



Governing Body

326th Session, Geneva, 10–24 March 2016

GB.326/INS/10

Institutional Section

INS

Date: 2 March 2016

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TENTH ITEM ON THE AGENDA

Follow-up to the resolution concerning remaining measures on the subject of Myanmar adopted by the Conference at its 102nd Session (2013)

Purpose of the document

The document provides an update on ILO activities in Myanmar as required by the resolution adopted by the International Labour Conference at its 102nd Session (2013). See the draft decision in paragraph 14.

Relevant strategic objective: Promote and realize standards and fundamental principles and rights at work.

Policy implications: None.

Legal implications: None.

Financial implications: None.

Follow-up action required: Ongoing application of the ILO programme of work.

Author unit: Liaison Officer in Myanmar.

Related documents: Resolution concerning remaining measures on the subject of Myanmar adopted under article 33 of the ILO Constitution, adopted by the Conference at its 102nd Session (2013).

1. At its 325th Session (November 2015) the Governing Body, having considered the reports submitted by the Government of Myanmar¹ and the Director-General,² and having noted the agreement of the Government of Myanmar to extend the operation of the Supplementary Understanding and the Memorandum of Understanding and its associated Action Plan until 31 March 2016, decided to:
 - (i) defer consideration of paragraph 35 of document GB.325/INS/7(Rev.) until its 326th Session (March 2016); and
 - (ii) request the Director-General to present a framework for future ILO engagement with Myanmar, including the elimination of the use of forced labour, to the 326th Session (March 2016) of the Governing Body.
2. At the time this decision was made, the final results of the general elections held on 8 November 2015 were not known. It was, however, anticipated that prior to the 326th Session in March 2016 the Office would have been in a position to conclude discussions with the incoming Government with a view to achieving both a framework for future ILO engagement and agreement on the priority programme for the elimination of forced labour.
3. In its report of 20 November 2015 on final results, the Myanmar Election Commission reported that, on a nationwide basis, the National League for Democracy (NLD), led by Daw Aung San Suu Kyi, won 887 seats, or 77.1 per cent, of all the 1,150 seats contested on 8 November 2015. This encompassed the national Upper and Lower Houses plus 14 state/regional Parliaments. The ruling Union Solidarity and Development Party won 117 seats, or 10.2 per cent, of the total.
4. On the release of the election results, both the outgoing Union Solidarity and Development Party and the Military acknowledged the NLD victory and expressed their intention to cooperate with the incoming Government in the ongoing interests of the country and its people.
5. Under the 2008 Constitution, the transition to a new Government taking office is a somewhat drawn-out process. The new Upper and Lower Houses of Parliament were convened on 1 February 2016 and the process of setting up the institutional modalities for their operation commenced with the nomination and appointment of speakers and committee structures. However, the new Government will not take office until 1 April 2016.
6. The newly appointed speaker of the joint national Parliament has announced that the three electoral colleges (the Lower House, the Upper House, and the military-appointed parliamentarians) will meet on 17 March 2016 to select their nominee for the presidential election. The joint national Parliament will subsequently convene, and from those three nominees elect the Union President, with the two unsuccessful nominees taking the role of Union Vice-Presidents.
7. This gives the newly elected President a very short time in which to nominate his/her Cabinet prior to assuming office on 1 April 2016.
8. At the time of writing it was understood that negotiation at a very high level was taking place, accompanied by considerable public speculation, in respect of the possible

¹ GB.325/INS/7(Add.).

² GB.325/INS/7(Rev.).

amendment or temporary suspension of constitutional barriers (article 59(f)) to Daw Aung San Suu Kyi being nominated as a presidential candidate.

9. During this extended period of transition, the ILO has experienced some difficulties in gaining current Government responses to ongoing operational needs, including in respect of issues previously agreed in the Action Plan for the elimination of all forms of forced labour.
10. Discussions between the ILO Liaison Officer in Myanmar and the NLD Labour Affairs Committee (being an instrument of the party not the Parliament) and with a representative of the party Chairperson's Office have taken place. These have confirmed the expectation of a strong positive relationship between the incoming Government and the ILO. Employment and labour market policy and practice is high on the NLD agenda and the NLD is committed to taking the necessary steps to achieve full normalization of relations with the ILO once in office.
11. The NLD has reconfirmed its previous advice that it sees the continued application of both the Memorandum of Understanding for the elimination of the use of forced labour, including its associated Action Plan, and the Supplementary Understanding, containing the forced labour complaints mechanism, as necessary. On their coming into office, a review of progress made and a revision of operational modalities will be undertaken, with a view to producing a revised Memorandum of Understanding and agreed ongoing action planning. It is foreseen that the complaints mechanism, as an effective and trusted recourse to justice in the current environment, will be continued, with the objective of its eventual assimilation into, or replacement by, a reformed justice system.
12. With respect to the broader ILO programme of work, the party Chairperson's Office and the Labour Affairs Committee have been provided with the summary of the interim programme agreement of October 2012, together with a set of briefing papers on current activities targeting the priorities identified therein. It is intended that, on taking office, the new Government and the ILO Liaison Officer will review those priorities. This will be done in consultation with the members of the National Tripartite Dialogue Forum and members of the broader national and international community with interest in employment and labour market issues, with a view to the development of an inclusive, comprehensive and coordinated strategy which could become the basis for an agreed Decent Work Country Programme.
13. In light of the sensitivities associated with the transition of power and the very broad scope of priority issues to be addressed by the incoming Government, it is proposed that the necessary actions outlined in paragraphs 11 and 12 will be addressed when the new Government takes office, with a view to presenting revised documentation and workplans at the 328th Session of the Governing Body in November 2016. In the interim, the existing programme of work, including the operation of the forced labour complaints mechanism, will continue, with practical adjustments being made as may be required by immediate circumstances and urgent government policy priorities.

Draft decision

14. *The Governing Body notes the situation as concerns the transition of power in Myanmar following the general elections of November 2015 and requests the Director-General to:*

- (a) present a framework for future ILO engagement with Myanmar, including the elimination of forced labour, to the 328th Session (November 2016) of the Governing Body; and*
- (b) take the necessary action to ensure the continued operation of the Supplementary Understanding and the Memorandum of Understanding and its associated Action Plan in the interim period.*