07 | No | | Closed | Insufficient information to proceed. |
| 025 | 22-Jun-07 | Yes | 14-Aug-07 | Closed | 4 officials dismissed, administrative instructions reissued. |
| 026 | 26-Jun-07 | Yes | 13-Aug-07 | Closed | Local Authorities instructional activity undertaken. |
| 027 | 28-Jun-07 | No | | Closed | Not related to mandate – pension/gratuity matter. |
| 028 | 7-Jun-07 | No | | Closed | Not related to mandate – pensions matter. |
| 029 | 14-Jun-07 | Yes | 2-Aug-07 | Closed | Village chairman dismissed. |
| 030 | 31-Jul-07 | Yes | 31-Jul-07 | Closed | Child released-summary military trial-recruiting officer disciplined. |
| 031 | 25-Jun-07 | No | | Closed | Not related to mandate – mass termination. |
| 032 | 29-Jun-07 | No | | Closed | Not related to mandate – land confiscation. |
| 033 | 6-Jul-07 | Yes | 9-Aug-07 | Closed | Child released, Training seminar proposed and undertaken. |
| 034 | 12-Jul-07 | No | | Closed | Not related to mandate hours of work/overtime issue. |
| 035 | 23-Jul-07 | Yes | 17-Aug-07 | Closed | Government instructions issued, retrospective remuneration paid, joint field trip for awareness education undertaken. |
| 036 | 24-Jul-07 | No | | Closed | Insufficient basis to proceed at this stage. |
| 037 | 29-Jun-07 | No | | Closed | Not related to mandate-migrant worker/payment of wages. |
| 038 | 25-Jul-07 | No | | Closed | Not related to mandate-termination of employment issue. |
| 039 | 12-Jun-07 | No | | Closed | Insufficient basis on which to proceed. |
| 040 | 31-Jul-07 | No | | Closed | Insufficient information to proceed at this stage. |
| 041 | 6-Aug-07 | No | | Closed | Not related to mandate-termination grievance. |

10-Mar-09

1:07:04 p.m.

| Case | Date received | Accepted | Intervention-date | Status | Comments |
|------|---------------|----------|-------------------|--------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| 042 | 7-Aug-07 | Yes | 8-Aug-07 | Closed | Not within mandate of forced labour SU – issue of FOA remains. |
| 043 | 15-Aug-07 | Yes | 16-Aug-07 | Closed | Child released, disciplinary action as the result of military inquiry inadequate. |
| 044 | 16-Aug-07 | No | | Closed | Not related to mandate – wages/fees payment issue. |
| 045 | 20-Aug-07 | Yes | 10-Sep-07 | Closed | New instructions issued. |
| 046 | 24-Aug-07 | No | | Closed | Not related to mandate – commercial dispute. |
| 047 | 27-Aug-07 | Yes | 12-Sep-07 | Closed | Joint-mission undertaken, village chairman dismissed, military officer reprimanded, practice stopped. |
| 048 | 7-Sep-07 | No | | Closed | Insufficient evidence to proceed. |
| 049 | 7-Sep-07 | Yes | 19-Dec-07 | Closed | Compensation package. One perpetrator demoted. Recommendation on policy review made. |
| 050 | 14-Sep-07 | Yes | 20-Sep-07 | Closed | Child released – military inquiry resulted in disciplinary reprimand. |
| 051 | 20-Sep-07 | Yes | 25-Feb-08 | Closed | Practice of forced labour ceased, awareness raising undertaken. |
| 052 | 20-Sep-07 | Yes | 22-Feb-08 | Closed | Forced labour stopped, travel restriction removed. |
| 053 | 10-Oct-07 | Yes | 9-Nov-07 | Closed | Responsible officer disciplined, practice stopped, joint awareness raising mission agreed. |
| 054 | 17-Oct-07 | Yes | 18-Oct-07 | Open | Clause 9 breach – negotiation continues, Su Su Nway, Min Aung, Thet Way remain in prison. |
| 055 | 19-Oct-07 | Yes | 31-Oct-07 | Closed | Child released – military inquiry resulted in disciplinary reprimand. |
| 056 | 25-Oct-07 | Yes | 09-Nov-07 | Closed | Child released-military inquiry resulted in disciplinary reprimand. |
| 057 | 7-Nov-07 | No | | Closed | Not related to mandate – cross-border trafficking and HIV/AIDS. |
| 058 | 15-Nov-07 | Yes | 23-Nov-07 | Closed | Child released-summary military trial – recruiting officer disciplined. |
| 059 | 15-Nov-07 | Yes | 30-Nov-07 | Closed | Official translation approved |
| 060 | 19-Nov-07 | No | | Closed | Not related to mandate – wages claim issue. |
| 061 | 17-Dec-07 | Yes | 19-Dec-07 | Open | Agreed to discharge, victim left country, negotiations continue |
| 062 | 20-Dec-07 | Yes | 28-Dec-07 | Closed | Victim discharged to custody of parents. Responsible recruiting officer officially reprimanded. |
| 063 | 7-Jan-08 | Yes | 14-Jan-08 | Closed | Victim discharged, recruiting officer reprimanded, instruction on humane treatment of trainees issued. Ongoing procedure recommendation made. |
| 064 | 7-Jan-08 | Yes | 11-Feb-08 | Closed | Sentence remitted, victim discharged from military to care of family. |
| 065 | 08-Jan-08 | No | | Closed | Not related to mandate – corruption allegation. |
| 066 | 14-Jan-08 | Yes | 22-Feb-08 | Open | Initial response received, ILO proposed joint mission to be undertaken March 2009. |
| 067 | 16-Jan-08 | No | | Closed | Not within mandate of forced labour, land confiscation |
| 068 | 16-Jan-08 | Yes | 25-Feb-08 | Closed | Official dismissed, education activity undertaken, ongoing situation to be monitored. |
| 069 | 31-Jan-08 | Yes | 25-Feb-08 | Closed | Closed in association with case 051 following assessment mission. |
| 070 | 6-Feb-08 | Yes | 12-Feb-08 | Closed | Victim discharged, recommendation on proof of age documentation procedure made. |
| 071 | 29-Jan-08 | No | | Closed | Not related to mandate – compensation for damaged crop. |
| 072 | 30-Jan-08 | Yes | 11-Mar-08 | Closed | Awareness-raising activity undertaken. |

| 10-Mar-09 | | 1:07:04 p.m. | | | |
|-----------|---------------|--------------|-------------------|--------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Case | Date received | Accepted | Intervention-date | Status | Comments |
| 073 | 20-Feb-08 | Yes | 3-Mar-08 | Closed | Government response received, disciplinary action inadequate. |
| 074 | 21-Feb-08 | No | | Closed | Insufficient basis to proceed. |
| 075 | 03-Mar-08 | Yes | 11-Mar-08 | Closed | Victim discharged, responsible officer reprimanded, government investigation to locate broker continues. |
| 076 | 03-Mar-08 | Yes | 10-Mar-08 | Closed | Child discharged – recruitment officer reprimanded. Victim admits voluntary recruitment – referred to UNICEF for reintegration. |
| 077 | 5-Mar-08 | No | | Closed | Not within SU mandate – FOA issue subject to separate consideration. |
| 078 | 5-Mar-08 | No | | Closed | Not within SU mandate – FOA issue subject to separate consideration. |
| 079 | 14-Mar-08 | No | | Closed | Not within SU mandate – FOA issue subject to separate consideration. |
| 080 | 14-Mar-08 | Yes | 08-Apr-08 | Closed | Associate with case 068, ongoing situation to be monitored. |
| 081 | 17-Mar-08 | No | | Closed | Not related to mandate-labour market dispute. |
| 082 | 17-Mar-08 | No | | Closed | Complainants unwilling to be identified. |
| 083 | 20-Mar-08 | Yes | 08-Apr-08 | Closed | Victim discharged. Recruiting officer seriously reprimanded, disciplinary response considered inadequate. |
| 084 | 26-Mar-08 | No | | Closed | Being dealt with in context of case 015. |
| 085 | 28-Mar-08 | No | 02-Aug-08 | Closed | This case is being dealt with under case 066. |
| 086 | 28-Mar-08 | Yes | 07-Apr-08 | Closed | Victim discharged to care of parents. Responsible senior officer reprimanded. Disciplinary action considered inadequate. |
| 087 | 11-Apr-08 | Yes | 11-Apr-08 | Closed | Child discharged – recruitment officer reprimanded. |
| 088 | 22-Apr-08 | Yes | 16-Jun-08 | Closed | Child discharged. |
| 089 | 19-May-08 | Yes | 20-Jun-08 | Closed | Victim discharged, charge dropped, responsible officer reprimanded. |
| 090 | 20-May-08 | Yes | 17-Jul-08 | Closed | Victim discharged, responsible officer seriously reprovved. |
| 091 | 23-May-08 | No | | Closed | Complaint withdrawn. |
| 092 | 27-May-08 | No | | Closed | Not related to the mandate – labour dispute. |
| 093 | 28-May-08 | Yes | 16-Jun-08 | Closed | Victim discharged, responsible officer reprimanded. |
| 094 | 28-May-08 | Yes | 02-Sep-08 | Closed | Division wide joint training seminar for civilian, judicial, police and army authorities undertaken. |
| 095 | 11-Jun-08 | No | | Closed | Not related to mandate - land confiscation. |
| 096 | 11-Jun-08 | Yes | 14-Jul-08 | Closed | Victim discharged, two officers responsible disciplined. One with 28 days' salary deduction and one with 14 days' salary deduction and a serious reprove. |
| 097 | 14-Jun-08 | Yes | 20-Jun-08 | Closed | Child discharged – recruitment officer reprimanded. |
| 098 | 15-Jun-08 | Yes | 17-Jun-08 | Open | Government response received, communication continues. |
| 099 | 18-Jun-08 | Yes | 24-Jun-08 | Closed | Victim released from prison, desertion sentence remitted, discharged from military. |
| 100 | 23-Jun-08 | Yes | 09-Oct-08 | Open | Awaiting government response. |
| 101 | 02-Jul-08 | Yes | 09-Oct-08 | Closed | Allegation denied, Ministry of Defence instruction on recruiting process issued. |
| 102 | 11-Jul-08 | No | | Closed | Insufficient evidence to proceed. |
| 103 | 16-Jul-08 | Yes | 18-Jul-08 | Closed | Victim discharged to care of parents. |
| 104 | 17-Jul-08 | Yes | 21-Jul-08 | Closed | Victim located, allegedly now of age and wishing to remain in army. ILO independent verification request denied. |
| 105 | 21-Jul-08 | Yes | 24-Jul-08 | Closed | Child discharged - recruitment officer disciplined by the loss of 28 days' salary. |

10-Mar-09

1:07:04 p.m.

| Case | Date received | Accepted | Intervention-date | Status | Comments |
|------|---------------|----------|-------------------|---------|---------------------------------------------------------------------------------------------------------------------------------------------|
| 106 | 31-Jul-08 | Yes | 31-Jul-08 | Closed | Community work-related. Government guidance distributed through General Administration Department as to appropriate approach to be adopted. |
| 107 | 28-Jul-08 | Yes | 04-Aug-08 | Closed | Victim discharged, perpetrator fined 28 days' salary. |
| 108 | 29-Jul-08 | Yes | 28-Aug-08 | Open | Government response received, further ILO recommendation made, response awaited. |
| 109 | 11-Aug-08 | Yes | 23-Oct-08 | Open | Monitoring of partial solution and negotiation concerning arrest continues. |
| 110 | 13-Aug-08 | Yes | 10-Oct-08 | Closed | Victim not located, prison labour policy review proposed. |
| 111 | 14-Aug-08 | Yes | 21-Aug-08 | Open | Government response received, victim not located, further investigation proposed. |
| 112 | 19-Sep-08 | Yes | 29-Sep-08 | Closed | Victim discharged, three military personnel seriously reprimanded. |
| 113 | 24-Sep-08 | Pending | | Pending | Awaiting parental approval to proceed. |
| 114 | 25-Sep-08 | Yes | 29-Oct-08 | Open | Government response received, negotiation continues. |
| 115 | 26-Sep-08 | Yes | 29-Oct-08 | Closed | Victim discharged, two military personnel seriously reprimanded. |
| 116 | 01-Oct-08 | Pending | | Pending | Further information being sought. |
| 117 | 01-Oct-08 | Yes | 10-Nov-08 | Closed | Victim released, compensation paid, ongoing medical treatment provided, prison labour policy review proposed and agreed. |
| 118 | 01-Oct-08 | No | | Closed | Not within SU mandate – Industrial dispute. |
| 119 | 22-Oct-08 | Yes | 22-Oct-08 | Closed | Awareness raising activity undertaken. |
| 120 | 30-Oct-08 | Yes | 06-Nov-08 | Closed | Victim discharged, non-commission officer seriously reprimanded, and loss of 28 days' salary and allowances. |
| 121 | 04-Nov-08 | Yes | 10-Nov-08 | Closed | Victim discharged, senior officer responsible reprimanded. |
| 122 | 10-Nov-08 | Yes | 20-Feb-09 | Open | Agriculture policy application review proposed, awaiting government response. |
| 123 | 14-Nov-08 | Yes | 14-Nov-08 | Closed | Victim discharged, corporal seriously reprimanded, and loss of 14 days' salary. |
| 124 | 14-Nov-08 | Pending | | Pending | Assessment in process. |
| 125 | 05-Dec-08 | Yes | 15-Dec-08 | Open | Awaiting government response. |
| 126 | 11-Dec-08 | Yes | 11-Dec-08 | Open | Awaiting government response. |
| 127 | 15-Dec-08 | Yes | 22-Dec-08 | Open | Awaiting government response. |
| 128 | 14-Jan-09 | Yes | 30-Jan-09 | Open | Awaiting government response. |
| 129 | 30-Jan-09 | Yes | 09-Mar-09 | Open | Awaiting government response. |
| 130 | 4-Feb-09 | Pending | | Pending | Assessment in process. |
| 131 | 13-Feb-09 | Yes | 09-Mar-09 | Open | Awaiting government response. |
| 132 | 13-Feb-09 | Pending | | Pending | Further information sought. |
| 133 | 13-Feb-09 | Pending | | Pending | Further information sought. |
| 134 | 16-Feb-09 | Pending | | Pending | Further information sought. |
| 135 | 16-Feb-09 | Yes | 09-Mar-09 | Open | Awaiting government response. |
| 136 | 17-Feb-09 | Pending | | Pending | Assessment in process. |
| 137 | 5-Mar-09 | Pending | | Pending | Assessment in process. |

Appendix II

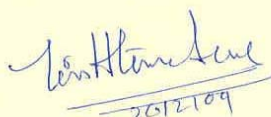
Agreement on extending the trial period of the Supplementary Understanding

**An Agreement for Extension to the Supplementary Understanding and
its Minutes of the Meeting dated 26th February 2007, done at Geneva
and its Extension Agreement for one year trial period dated
26th February 2008 done at Nay Pyi Taw**

This Agreement is hereby concluded between the Government of the Union of Myanmar and the International Labour Organization represented by the undersigned authorized representatives. Noting Clause 10 of the " Supplementary Understanding " (hereinafter SU), the "Minutes of the Meeting" dated 26th February, 2007, (hereinafter Minutes of the Meeting) and an " Agreement for Extension to the Supplementary Understanding and its Minutes of the Meeting" done at Nay Pyi Taw on 26th February 2008, it is herewith agreed as follows:-

1. Both parties agreed to extend, on the same trial basis, the SU and its Minutes of the Meeting being an integral part of the SU, for one year with the extension period commencing on 26th February, 2009, to the day one year thereafter being 25th February , 2010.
2. The spirit and letters of the SU and the Minutes of the Meeting remain *In toto* unchanged.
3. The SU and the Minutes of the Meeting shall continuously remain in legal effect upon signing by the authorized representatives of the parties mentioned below.
4. This agreement will be submitted to the Governing Body in accordance with its conclusion at its November 303rd Session.

This Agreement is done at Nay Pyi Taw, the Union of Myanmar on the 26th day of February, 2009.



(Brig-Gen. Tin Htun Aung)

Deputy Minister

Ministry of Labour

Government of the Union of Myanmar



(Mr. Kari Tapiola)

Executive Director

International Labour Office

Appendix III

Press release by the Labour Minister

Press Release No. 1/2009

Supplementary Understanding for the elimination of forced labour in Myanmar extended

Following an ILO mission led by Executive Director Mr. Kari Tapiola to Myanmar which took place from 24 February to 1 March this year, the Supplementary Understanding between the Government of the Union of Myanmar and the ILO establishing a complaint mechanism was extended on 26 February 2009 for a further period of one year. In this regard, the Government of the Union of Myanmar has issued the Press Release as a High Level Statement in the daily local newspapers on the stipulated date. The following is the text of the said Press Release issued in Nay Pyi Taw:

Quote (.)

The Government of the Union of Myanmar and the International Labour Office (ILO) today extended the Supplementary Understanding on the treatment of complaints regarding forced labour for a further twelve months.

This Supplementary Understanding supports the application of existing laws prohibiting the use of forced labour in Myanmar. It provides a complaints' mechanism, facilitated by the ILO Liaison Officer in Yangon. Under Article 1 of the Supplementary Understanding, Myanmar citizens can, with protection from reprisal, seek justice under the law if they are subjected to forced labour.

In welcoming the signing of the extension, the Minister of Labour, His Excellency U Aung Kyi stated that he *"welcomed this continuation of the cooperation between the Government and the ILO which once again confirms the Government of Myanmar's high level commitment to its policy for the prohibition of forced labour"*. The Minister stated further that *"the Supplementary Understanding supports the Government's political commitment to the eradication of forced labour. The rights of citizens are fully guaranteed under the title, Citizen: Fundamental Rights and Duties of the Citizens in Chapter (VIII), and the provision on the prohibition of forced labour in Section 359 of the Constitution of the Republic of the Union of Myanmar which was ratified by the referendum held in May 2008."*

Unquote (.)

Geneva, 3 March 2009.