

Committee on the Application of Standards

CAN/PV.2

Commission de l'application des normes

01.06.22

Comisión de Aplicación de Normas

110th Session, Geneva, 2022

110^e session, Genève, 2022110.^a reunión, Ginebra, 2022

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Eighth sitting, 1 June 2022, 11 a.m.

Huitième séance, 1^{er} juin 2022, 11 heures

Octava sesión, 1.º de junio de 2022, 11 horas

Chairperson: Mr Topet

Président: M. Topet

Presidente: Sr. Topet

Work of the Committee

The opening sitting is adopted, as amended.

Travaux de la commission

La commission a adopté la session d'ouverture, tels qu'amendés.

Trabajos de la Comisión

El acta de la sesión de apertura se adoptó en su tenor modificado.

Discussion of individual cases (cont.)
Discussion des cas individuels (suite)
Discusión de los casos individuales (cont.)

Myanmar (ratification: 1955)

Convention (n°87) sur la liberté syndicale et la protection du droit syndical, 1948
Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
Convenio sobre la libertad sindical y la protección del derecho de sindicación, 1948 (número. 87)

El Presidente - Las sesiones de hoy se dedicarán al examen de los siguientes casos individuales: Myanmar, Convenio sobre la libertad sindical y la protección del derecho de sindicación, 1948 (número. 87); Azerbaiyán, Convenio sobre la abolición del trabajo forzoso, 1957 (número. 105), y República Centroafricana, Convenio sobre las peores formas de trabajo infantil, 1999 (número. 182).

Quiero aclararles que la discusión de los casos individuales es continua, es decir que si culminamos la discusión del primer caso antes de las 13.30 horas, que es la hora prevista para la quinta sesión, vamos a continuar con el segundo caso Azerbaiyán, Convenio número. 105.

El primer caso de esta mañana se refiere a la aplicación del Convenio sobre la libertad sindical y la protección de sindicación, 1948 (número. 87), por Myanmar.

Antes de comenzar nuestra discusión sobre el caso individual, deseo señalar a la atención de la Comisión la ausencia de delegados de Myanmar y recordar que ello se deriva de la decisión adoptada por la Comisión de Verificación de Poderes en la 109.ª reunión de la Conferencia. Esta decisión sigue siendo válida ya que la cuestión de la representación de Myanmar en la OIT sigue sin haberse resuelto al día de hoy. Esta cuestión se ha sometido de nuevo a la Comisión de Verificación de Poderes en la presente reunión de la Conferencia y se espera que esté presente su informe en la sesión plenaria, la próxima semana. Así pues, la Comisión se enfrenta a una situación sin precedentes en la que un Gobierno no participa en las deliberaciones sobre su caso debido a la decisión adoptada por la Organización.

Dada que tal situación no está prevista en los métodos de trabajo, actualmente adoptados por nuestra comisión en lo que respecta a la participación en sus trabajos, he consultado en la Mesa las disposiciones especiales que debe adoptar la Comisión para el debate del caso de Myanmar y deseo presentarles la siguiente propuesta.

La ausencia de una delegación acreditada de Myanmar no debería impedir el funcionamiento del sistema de control de la OIT y en particular la supervisión de los convenios fundamentales ratificados, por lo tanto, el examen del caso individual debería tener lugar, en la medida de lo posible, de la misma manera que los demás casos individuales. A este respecto deseo señalar a su atención el hecho de que la información complementaria presentada por escrito por las autoridades militares en respuesta a los comentarios de la Comisión de Expertos se ha publicado en la página web de la Comisión de Aplicación de Normas con una clara mención de que su publicación no implica el reconocimiento explícito o implícito de dichas autoridades como Gobierno legítimo de Myanmar. Sin embargo, Myanmar no proporcionará información oral a la Comisión de Aplicación de Normas o sea que ningún delegado de Myanmar está acreditado para participar en la Conferencia. Por consiguiente, ningún representante podrá tomar la palabra y hacer una declaración tras la adopción de las conclusiones.

¿Puedo considerar que la Comisión aprueba estas disposiciones especiales?

(Se aprueba la propuesta.)

Employer members – Myanmar ratified the Convention in 1955. However, more than half a century later, the Member State is very far from achieving compliance with this Convention, both in law and practice. The Employers' group understand that owing to the urgency and seriousness of the issues involved as well as the likelihood of the irreversible harm and possible deaths, the Committee of Experts have double footnoted this case as a very serious case. The

Employers' group, at the outset, notes that we are deeply concerned about the increasingly violent action of the military Junta in Myanmar leading to more victims, more oppression and more harm to society, including for workers, employers and their organizations.

This time last year, the ILC adopted a resolution concerning the situation in Myanmar which called for restoration of the democratically elected Government and also for Myanmar to uphold immediately its obligations under the Convention and to ensure that employers' and workers' organizations are able to exercise their rights in a climate of freedom and safety, free from violence, arbitrary arrest and detention. At the recent March 2022 session, the ILO Governing Body deplored the lack of progress towards respecting the will of the people, democratic institutions and processes and repeated its call for Myanmar to uphold immediately its obligations under the Convention.

Given the severity of the situation, the Governing Body decided to establish a Commission of Inquiry in respect of the non-observance of this Convention and the Forced Labour Convention, 1930 (No. 29).

Turning now to the Committee of Experts' observations, the Employers' group notes the following issues. First, the Committee of Experts noted with respect to the issue of civil liberties that the military authorities have continued with the large scale of lethal violence and continued with harassment, ongoing intimidation, arrests and detentions of trade unionists. The Employers wish to stress our view that the guarantee of freedom of association pursuant to the Convention, requires as a vital prerequisite rule of law and the fundamental respect for human rights and civil liberties, in particular the right to personal security, the freedom of opinion and expression, the freedom of demonstration and assembly and the right to protection of property. We noted that there have been allegations of numerous further cases of arrests, attacks on and killings of trade union leaders and trade union members, we also

have noted the possible criminal prosecution regarding the exercise of freedom of expression and demonstration and assembly by the Electronic Transaction Act of 2021 and the law on the right to peaceful assembly and peaceful procession of 2016.

In light of the seriousness of the situation, the Employers call upon Myanmar as a matter of urgency to take all necessary action to restore the rule of law. The Employers' call upon Myanmar as a matter of urgency to fully respect the fundamental human rights and civil liberties necessary for the exercise of freedom of association. Workers' and employers' organizations in Myanmar must once again be able to carry out their activities and functions without threat of intimidation, without threat of harm or imprisonment, and without any other undue restriction. The Employers' group would like to stress that it is necessary for a climate in which sustainable enterprises, investment, the creation of jobs, and the creation and maintenance of prosperity and peace can only thrive in a free environment which includes freedom of association. Turning now to the issue of labour law reform, the Employers note the membership requirements for the registration of trade unions and the eligibility restrictions for trade union office under the Labour Organization Law, raise compliance issues with Article 2 and Article 3 of the Convention. We expect Myanmar will review these matters in close consultation with the social partners at national level to ensure full respect for the requirements of the Convention, including Articles 2 and 3 and will provide clarification where necessary and information on action taken in this regard in its next report.

To conclude, the Employers express serious concern about the ongoing situation in Myanmar and urge the Member State to restore democracy, to restore rule of law and to restore civil liberties that are a fundamental condition precedent for the exercise of freedom of association under the Convention. More specifically, the Employers call on Myanmar as a matter of urgency to first take all measures necessary to ensure full respect in law and practice for the basic civil liberties for the exercise of freedom of association including freedom of

personal security, freedom of opinion and expression, freedom of demonstration and assembly, freedom of movement, freedom from arbitrary arrest and detention and the right to a fair trial by an independent and impartial judiciary so that workers' and employers' organizations can carry out their activities and functions without the threat of intimidation, harm, or imprisonment or any other undue restriction.

The Employers also call upon Myanmar as a matter of urgency to review as soon as conditions permit, the Labour Organization Law within the framework of the legislative reform process in full consultation with the national social partners to ensure the rights of workers and employers are fully respected under this Convention.

Worker members – I start by noting that the Governing Body at its 344th Session in March 2022 took the unanimous decision to establish a Commission of Inquiry on Myanmar concerning serious violations of this Convention and Convention No. 29.

It is our expectation that the discussion today in this Committee, as well as the previous discussion in the March Governing Body, will give effective guidance to the Commission in the carrying out of its work and we fully expect that the military regime in Myanmar will allow the Commission to enter the country and to carry out its work unimpeded.

The Workers' group takes note of the detailed observations made by the Committee of Experts in this case. The situation in the country is indeed extremely dire. The fundamental rights of workers and employers and their physical integrity and freedom is in jeopardy. In many instances irreversible harm has occurred and is ongoing. The Committee of Experts' decision to designate this as a double-footnoted case seems very appropriate.

And indeed, since the decision two months ago to establish the Commission of Inquiry, the military regime has engaged in further violations of the right to freedom of association. For example, on the afternoon of 20 April of this year, members of the Myanmar Labour

Alliance Confederation of Trade Unions, Myanmar CTUM, and the Industrial Workers' Federation of Myanmar (IWF), joined a demonstration protesting the regime. When the short demonstration was over, two union activists Khaing Thinzar Aye and Ei Phyu Phyu Myint hailed a taxi to go back to where they were staying. A military vehicle crashed into their taxi, six soldiers came out, beat them, and arrested them. This shocking attack on two union sisters underscores how serious this situation continues to be.

Workers are abducted and, in some cases, murdered. On 25 May of this year, just before the start of this Conference, two members of a Myanmar workers' union were abducted by the military in the Southern Saigon region and killed! And their villages burnt to the ground.

The Workers' group joins the Committee of Experts to deplore the serious and systematic violations committed by the military junta. And the Workers' group appreciates the important steps that have been taken by some ILO Members States, as well as by some of the social partners, to pressure the junta to desist from its current course but recognize that these actions have so far been insufficient. Clearly, more needs to be done.

I would like here to make some observations to underscore the systematic nature of the violation of the Convention and the dire situation prevailing in the country.

The Workers' group reminds this Committee that since the coup in February 2021, over 1,500 people, including several trade unionists, have been murdered by the military and the police in the context of the demonstrations calling for a return to democracy and in the course of industrial disputes. We feel a profound loss when reading the long list of murdered trade unionists as set forth in Case No. 3405, 397th Report of the Committee on Freedom of Association.

We remain in shock at the brutal massacre which took place in the Hlaing Tharyar industrial zone in March 2021 when the military opened fire on peaceful and unarmed

protestors, including several trade unionists who lived and worked in the zone. The regime's claim that the military has only responded with force to terrorist acts is totally unfounded and misplaced.

We also deplore the issuance of arrest warrants and arrest of numerous trade union leaders and activists merely for having exercised their fundamental rights to freedom of speech, assembly and association. Further the continued threat of violence, and/or arrests has forced many union leaders to flee the country, though many continue to work to sustain their unions from exile.

Further the forced exodus of union leaders and members to the Thai border is contributing to an increasing humanitarian crisis with no systematic effort to regularize their status in Thailand. For security reasons, most cannot return to Myanmar and these unionists come from all unions and all sectors. To make matters worse, the passports of many senior leaders of the Confederation of Trade Unions of Myanmar have been revoked leaving some leaders stranded outside of the country, including the Workers' delegates who will speak to the Committee later on today.

The regime argues that the passports were revoked under section 505 of the Penal Code for the crime of treason because the leaders have allegedly spread news to discredit the military and the state administrative council. The charges again lack any foundation and are totally misconceived. Trade unions have denounced the military group and called for a restoration of democracy, the exact opposite of treason, as they have not betrayed their country but are in fact defending it and its duly-elected Government.

It is also more than clear that had the leaders remained, there was absolutely no likelihood of due process and a fair trial. Further we know that the military, this year, revoked

the citizenship of 11 prominent activists, as such rendering them stateless in violation of international law.

The regime has declared at least 16 unions illegal and has threatened to take legal action against them if they continue with their activity. The police and the military have raided union offices and the homes of union leaders and have seized documents and equipment in response to their participation in strikes and demonstrations calling for the restoration of democracy in Myanmar.

Workers report that factory owners are intentionally and systematically busting unions with impunity in all sectors and unions cannot perform their union activities or duties at the respective workplaces. Effectively, all channels for industrial relations and dispute settlements have been shut down. The arbitration mechanism and labour courts are not being used as parties have lost all faith that these institutions can function effectively in the current context of state repression.

Unions report that industry, such as garment industry, are taking advantage of the absence of the rule of law to drive down the wages and working conditions guaranteed in law or in established collective agreements. There has been a significant increase in unjust dismissals and factory management are dismissing monthly paid workers and replacing them with day labour. Systematic attacks on healthcare workers and facilities are ongoing across the country. Similarly, workers in the civil service, public sector and teaching professions are routinely being threatened for engaging in protests calling for democracy activities.

In sum, freedom of association is impossible to exercise in the country and least not without significant real risk of arrest or worse. In addition to these most pressing matters, we also take note of the many legislative matters which also create serious concern with respect to the exercise of the right to freedom of association. The Workers' group bring these matters

to the attention of this Committee though no legislative reform should be undertaken until there is a return to democracy and the duly elected legislature can introduce and adopt the necessary legislations. These laws include the Electronic Transaction Acts adopted on 15 February 2021, the Law on the Right to Peaceful Assembly and Peaceful Procession adopted in 2016, the Labour Organizations Law and the Settlement of Labour Disputes Law, and the SEZ Law which raises concern regarding its contradiction with the full application of the Labour Organizations Law and the Settlement of Labour Disputes Law in the special economic zones.

What we see today in Myanmar is a terrible tragedy. We all had much hope after decades of military rule, the formal dissolution of the military junta in 2011, and the elections in 2016 would open the door for a process of democracy. Unfortunately, these hopes were destroyed and in 2021 the military coup firmly closed the door on this process. So we are really looking forward to have thorough and formal discussion in this Committee in order to bring this situation back on the right track.

Membre gouvernementale, France (M^{me} SALOMON-VALLENS) – J'ai l'honneur de m'exprimer au nom de l'Union européenne et de ses États membres. La Macédoine du Nord et l'Albanie, pays candidats, l'Islande et la Norvège, pays de l'AELE, membres de l'espace économique européen, ainsi que la Géorgie et la Turquie se rallient à cette déclaration.

Depuis le coup d'État militaire, la situation au Myanmar s'est continuellement et gravement détériorée. Cet acte a stoppé la transition démocratique du pays avec des conséquences désastreuses sur le plan humanitaire, social, sécuritaire, économique et des droits de l'homme et du travail. Nous sommes profondément préoccupés par l'escalade continue de la violence et l'évolution vers un conflit prolongé ayant des implications régionales. Plus de 1 723 personnes ont été tuées, dont plus de 100 enfants. Plus de 10 800 personnes sont actuellement en détention et 80 personnes ont été condamnées à mort.

L'Union européenne et ses États membres sont aux côtés du peuple du Myanmar et de tous ceux qui militent et œuvrent en faveur d'une démocratie ouverte à tous et du respect des droits de l'homme, notamment des droits du travail, des libertés civiles et des libertés fondamentales. Conformément à la Résolution pour un retour à la démocratie et au respect des droits fondamentaux au Myanmar, adoptée en juin dernier, nous pensons qu'il est essentiel que les mandants tripartites continuent de montrer leur engagement commun en faveur de la protection des droits de l'homme, y compris les droits du travail, au Myanmar.

L'Union européenne et ses États membres condamnent avec la plus grande fermeté les violations et abus persistants et généralisés des droits de l'homme et du travail perpétrés par l'armée et les forces de sécurité du Myanmar dans tout le pays, notamment la persécution illégale des organisations de la société civile et de leurs militants, les violences à l'encontre des manifestants pacifiques, les arrestations et détentions arbitraires, l'intimidation et le harcèlement, les licenciements injustifiés, les menaces et les actes de violence graves et de torture, y compris les meurtres, à l'encontre des syndicalistes et des défenseurs des droits de l'homme et les actes de violence sexuelle et sexistes.

Nous partageons pleinement les appels du comité pour que toutes les mesures soient prises afin de rétablir et d'assurer le plein respect des libertés civiles fondamentales nécessaires à l'exercice de la liberté d'association, y compris la liberté d'opinion et d'expression, la liberté de réunion, de mouvement, le droit de ne pas être arrêté ou détenu arbitrairement et le droit à un procès équitable devant un tribunal indépendant et impartial.

Nous continuons d'exhorter le Myanmar à respecter pleinement et sans délai les obligations qui lui incombent en vertu de la convention (n° 87) sur la liberté syndicale et la protection du droit syndical, 1948, et à veiller à ce que les travailleurs et les employeurs, ainsi

que leurs organisations, puissent exercer leurs droits sans être menacés d'intimidations ou de préjudices et dans un climat de sécurité totale.

Nos appels sont d'autant plus attristants que, même s'il restait de nombreux défis à relever en matière de travail décent avant le coup d'État et de graves préoccupations concernant la liberté d'association ou le travail forcé, nous avons noté quelques avancées. Cependant, depuis le coup d'État de 2021, ces progrès ont été détruits par les militaires et nous avons dû reprogrammer nos activités.

Afin de soutenir les travailleurs du secteur de l'habillement, nos projets de conduite responsable des affaires, en cours et prévus, continuent de viser à améliorer les conditions de travail, à promouvoir les normes de travail et environnementales et à réduire les violations des droits du travail dans l'industrie de l'habillement.

L'Union européenne et ses États membres réitèrent leurs appels à la cessation immédiate de toutes les hostilités, à la fin de l'usage disproportionné de la force par les forces armées et de sécurité du Myanmar, ainsi qu'à la fin de l'état d'urgence et à la restauration du gouvernement civil légitime.

Nous continuons à soutenir les efforts de l'ASEAN pour trouver une solution pacifique à la crise. Nous réitérons également notre soutien à la décision du 344^e Conseil d'administration du BIT d'établir une commission d'enquête sur le non-respect de la convention n° 87 en question, ainsi que la convention n° 29.

Government member, Canada (Ms MAWHINNEY) – I am speaking today on behalf of Canada and the United Kingdom.

It has now been over one year since the military coup in Myanmar. The International Labour Organization and other United Nations human rights bodies have since presented credible and consistent reports on widespread human rights violations in the country,

including violence against workers, trade unionists, labour leaders, and the civilian population at large. The international community has been clear in calling on military authorities in Myanmar to halt this violence, and Canada and the United Kingdom deplore that there has been no progress in this regard.

Canada and the United Kingdom again urge the military to immediately cease violations of international human rights obligations and halt all violence against civilians, including the specific targeting of trade unionists, human rights activists, peaceful protesters, and foreigner citizens. We also urge Myanmar to uphold its obligations under the Convention and immediately and fully implement the recommendations of the Committee of Experts.

More specifically, we call on Myanmar to:

Undertake full and independent investigations into the circumstances of the killings of Chan Myae Kyaw, Nay Lin Zaw and Zaw Htwe and report to the ILO on the investigations' findings;

Release all trade unionists still being detained or imprisoned for having peacefully exercised their trade union rights protected under the Convention, including their engagement in the civil disobedience movement;

Ensure full respect – in both law and practice – for basic civil liberties necessary for the exercise of freedom of association, including freedom of opinion and expression and freedom of assembly; and

Finally, ensure that workers, employers and their respective organizations are able to exercise their rights under the Convention in a climate of freedom and security, without threat of intimidation, violence, arbitrary arrest or imprisonment.

We also call on the international community to protect civilians in Myanmar by halting the sale and transfer of arms, military equipment, material, dual-use equipment and technical assistance to Myanmar's armed and security forces – through state to state arrangements or other means. Preventing the military from having access to the weapons and equipment it is currently using to commit such violence is essential.

Lastly, we call on the military to cooperate with the upcoming ILO Commission of Inquiry, and allow it to carry out a full and independent investigation of the complaint.

Worker member, Netherlands (Mr POSTMA) –

I also speak on behalf of the Swiss and German Workers' Delegation and BWI.

One year after the military coup, the Civil Disobedience Movement (CDM) in Myanmar has continued to grow into a massive movement resisting the military junta.

It is the systematic violence that prevents unions and their leaders to exercise their fundamental labour rights. I will now mention some of the most severe examples of repression.

The military uses Penal Code article 505A to charge many workers for their support of the CDM, like at least 71 education workers and 864 healthcare workers. By now at least 301 trade union leaders and members from various sectors have been arrested by the military for taking part in the CDM. Some of them have been sentenced in military tribunals, including a professor from the Yangon University, also the President of the University Teachers Association.

400,000 civil servants, teachers, healthcare workers supporting the CDM have been coerced to return to work, tens of thousands have been terminated. Railway workers and their families have been forcibly evicted from their dormitories and their homes in the workers' communities were pulled down by the military.

Fifty-five trade unionists have been killed by the military in association with the peaceful CDM protests. Some have died of COVID-19 infections while in hiding from military arrests.

We are seriously concerned about the wellbeing of Thet Hnin Aung, the General Secretary of the Myanmar Industry Craft Services Trade Unions' Federation and a member of the Mandalay CDM Committee. He was arrested on June 18, 2021 and tortured in prison. We demand his release.

The military-led State Administration Council killed trade unionists, de-registered 16 labour organizations, invalidated the passports of trade unionists and revoked the citizenship of dissidents including CTUM's president Maung Maung. The violations are too long to name here. Time is too short.

We strongly condemn the military junta under the State Administration Council for severe repression of Myanmar trade unions' peaceful exercise of their rights for restoration of democracy and freedoms as a condition for social justice.

We demand the unconditional release of all trade unionists, protesters, civilians and political leaders imprisoned under the coup. We call for respect of workers and civil rights to freely associate and to strike, for the restoration of the labour organizations and the citizenship rights of the trade unionists.

Membre gouvernemental, Suisse (M. SCHAERER) – Monsieur le Président, la Suisse vous félicite pour votre élection.

La Suisse reste gravement préoccupée par la situation actuelle au Myanmar. La Suisse continue à condamner avec fermeté la prise de pouvoir par les militaires et demande la reprise immédiate du dialogue et du processus démocratique œuvrant à une paix durable et au développement du pays.

Nous restons profondément préoccupés par les violations graves du droit international commises depuis le 1^{er} février 2021, qui pourraient constituer des crimes contre l'humanité et des crimes de guerre. La cessation immédiate de toute violence et le respect du droit international humanitaire et des droits de l'homme sont essentiels pour une paix durable.

Cela implique bien-entendu le droit fondamental à la liberté syndicale et la protection du droit syndical comme le stipule la convention. Employeurs et travailleurs doivent pouvoir exercer leur droit à la liberté d'association dans un climat de liberté et de sécurité.

La Suisse est extrêmement préoccupée par les actes d'intimidation, les menaces, les actes de violence graves, y compris des meurtres, contre les syndicalistes qui ont exercé leur droit. Des enquêtes complètes et indépendantes seront nécessaires pour rétablir la justice.

La Suisse est également préoccupée par l'interprétation large et potentiellement arbitraire de textes de loi, tels que le *electronic transactions act*, les sections 505.a et 124.a du code pénal, ainsi que la loi de 2016 sur les droits de réunions pacifiques et de processions pacifiques. En vertu de ces lois, un nombre important de syndicalistes ont été détenus alors qu'ils exerçaient leurs droits protégés par la convention.

Pour conclure, la Suisse soutient le peuple du Myanmar, ses travailleurs et employeurs, dans la quête de démocratie, de liberté, de paix et de prospérité. Nous sommes convaincus que la coopération internationale est primordiale pour cela. Le respect des normes internationales fondamentales du travail en est la base.

Nous exhortons les autorités militaires de garantir ces droits, et de reprendre immédiatement le dialogue et le processus démocratique.

Membre travailleuse, France (M^{me} SCHLACTHER) – Le pouvoir illégitime au Myanmar a procédé à la modification d'un certain nombre de lois dans le but d'étendre les pouvoirs des

militaires et de restreindre encore davantage les droits fondamentaux et les libertés civiles de la population.

Les sections de la loi garantissant la protection de la vie privée et la sécurité des citoyens ont été supprimées, ce qui permet aux forces de sécurité d'arrêter et de détenir des travailleurs, des syndicalistes et des citoyens.

La loi sur l'administration des quartiers a rétabli l'enregistrement obligatoire des nuitées des non locaux, des invités et des visiteurs. La Confédération des syndicats du Myanmar (CTUM) a signalé que les chasses nocturnes aux responsables syndicaux par des militaires et des policiers se sont intensifiées. Les militaires recherchent les dirigeants syndicaux dans les quartiers et les villages sur la base d'une liste de noms et des entreprises dans lesquelles ils travaillent.

L'accusation de trahison, en vertu de la section 505 du Code pénal, a été amendée et inclut désormais les tentatives d'incitation à la résistance et à la restauration d'un gouvernement civil. L'interdiction des rassemblements publics de cinq personnes ou plus et le couvre-feu entre 22 heures et 4 heures du matin pour une période illimitée a été étendue en application de la section 144 du Code de procédure pénale.

Un projet de loi alibi sur la cybersécurité aboutira à l'interdiction d'utilisation des réseaux privés virtuels (VPN). L'interdiction de facto de l'utilisation sans restriction des VPN entravera davantage la liberté d'expression et la communication accessible des syndicalistes avec leurs membres et les organisations internationales, sans craindre d'être identifiés, surveillés et criminalisés.

Au début de 2022, une nouvelle ordonnance oblige les citoyens du Myanmar à porter et à présenter leur carte nationale d'enregistrement lors de déplacements. Ce nouvel ordre

restreint encore davantage la liberté de mouvement et les activités des syndicalistes dans le but précis de les traquer.

Le 31 janvier 2022, le Conseil national de défense et de sécurité de l'armée a prolongé l'état d'urgence de six mois supplémentaires. En prévision de manifestations à l'occasion de l'anniversaire du coup d'État le 1^{er} février, le State Administration Council a menacé de sanctions pouvant aller jusqu'à la prison à vie les manifestations publiques, les grèves et l'expression de soutien. C'est une grève silencieuse qui a été organisée avec succès dans tout le pays. Revendiquer un environnement le plus propice à l'exercice de la liberté d'association et des libertés civiles est devenu un crime au Myanmar.

Au regard de telles outrances, notre commission ne peut rester silencieuse et les condamne fermement.

Government member, United States of America (Ms GOODYEAR) – The United States shares the Committee of Experts' deepest concerns on the systemic violence against workers and the harsh suppression of civil liberties by Myanmar's military authorities.

Since the military coup, the military regime has killed over 1,800 people and arbitrarily detained close to 14,000 people. At least 290 people have died in detention, and over 600,000 people have been displaced internally and another 36,100 out of the country.

Trade unionists have been specifically targeted. Earlier this year, the regime revoked the citizenship of Confederation of Trade Union Myanmar President U Maung Maung, a former ILO Governing Body member who has long been instrumental in the struggle for democracy and workers' rights in Myanmar.

The regime continues to exploit vague and broad Penal Code provisions to levy treason charges against trade unionists exercising their fundamental labour rights. The military has also banned 16 major labour union organizations, forcing many of their leaders into hiding.

Employers, too, report an environment that is not conducive to sustainable enterprises and the exercise of freedom of association.

The military authorities' written submission to this Committee denies knowledge of named victims and the existence of specific organizations the regime has deprived of lawful registration. This is unacceptable.

The United States strongly supports the consensus decision of the Governing Body to establish a Commission of Inquiry to investigate non-observance of ILO Conventions 87 and 29.

We echo the Committee of Experts' view that the killing, disappearance, or serious injury of trade unionists requires the institution of independent judicial inquiries to ensure the responsible parties are held accountable.

The Commission of Inquiry should investigate ongoing labour rights violations under both conventions and also provide recommendations to address deficiencies in the country's legal framework for freedom of association and its enforcement.

We look forward to a time when a democratically elected government in Myanmar can reconstitute its tripartite mechanisms for the purpose of ensuring freedom of association is fully protected and promoted under Myanmar law, in line with the recommendations of the Committee of Experts.

Worker member, Australia (Ms MIDDLEMAS) – I am speaking on behalf of the Australian Council of Trade Unions (ACTU) and the Irish Congress of Trade Unions (ICTU) and KSBSI Indonesia. As the Committee of Experts notes, “freedom of association can only be exercised in conditions in which fundamental human rights are fully respected and guaranteed”. It is clear that since the military coup in Myanmar in February 2021, fundamental rights and civil liberties have been under attack:

As of today, the junta has killed 1,876 people. It has arrested, charged or sentenced 10,847 people for participating in the Civil Disobedience Movement, which has been going on for over a year, despite the repression, and at least 1,979 charged workers, trade unionists, activists and protesters have been forced into hiding since the start of the coup.

The crimes against humanity committed by the military include murders, persecutions, imprisonments, sexual violence, enforced disappearance and torture. They are systematic and may qualify as war crimes.

Since November 2021, the military has intensified airstrikes and ground attacks in regions where the CDM protesters, workers, and trade union activists are taking refuge to avoid arrest. UN agencies have confirmed that the military deploys heavy artillery, tanks, helicopters, jet fighters and surveillance drones in ground attacks and airstrikes to indiscriminately kill civilians, as well as to shell and destroy civilian villages, churches and refugee camps.

The military have occupied public hospitals, attacked healthcare workers, damaged, raided and confiscated medical equipment, drugs and oxygen cylinders. More and more healthcare staff have gone into hiding as the military has revoked the licenses of doctors and health workers who have joined the CDM, and cancelled the business license of the clinics and hospitals they work in.

The military have attacked freedom of expression and attempted to restrict access to information by cutting access to mobile data at night and ordering internet service providers to suspend wireless broadband services, leaving intermittent fixed line connection as the only avenue to access the internet. Freedom of the press is non-existent, following the cancellation of five independent media licenses on 8 March 2021, and the outlawing of organizations documenting the military's atrocities such as the Assistance Association for Political Prisoners

Burma for supposedly inciting public panic, riots and harming state stability. The junta has killed at least three journalists and imprisoned 26 journalists since the coup.

These are just a few examples of the violations of civil liberties perpetrated by the military authorities, that show the SAC's complete disregard for human and labour rights. Attacks on workers and civilians and the violations of human rights must cease immediately. The international community must hold the SAC accountable for the gross violations of human rights, including the right to freedom of association; enact sanctions and cease the flow of arms to Myanmar to stop the atrocities; and recognise the National Unity Government as the official and legitimate Government of Myanmar.

Worker member, Japan (Ms NORIMATSU) –I speak on behalf of Japanese Trade Union Confederation and Industrial Global Union.

Since the coup d'état by the military in Myanmar, the repression of workers has been unrelenting. The military junta has committed flagrant violations of human rights and trade union rights, including violence, arbitrary arrests and detentions. Hundreds of thousands of workers have lost their jobs in different industrial sectors. In the garment sector alone, more than 250,000 workers lost their jobs.

Many garment factories closed without paying their workers, and employers ignore collective agreements. Whenever workers organize protests, employers bring in soldiers to repress workers.

Freedom of association and the right to organize are under attack. We would like to show specific examples from the garment sector that we are aware of: The maternity leaves are denied, and women fear job loss over taking legally entitled leave; a worker lost three fingers at the workplace due to a lack of OSH measures, he was fired and received only 20,000 kyats as compensation for the injury; a factory recruited child labour paying below minimum wage,

and child workers are put into hiding when audits come to the factory. At one garment factory, production targets were set high, and if they do not meet the target, workers were beaten to the chest, punched in the ear and hit on the head by the supervisors and managers. Supervisors shouted obscenities to young women workers from the edge of the line. Workers are treated as slaves to meet the target. Young women workers are asked loudly “Are they born by Human or dogs”. Women workers feel they are in hell at the workplace.

In a workplace where people can work as human beings and protect their livelihoods, there is always freedom of association and labour rights are protected. Myanmar military has brutally taken these rights away from workers and trade unions. The companies involved are complicit in violating the rights under the Convention. Businesses should divest from Myanmar with such hostile environments when freedom of association cannot possibly be respected.

Government member, Australia (Ms ROWE) – Australia condemns, in the strongest terms, the ongoing human and labour rights emergency in Myanmar. The 1 February 2021 military coup has intensified and deepened the already serious human rights situation in the country.

We call on the military to cease all violence and release all those arbitrarily detained, including Australian professor Sean Turnell.

We further call on the military to allow immediate and unimpeded access for the delivery of humanitarian assistance for all people in need and to engage inclusive dialogue on a peaceful return to democracy.

The allegations and issues contained in the Report of the Committee of Experts are extremely grave and Australia deplores the lack of any progress to address these.

As a member of the International Labour Organization, we urge Myanmar to uphold its obligations under the Convention to protect freedom of association and the right to organize and immediately implement the recommendations of the Committee of Experts.

We affirm our support for the work of the ASEAN and UN special envoys and call for the full and timely implementation by Myanmar of the ASEAN five-point consensus, including to cease violence, facilitate humanitarian access and engage in constructive dialogue with all parties.

We urge the military regime to cease impeding the activities of the ILO and other international agencies and civil society organizations in their efforts to safeguard labour rights in Myanmar and to fully cooperate with the upcoming ILO Commission of Inquiry.

Worker member, Italy (Mr MARRA) –I am also talking on behalf of the Spanish Trade Union Organization Comisiones Obreras today.

Despite the international pressure and the overall condemnation over the brutality of the Myanmar military dictatorship, the junta continues to perpetrate war crimes and crimes against humanity. The world observes, but we feel we are not doing enough and we are not moving with the necessary speed and strength to defeat the junta and bring Myanmar back under the control of a civil democratic federal government where workers have their fundamental rights respected.

The Burmese trade unions – we heard a lot already – are among the leaders of the democratic opposition and they are a principal and main target. We deplore the junta's decision to suspend their passports and citizenship. This violates the most basic human right. For this reason, today we urge the ILO to work for the immediate release of the leader of the MICS-TUF and all other unionists still detained for having exercised their trade union rights enshrined in Convention No. 87, and for their participation in the civil disobedience movement.

Just as the Committee on Freedom of Association, we call for the repeal of section 505-A of the Penal Code and call for the amendment of section 124A.

The economic sanctions against the military conglomerates decided by the European Union and the United States and other governments are important, but they are not sufficient. There is no more time to wait. Strong multiple and cohesive sanctions on the political, financial and economic interests of the junta should be adopted by the UN and governments, including the suspension of the SWIFT codes. Italian unions have been demanding this to the European Union and also to the UN.

Myanmar is facing war crimes and crimes against humanity throughout the country but also profound violation of UN and ILO Conventions by multinational companies and brands, among which 61 EU and Italian well-known fashion brands. The respect of UN norms and labour Conventions are conditions for maintaining the EU EBA regulation.

To come to conclusion, Italian unions together with the ITUC, strongly support the conclusions of the Worker spokesperson and reiterate the call for strong and immediate action to restore the respect of human rights and the rule of law in Myanmar.

Observer, International Trade Union Confederation (ITUC) (Ms KHAINGZAR) – I am Khaingzar Aung, executive committee member of the Confederation of Trade Unions Myanmar. I speak about the atrocities committed by the military regime under the coup.

Since 1 February 2021, the ITUC and its affiliates support prison visits, for over 30 CTUM members and have suffered four funerals of the Myanmar Mine Workers Federation, an affiliate of the CTUM.

The prison visit includes Brother Thet Hnin Aung, the Secretary-General of the MICS, a Workers' adviser to the ILC in 2019.

On 27 March 2021, brother Chan Myae Kyaw, a CTUM member, was the first union member to be shot to death. He was a truck driver of a Copper Mine. On 7 December 2021, Brother Tint Naing, Brother Hein Thu of another Copper Mine, Brother Zin Min Tun, Brother Win Kaw and Brother San Ko of a copper mining Project in Letpadaung were burnt to death in Done Daw village.

On 20 April 2022, sister Khaing Thinzar Aye, sister Ei Ei Phyu, and Brother Nyan Sein were arrested in Yangon. On 23 May Brother Moe Gyi, an executive of the Agriculture and Farmers Federation of Myanmar was arrested in Khamti, Sagaing Region. On 27 May, trade union members Brother Chit Thein Zaw and Brother Kyaw Nyein of another military and Chinese copper mine joint venture were arrested in Done Daw village. On the way to the police station, they were shot and killed.

On 7 December, military troops burned alive 11 persons near Done Daw village. Five of them were members of the MWFM union.

The military regime showed that they do not care for workers' rights, human rights or freedom of association. The two extrajudicial killings and the arrest of Brother Moe Gyi took place after the ILO Commission of Inquiry was announced at the 2022 March GB.

The burnings and killings of our members are the tip of the iceberg, compared to what is taking place all over the country. The military regime attacks all kinds of workers all over the country. It is crystal clear that any kind of revenue to the regime, from investors, fashion brands, or from the extractive industries, and all the companies' registration fees support the workers' killings in other industries.

CTUM is encouraged that the Commission of Inquiry is taking place. We will do our best to collaborate with such a Commission.

The extrajudicial killings of our brothers from a joint venture copper mine are on record. The holding companies will be held responsible, as the junta, for the burning alive members of the MWFM union. They will be prosecuted internationally, even before democratization is restored in Myanmar.

Observer, International Transport Workers' Federation (ITF) (Mr SUBASINGHE) –
I speak on behalf of the ITF and the Korean Confederation of Trade Unions.

As we've heard from sister Khaing-Zar, the egregious violations of the Convention committed by the military junta over the past 16 months have made it increasingly dangerous, if not impossible, for trade unionists to operate in full freedom.

Not only have the Committee of Experts double-footnoted this case, Myanmar is now the only State in the history of this Organization to be subject to two Commission of Inquiry, in addition to being the only country to have ever received article 33 sanctions.

With such heinous violations of the Convention and other internationally-recognized human rights, it is imperative that the business community steps up to the plate.

In this regard, we would like to recall the corporate responsibility to respect human rights and the process of human rights due diligence (HRDD) under Pillar II of the UN Guiding Principles on Business and Human Rights (UNGPs). HRDD is of course now reflected in both the OECD's MNE Guidelines and the ILO's MNE Declaration, with the latter stating that this process should take account of the central role of freedom of association. HRDD is also firmly anchored in statute in several jurisdictions.

The UNGPs call on businesses to conduct enhanced due diligence to identify, prevent and mitigate these risks and treat them as a matter of legal compliance due to the heightened risks of gross rights abuses associated with operating in conflict-affected areas, as is the case with Myanmar.

Businesses must therefore map the major risks that come with any vacuum in protective host state legislation or practice, such as the abuse of emergency powers following a military coup.

Indeed, earlier this month, the Ethical Trading Initiative advised companies to not only urgently reassess their presence in Myanmar, but to also refrain from making any additional investments and to continue to meaningfully engage with unions with respect to their presence in the country.

The Myanmar Labour Alliance, with the support of global unions, have called on businesses to cease placing new orders and disinvest. This demand is part of the wider call by the Myanmar labour movement for comprehensive economic sanctions.

For companies sourcing from or operating in Myanmar, the question really is whether even enhanced HRDD is sufficient when there is such a dire human rights protection vacuum. Indeed, several leading brands have already withdrawn from the country.

We therefore implore brands and investors alike to follow the call of the Myanmar trade union movement and make a responsible exit now. Now is the time for all supply chain actors to step up.

Employer members – We have listened closely to the contributions of the speakers today and thank the Government and Worker representatives for taking the floor.

We share the general view regarding the gravity of the situation expressed by the majority of the room. The most important issue in our view is the immediate restoration of fundamental civil liberties in Myanmar without which freedom of association and thus compliance with Convention No. 87, quite simply, is impossible. In respecting these freedoms, Myanmar must be guided by the ILO's human-centred approach and focus on the interests, jobs and livelihoods of the people of Myanmar.

In this light, the Employers' group continues to urge Myanmar to quickly work to restore democracy and uphold its obligation under Convention No. 87. In particular, in the Employers' group's perspective, it is of particular importance to do the following:

First, take all measures necessary to ensure full respect in law and practice of basic civil liberties for the exercise of freedom of association, including freedom of personal security, freedom of opinion and expression, freedom of demonstration and assembly, freedom of movement, freedom from arbitrary arrest and detention and the right to a fair trial by an independent, impartial judiciary, so that both workers' and employers' organizations can carry out their activities and functions without the threat of intimidation, harm or imprisonment or any other undue and impermissible restriction.

We also note the importance, that when conditions permit, of a review of the Labour Organization Law within the framework of an overall legislative reform process, in full consultation with the national social partners to ensure fully that the rights of workers and employers under the Convention are respected.

Worker members -We thank also all the participants for the interventions which echoed unanimously in this room.

Since the 2001 military coup, the International Labour Conference and the Governing Body have spoken in clear and principal terms of the situation in Myanmar, including to call for an immediate restoration of democracy and respect for fundamental rights. Unfortunately, our appeals have not been heeded and instead the situation in Myanmar has only worsened. The Governing Body took decisive action in March 2022 and decided to establish a Commission of Inquiry making Myanmar the first country in the history of the ILO to be the subject of two Commissions of Inquiry and is it still the only country to have been the subject of article 33 measures.

We have heard from the Worker representative from Myanmar, who herself is in exile as the regime revoked her passport, describe in detail the horrors that workers are facing in the country and we extend our full solidarity to her but also to all other workers and trade unionists in the country, who over the last ten years have fought hard to rebuild a trade union movement and to build a consolidated democratic institution and practice. We share both their loss and their resolve to see democracy once again restored to the country.

In light of the observations of the Committee of Experts and the discussion in this Committee, the Workers' group deplores the current situation in the country and urges the regime to:

- (1) Immediately cease acts of violence against workers and trade unionists who are exercising their right to free speech, peaceful assembly and free association, hold those in the police and military responsible for these acts and pay reparations for the victims and their families.
- (2) Immediately release all workers and trade unionists who have been arrested and detained for exercising their right to free speech, peaceful assembly and free association and cancel any outstanding warrants for the same.
- (3) Immediately return passports and reinstate citizenship to those trade unionists who have had them revoked.
- (4) Immediately reinstate the registration of unions whose registration has been revoked and allow trade unions to undertake their activities without interference and without fear of retaliation.
- (5) Immediately cease all acts limiting the full exercise of the right to freedom of association.

In light of the serious nature of violations in this case we request to conclusions of this case to be put in a special paragraph of the Committee's report.

(...)

DRAFT