

2000 Report on Labor Practices in Burma

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INTRODUCTION

Pursuant to the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 § 564, Pub. L. 105-277, 112 Stat 2681, 2681-193, Congress directed the Secretary of Labor to provide to the Committees on Appropriations a report addressing labor practices in Burma. House Conference Report No. 105-825 requests that the Secretary of Labor “provide comprehensive details on child labor practices, worker’s rights, forced relocation of laborers, forced labor performed to support the tourism industry, and forced labor performed in conjunction with, and in support of, the Yadonna gas pipeline.” In addition, the Committees asked that the report address whether the Government of Burma is in compliance with international labor standards and provide details regarding the U.S. Government’s efforts to address and correct practices of forced labor in Burma.

This report updates the findings of *Report on Labor Practices in Burma* (hereinafter “the Department’s 1998 Report”), which was submitted by the U.S. Department of Labor (hereinafter “the Department”) in September 1998, pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriation Act of 1998 § 568, Pub. L. No. 105-118, 111 Stat 2429. The findings of this update are based on reports and information gathered from the U.S. Embassy in Rangoon, the International Labor Organization (ILO) and other international organizations, non-governmental organizations (NGOs) working in Burma, trade unions, the media, and other secondary sources. The Department also published a notice in the *Federal Register* on July 21, 1999 (located in Appendix I) requesting submissions from the public on labor practices in Burma.

The update begins with a summary of the Department’s 1998 *Report on Labor Practices in Burma*. This summary provides background information on political and economic conditions

in Burma and the original findings of the Department with regard to the abuse of worker's rights in that country, specifically in the areas of forced labor, forced relocations, freedom of association and the right to collective bargaining, and child labor.

The update then continues with three sections providing a description of developments that have occurred since the September 1998 release of the initial report and the Department's conclusions regarding any changes that may have occurred in the following areas:

- Forced labor (particularly forced labor on projects related to development of the tourism industry and the Yadana pipeline) and forced relocations in Burma.
- Worker's rights in Burma (specifically freedom of association and the right to bargain collectively).
- Child labor in Burma.

A fourth section deals with U.S. policy with respect to Burma. It summarizes the efforts of the U.S. Government to encourage the transition to a democratic government in Burma. This section also details U.S. Government efforts designed to document and hold accountable the regime in Burma for the abuse and denial of human rights and, in particular, worker's rights.

SUMMARY OF THE 1998 *REPORT ON LABOR PRACTICES IN BURMA*¹

For the last decade, Burma has been condemned internationally for its human rights and worker's rights violations. The Department of Labor's 1998 *Report on Labor Practices in Burma* surveys, analyzes, and summarizes major allegations concerning labor practices in Burma. It brings together and evaluates reports from the Department of State, findings from international organizations, reports by non-governmental organizations (NGOs), information distributed by the Government of Burma (GOB), and testimony provided to the Department of Labor. Because the GOB tightly controls access to Burma, independent research in Burma is almost non-existent and is dangerous to undertake.

I. Background

A. Political background

A former British colony, Burma became an independent parliamentary democracy in 1948. A democratically-elected government led Burma until October 1958, when political differences within the government and a communist insurgency led General Ne Win to take power and form a military government. Democracy returned briefly in February 1960, but General Ne Win led another military coup in 1962. Since then, Burma has been ruled by a succession of non-elected military governments.

In 1988, students, workers, monks, and even members of the military participated in a pro-democracy uprising to protest the economic and political conditions imposed by Burma's

¹ U.S. Department of Labor, Bureau of International Labor Affairs, *Report on Labor Practices in Burma* (Washington, DC: U.S. Department of Labor, September 1999).

military governments. The military responded with brutal repression, and thousands of people were arrested or killed when the army put a violent end to the peaceful demonstrations.

A new military government, the State Law and Order Restoration Council (SLORC), imposed martial law, suspended the 1974 Constitution, and dissolved administrative and legislative organs. The SLORC declared its intention to transfer power to a civilian government and conducted a largely free election in May 1990. The National League for Democracy (NLD), led by Secretary-General Daw Aung San Suu Kyi, won 80% of the seats for a new legislative body. The SLORC, however, did not transfer power to the newly-elected government.

In November 1997, the SLORC changed its name to the State Peace and Development Council (SPDC). However, its military character and repressive policies are essentially unchanged; the four most senior members of the SLORC assumed equivalent positions in the SPDC, and the other members are all regional military commanders. At this time, the regime still refuses to transfer power to the legitimate, elected government.

B. Rule of law

In Burma today, basic elements of the rule of law are missing; there is no legislative body composed of elected representatives, members of the executive branch are not elected, and the judiciary is not independent of the executive. The laws themselves are vague and generally inaccessible, and the government impedes access to information, making it difficult to evaluate the country's laws with respect to fundamental human rights.

C. Ethnic tensions

Since before independence from Great Britain, differences between Burma's ethnic groups have been expressed in political and social divisions. Approximately two-thirds of Burma's 46 million people belong to the Burman ethnic group. The rest are divided between as many as 145 other ethnic groups and live mostly in the hill and border regions of the country, where they often form the majority of the population. For much of the last half century, many ethnic minorities seeking greater levels of independence have conducted armed campaigns against the central government.

When the SLORC seized power in 1988, a third of the country was still affected by

insurgencies by ethnic minority groups, and in vast ethnic minority areas, central control by the government was weak. One of the SLORC's priorities was a renewed assault on armed opposition groups. In April 1992, the SLORC began direct talks and/or cease-fire negotiations with a number of the armed opposition groups.

Many human rights abuses, including forced relocations, have reportedly taken place in the context of military actions against armed opposition groups and as part of the GOB's related strategy to undercut civilian support for the insurgents. As a result, hundreds of thousands of people have fled the country, and the international community has consistently expressed its concern at the significant flows of refugees from Burma.

D. Worker's rights

Over the past 40 years, the International Labor Organization (ILO), a special U.N. agency, has repeatedly condemned Burma's record of imposing forced labor on its people and denying them freedom of association. Burma has been called to appear before the ILO on many occasions, especially since the military coup in 1962, concerning the failure to fulfill its obligations under specific ILO conventions and the ILO Constitution. Suppression of the pro-democracy movement in 1988 and heightened international concern in recent years have intensified the level of activity in the ILO with respect to Burma.

The ILO has received numerous complaints and allegations that Burma has violated its obligations under the Forced Labor Convention (1930), No. 29. In January 1993, the International Confederation of Free Trade Unions (ICFTU), under Article 24 of the ILO Constitution, submitted a complaint against Burma on forced labor. A special sub-committee of the ILO's Governing Body concluded that Burma was violating the Forced Labor Convention. In June 1996, 25 worker delegates to the ILO's International Labour Conference filed a formal complaint under Article 26 of the ILO Constitution alleging Burma's non-observance of the Forced Labor Convention. This led the ILO to establish a Commission of Inquiry (COI) in March 1997 to investigate the complaint – only the tenth COI in the ILO's 80-year history. The COI released its report (hereinafter “COI Report”) in July 1998 concluding that there was “abundant evidence” before the COI showing the “pervasive” use of forced labor throughout Burma by government and military authorities.

The ILO has also received numerous complaints and allegations that Burma has violated its obligations under the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87). The ILO Conference Committee on the Application of Conventions adopted special paragraphs highlighting Burma's unacceptable application of Convention No. 87 in 1993, 1995, 1996, 1997, and again in 1998. These paragraphs deplored the GOB's continued failure to implement Convention No. 87 and to cooperate with the ILO.

II. Forced Labor in Burma

Since the SLORC/SPDC took power in 1988, there have been numerous reports and allegations that the GOB has exacted forced labor from hundreds of thousands of people in Burma, often in conditions accompanied by other systematic, brutal human rights abuses. The practice of forced labor in Burma takes different forms, most notable of which is forced labor for infrastructure development (including the development of infrastructure for the tourism industry and possibly the Yadana natural gas pipeline) and to support military operations. While the GOB has denied these allegations, the ILO Commission of Inquiry and other independent observers have concluded that government and military authorities do impose forced labor on the people of Burma on a widespread basis.

Under growing international pressure, the GOB appeared to have somewhat reduced its use of forced labor in and around large cities beginning in mid-1996. In these areas, there has been more widespread use of machinery on construction projects as well as the use of soldiers rather than civilians on infrastructure development projects. However, forced labor still remains at historically high levels and appears to continue exceeding the level of forced labor used prior to the years 1992-93.

A. Methods used to impose forced labor

The methods used to impose forced labor generally follow a similar pattern. The military commonly sends written orders to civilian officials or to village heads demanding they provide a specified number of people to perform labor for a particular period of time. Usually the laborers must do an identified quota of work, such as clearing a certain amount of jungle where a road or railway is to be built. More random methods of exacting forced labor also appear to be common.

For example, there have been reports that people were abducted from places such as schools, tea shops, video houses, and train stations and forced to serve as porters.

In the case of formal, written demands for forced laborers, it is generally up to the village headman to choose which families will work at which times. Many villages have implemented rotation systems to spread the burden of forced labor. At important times in the crop cycle, adults, and particularly men, need to stay at home and work in the fields, and it becomes more common to see women and children working as forced laborers. Sometimes, payments of cash or food can be substituted for labor services.

B. Allegations of forced labor on infrastructure development projects

Allegations of the use of forced labor on infrastructure development projects are widespread. They include charges that forced labor has been used to construct or repair roads, railway lines, ditches, dams, canals, dikes, airfields, and embankments. Many forced laborers have reported that they work under very poor conditions with little food, medical care, or rest, and there have been repeated reports of gross human rights violations, including beatings, torture and summary execution. The tendency of households to send family members generating the least income to fulfill demands for forced labor may even increase the likelihood of illness and death among workers. In general, these workers – children, the elderly, women, and the infirm – not only earn less money than men but are also the most vulnerable to the harsh working conditions and human rights abuses that often accompany forced labor.

There have also been numerous allegations that the GOB has used thousands of people as forced laborers on infrastructure projects designed to support Burma's tourism industry. A poor infrastructure – including a shortage of hotel rooms, lack of airports to handle large aircraft, and an antiquated road system – has acted as an obstacle to development in this sector. In 1992, the GOB established a Ministry of Hotels and Tourism, which initially targeted specific areas for tourism development. In 1994, the Ministry helped launch the "Visit Myanmar Year" initiative to attract tourists to Burma in 1996. Many of the allegations that forced labor was used on tourism infrastructure development projects, including hotels and other tourist facilities which the GOB has built in more remote areas, arose beginning in 1994.

The total number of people affected by demands for forced labor appears to reach easily

into the hundreds of thousands, and perhaps millions. The number of people who contribute their labor to infrastructure development projects is so large that the value of their work in rural development projects has been reported in GOB budget figures. While forced labor has been reported from many parts of Burma, both anecdotal and the limited statistical evidence available suggest that the burden of forced labor falls disproportionately on ethnic minorities and rural populations. Observations by NGOs indicate that families are often forced to contribute labor anywhere from 4 days to 2 weeks per month.

C. Allegations of forced labor to support military operations

There are numerous allegations and reports charging the Burmese military with using forced labor for a variety of tasks. Allegations include the use of forced laborers as porters for troops, support workers in military camps, and laborers for commercial ventures designed to support the military.

Forced portering to support military operations is the most notorious form of forced labor. Porters usually carry supplies for soldiers, and the military rarely travels without them. Although unarmed, they have been placed at the head of columns to detonate mines and booby traps, spring ambushes, and act as human shields. Porters are forced to work for long hours without sufficient food, water, rest, or medical care, and most are subject to physical abuse from the moment they are pressed into service. There have been reports of women and children, as well as men, serving as porters, and there are numerous allegations that female porters have been repeatedly raped by soldiers.

In addition to forcing civilians to serve as porters, military battalions often require villagers to provide other types of labor supporting military camps and facilities. Villages have been forced to build military camps and barracks for soldiers. People have also been forced to provide sentry duty, dig trenches, erect fences, maintain or clean barracks, repair roads between military camps, look after livestock, dig bunkers, clean latrines and wash soldiers' uniforms.

The commanding officers of these military battalions have reportedly been involved in a variety of private commercial ventures, including shrimp cultivation, maintenance of rice paddies and fish ponds, timber cultivation, and brick production, and local villagers have been required to work in these enterprises as forced laborers. The U.S. Embassy in Rangoon has reported cases

involving whole villages of people forced to cultivate and harvest crops to feed military garrisons. In many cases, the land was also confiscated from villagers by the garrison.

D. GOB responses to allegations of forced labor

Since 1991, the GOB has responded several times to allegations of forced labor, particularly in diplomatic communications and reports to international organizations. In general, the GOB has denied the use of all forms of forced labor and responded only to allegations of forced portering for the military. According to the GOB, porters are legally recruited in accordance with two laws, the *Towns Act* (1907) and the *Village Act* (1908), and are not being forced to work against their will. The GOB has also responded a number of times that there is a centuries-old tradition in Burma where people voluntarily contribute labor in the belief that it is a noble deed. On some occasions, the GOB has described this as a Buddhist cultural tradition.

III. Forced Relocations in Burma

Forced relocations in Burma generally take two forms that affect both urban and rural populations: 1) as part of urban redevelopment programs, or 2) in the context of counter-insurgency campaigns. The U.S. Embassy in Rangoon has reported that tens of thousands of villagers have been displaced. While the practice of forcibly relocating villages in Burma started before 1988, it appears to have escalated significantly since then.

People are usually ordered to relocate by army troops to specific relocation sites and commonly receive only a week to ten days' notice that they must move. People must take all their possessions, but often there is insufficient time to move them, and soldiers confiscate whatever is left behind without compensation. The areas to which villagers are forced to relocate are commonly ill-prepared, if at all. People must buy or build new accommodations on arrival, and there are often no water, sewage or health care facilities.

There have been reports that forcibly relocated villagers have been subjected to forced labor. It does not appear that villagers are relocated solely for the purpose of creating available pools of forced laborers. It is possible, however, that the locations to which villagers have been moved were selected for their proximity to projects which subsequently used forced labor. Forced relocations have also increased the military's ability to exact labor from ethnic minority

populations by forcibly relocating villages near garrisons in ethnic minority areas.

IV. The Yadana Natural Gas Pipeline

One of the most controversial infrastructure development projects in Burma is the Yadana natural gas pipeline. There have been repeated allegations that the GOB has used forced labor on the pipeline, that forced labor was used to build support facilities for the pipeline, and that forced labor was used to support the operations of military troops providing security for the pipeline. In addition, there have been allegations that the Ye-Tavoy railway, on which the GOB is widely acknowledged to have used forced labor, is being constructed in order to facilitate army operations near and in support of the pipeline.

Because the GOB refused to permit independent observation of the area and because only the oil companies investing in the project could provide transportation to the pipeline, it was impossible to verify or refute these allegations. The ILO's Commission of Inquiry was also denied access to Burma when it examined allegations of forced labor associated with the pipeline. The COI concluded that, in view of the contradiction between the facts presented, and since the Commission was denied access to Burma to supplement its evidence, no finding on the matter could be made.

A. Background

In 1982, large natural gas deposits, later known as the Yadana field, were discovered in the Andaman Sea. Demand for energy in Thailand and the need for revenue led the GOB to consider developing this resource. The GOB solicited commercial support for a proposal to run a pipeline from the underwater gas fields, across Burma, and into Thailand. In July 1992, the French oil company, Total, signed a production-sharing contract with Myanmar Oil and Gas Enterprise (MOGE) for evaluating, developing and producing gas from the Yadana field. A U.S. company, Unocal Corporation, joined the project as a co-venturer in January 1993.

Insurgencies along much of the southern part of the Burmese-Thai border posed serious security risks to the proposed pipeline route. The chosen route was inhabited by the ethnic Karen and had been held by the insurgent Karen National Union (KNU) since the 1960s. The GOB had to assert effective military control over the region before construction could begin, and improved

logistical and transportation infrastructure was also needed to establish control in the region.

B. Allegations of forced labor on the construction of the Yadana Pipeline

Allegations of forced labor and other human rights abuses in the area emerged even before construction on the pipeline started. Although expatriate staff was recruited to build the actual pipeline, evidence suggests that Burmese nationals built the majority of support facilities for the pipeline and that the army had recruited forced laborers. Troops stationed in the pipeline area who are allegedly providing security for the pipeline have also been accused of forcing civilians to build army bases, serve as porters, and provide other support for their operations. After the on-shore segment of the pipeline was completed, reports of forced labor continued to emerge. However, most of the evidence of forced labor covered the period before late 1996.

It is difficult to assess the actual extent of the use of forced labor as the GOB has denied requests by the U.S. Government, the ILO, and other groups to conduct independent visits to the pipeline corridor and adjacent areas. While officials of the U.S. Embassy in Rangoon have visited the region, the GOB has also denied them independent access, citing security reasons. Since the pipeline is in a remote and inaccessible region, in all cases the trips were facilitated by the oil companies, which provided the necessary helicopter transportation, and Embassy officers were not permitted to set their own itineraries or travel freely.

C. GOB and other responses to allegations of forced labor

The GOB, which has acknowledged using uncompensated labor to construct at least one other gas pipeline project, called allegations of forced labor on the Yadana project "totally unfounded." The oil companies involved have vigorously denied allegations of human rights abuses and particularly the association of forced labor with the pipeline. Unocal Corporation has stated that all workers on the project are paid, voluntary employees. The companies also emphasized their role in the development of local communities along the pipeline route.

According to Unocal Corporation, the GOB did not provide personnel to work on the pipeline. However, briefing materials and documents from Total indicated that the company had relied extensively on laborers recruited by the army during the early phases of the project through at least January 1996 but before actual construction of the pipeline itself. These workers were paid directly by Total, but they were housed and fed in army battalions. While this does not

prove that forced labor was used, the practice of using laborers recruited by the army – given the history of forced labor allegations against the military – is questionable, and it is consistent with refugees' allegations. However, by 1998, in the final stages of the project, it appears Total had stopped using manual labor recruited by the army.

D. The Ye-Tavoy railway

There were numerous allegations that the extension of the Ye-Tavoy railway was being built with unusually high and harsh levels of forced labor. Although there was no evidence that the railway was designed to support actual construction of the Yadana pipeline, there were indications of some relationship between the two projects and that the Ye-Tavoy railway was being constructed in order to facilitate Burmese army operations in the pipeline area. Oil companies involved in the Yadana project maintained that there was no connection between the pipeline and the Ye-Tavoy railroad.

V. Freedom of Association and the Right to Bargain Collectively

Burma ratified the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) in 1955 and is bound as an ILO member to apply the principles of freedom of association. However, the GOB has been criticized for not bringing its laws into compliance with Convention No. 87, refusing to recognize independent trade unions, harassing workers who attempt to organize, and for the absence of collective bargaining.

Several Burmese laws relate to freedom of association and union organizing, but each is inconsistent with international standards and ignored in practice. The GOB does not recognize any independent labor unions in Burma. The Burmese government actively suppresses attempts by workers to organize, and workers who try to form or join such unions are liable to be harassed, arrested, and tortured. They are also under constant surveillance by the police and the military intelligence agency. Workers are, however, compelled to join a state-run union, the Union Solidarity and Development Association.

There are legal mechanisms for collective bargaining in Burma. A Government Central Arbitration Board exists, but it is not active, and there are township-level labor supervisory committees to address minor labor concerns. However, collective bargaining does not occur, in

part because there are no recognized, independent labor unions and because workers participating in union activities are actively persecuted by the GOB.

The ILO Committee of Experts has criticized the lack of freedom of association in Burma for over 40 years. This criticism increased after the 1962 military coup and intensified further after the GOB's suppression of the pro-democracy movement in 1988. Similarly, the ILO's Conference Committee on the Application of Standards has regularly denounced Burma's violation of Convention No. 87. In 1995, the Conference Committee highlighted the Government's failure to implement this core convention in a special paragraph, and it has continued to do so in each of its reports in subsequent years.

VI. Child Labor in Burma

Child labor appears to be an endemic problem in Burma, correlated in large part with widespread poverty and lack of investment by the GOB in primary education. While national laws to protect children are in place, little appears to be done to enforce them, and exploitative and dangerous forms of child labor have been widely reported, including work on infrastructure development projects, in military support operations, as child soldiers, and in the sex industry.

Very few children work in the formal sector. In the urban informal sector, child workers are mostly found processing food, selling goods, collecting refuse, manufacturing light goods, and attending tea shops. In rural areas, children can often be seen working alongside their parents in the informal sector, and children contribute labor in traditional family agricultural work.

However, children also allegedly participate alongside adults when forced labor is demanded by government or military authorities. Households can and do send children when they need to fulfill forced labor quotas. At important times in the crop cycle village, men may stay at home to work in the fields rather than attend forced labor duties. During these times, it is more common to see children doing forced labor in place of adults or helping women who perform forced labor in place of men.

The army views children as an available source of labor to support the military and as a labor pool from which to draw new soldiers. Burmese children have been forced by the military to work in infrastructure development, portering, as sentries and in providing other services to

the military. Children may be involved in any or all types of work for military camps, and boys as young as 14 years old have been taken to work as porters, particularly during major offensives when the demand for porters is greatest. Both the Burmese army and ethnic insurgent forces reportedly include child soldiers as young as 12 years old, and these child soldiers appear to perform the same duties as their adult counterparts.

There are documented reports of trafficking of adults and children from Burma to Thailand. Many of the women and girls are trafficked into the commercial sex industry, and some trafficked children become beggars and hawkers. Trafficking of people to destinations within Burma is also common. According to a UNICEF report, child trafficking has a long history in Burma. Traditionally poor families deliver their children into domestic servitude for richer families, and there have been reports that hill tribes sell children to pay off opium debts.

The latest constitution and domestic laws in Burma address children's work and children's right to education. Particular provisions set the minimum age at which children may work, the types of work they may do at different ages, and the maximum hours they may work. The use of some forms of child labor is punishable as a crime. However, reports suggest that these laws are not applied in practice.

VII. Conclusion

The U.S. Department of Labor's 1998 *Report on Labor Practices in Burma* observed that the GOB deals with the country's workforce without regard to internationally recognized worker's rights. A large proportion of the population is regularly subject to demands for forced labor and forced relocations; freedom of association is not recognized; and children are subject to abusive work practices, including forced labor. The report concluded that there were few indications that the GOB will voluntarily change its policies in any significant way and that such worker's rights violations will likely continue in Burma until steps are taken to initiate a transition to democracy.

2000 UPDATE ON FORCED LABOR AND FORCED RELOCATIONS

Since the Department of Labor's 1998 report, there has been little change in the situation with regard to the use of forced labor in Burma. However, there has been some significant action by the International Labor Organization (ILO) on this matter. Forced labor continues to be used with impunity by authorities throughout the country for infrastructure development projects and to support military operations. Reports also suggest that people continue to work under very poor conditions and suffer from human rights abuses. There is little new information with regard to allegations of forced labor related to the Yadana Pipeline. Available information suggests that forced relocations are becoming a growing problem in Burma, and forced labor often goes hand in hand with the policy of forced relocations. While the circumstances in Burma may not have improved greatly, the international community has taken an additional action against the current regime through the ILO's adoption of an emergency resolution on forced labor in Burma, which resulted in the exclusion of Burma from almost all participation in the ILO.

I. Recent Developments in the ILO

In June 1996, 25 worker delegates to the ILO's International Labour Conference filed a formal complaint under Article 26 of the ILO Constitution alleging Burma's non-observance of the Forced Labor Convention, 1930 (No. 29). A Commission of Inquiry (COI) was established in March 1997 to investigate the complaint – only the tenth COI in the ILO's 80-year history. The COI concluded in its July 1998 report that

There is abundant evidence before the Commission showing the pervasive use of forced labour imposed on the civilian population throughout Myanmar by the authorities and the military for portering, the

construction, maintenance and servicing of military camps, other work in support of the military, work on agriculture, logging and other production projects undertaken by the authorities or the military, sometimes for the profit of private individuals, the construction and maintenance of roads, railways and bridges, other infrastructure work and a range of other tasks, none of which comes under any of the exceptions listed in Article 2(2) of the Convention.²

As a result, the COI recommended to the GOB:

- To amend, without delay, national laws permitting forced labor, particularly the *Towns Act* and the *Village Act*.³
- To take immediately the necessary steps to ensure that the authorities no longer impose forced labor in practice. Actions taken to stop the use of forced labor cannot be in the form of secret directives but have to be made public and made known to all levels of the military and to the whole population.⁴
- To impose penalties, according to section 374 of the Penal Code, on persons imposing forced labor.⁵

After the completion of the COI Report, the ILO communicated several times with the GOB, requesting information on actions taken by the government to address the findings of the report and its three recommendations. In more than one instance, the GOB assured the ILO that it was reviewing and amending national law in accordance with the first recommendation of the COI Report (see following discussion). However, a May 1999 report by the ILO Director-General to the Governing Body, information from NGOs, and reports from the U.S. Embassy in Rangoon concluded that the GOB has not implemented the recommendations of the COI and that forced labor continues to be used with impunity by authorities throughout the country.

² International Labour Organization, Commission of Inquiry, *Forced Labour in Myanmar (Burma): Report of the Commission of Inquiry appointed under article 26 of the Constitution of the International Labour Organization to examine the observance by Myanmar of the Forced Labour Convention, 1930 (No. 29)* (Geneva: International Labour Organization, 2 July 1998) paragraph 528.

³ ILO, *Report of the Commission of Inquiry*, paragraph 539(a).

⁴ ILO, *Report of the Commission of Inquiry*, paragraph 539(b).

⁵ ILO, *Report of the Commission of Inquiry*, paragraph 539(c).

A. Government of Burma's response to the COI Report

The COI Report was sent to the Government of Burma (GOB) on July 27, 1998. On November 25, 1998, the Director-General of the ILO wrote to the GOB asking it to communicate, by February 19, 1999, detailed information on any measures it might have taken in regard to the recommendations of the COI Report. This information would be included in an interim report that would be submitted to the ILO Governing Body in March 1999.⁶

The GOB responded in a letter received by the ILO Director-General on February 4, 1999. The letter stated that government authorities had already reviewed the *Village Act* and the *Towns Act* several times in order to "bring them in line with present-day conditions in the country as well as to fulfill Myanmar's obligations to the relevant Convention."⁷ The GOB also stated in the letter that it had set up a Ministerial Committee and Working Group that was reviewing and making recommendations about both acts.

The ILO Director-General sent another letter to the GOB on February 11, 1999, noting that the Ministerial Committee and Working Group seemed to be confining its efforts to reviewing the *Village Act* and the *Towns Act*. The Director-General requested that the GOB provide information on all measures the government had taken or envisioned taking in regard to all of the recommendations of the COI Report. The Director-General also asked for more detailed information on the amendments to the *Village Act* and the *Towns Act* that were being proposed.⁸

On February 18, 1999, the GOB replied to the ILO Director-General. This reply referred back to the GOB's February 4 letter and reiterated that the relevant articles of the *Village Act* and the *Towns Act* were being reviewed. The GOB also stated that the new law would be widely

⁶ Michel Hansenne, "To Mr. U. Tun Shwe, Director-General, Department of Labor," (25 November 1998). Letter reprinted in International Labour Organization, "Measures taken by the Government of Myanmar to implement the recommendations of the Commission of Inquiry established to examine the complaint concerning its observance of the Forced Labour Convention, 1930 (No. 29)," (Geneva: International Labour Organization, 24 March 1999) Appendix I.

⁷ Sein Myint, "To the Director-General," (4 February 1999). Letter reprinted in ILO, "Measures taken by the Government of Myanmar," Appendix II.

⁸ Michel Hansenne, "To Mr. Sein Myint, Director-General, Department of Labour," (11 February 1999). Letter reprinted in Letter reprinted in ILO, "Measures taken by the Government of Myanmar," Appendix III.

publicized when complete and that action would be taken against any infringement of the new law.⁹

B. Findings of the Director-General's 1999 Report

In March 1999, the ILO Governing Body requested that the Director-General submit a report, by May 21, 1999, on the measures taken by the GOB to comply with the recommendations of the COI Report. In a letter dated April 1, 1999, the Director-General asked the GOB to inform him of any measures taken by the Government on each of the recommendations.¹⁰ The Director-General also sent a notice to international employer and worker organizations having consultative status with the ILO, intergovernmental organizations, and governments of member States of the ILO asking for information pertinent to the Governing Body's request.¹¹ The GOB sent two letters in response, on May 12 and May 18, 1999. A number of unions, NGOs and governments of member States replied to the Director-General's request as well. Based on these submissions, the Director-General concluded in his May 1999 report to the Governing Body (hereinafter "Director-General's 1999 Report") that there was "no indication" that the three recommendations of the Commission of Inquiry had been implemented.¹²

In regard to the first recommendation to amend, without delay, national laws permitting forced labor, the GOB informed the Director-General in its May 18, 1999 letter that the Ministry of Home Affairs issued Order No. 1/99 on May 14, 1999, directing authorities not to exercise the powers authorized under the relevant sections of the *Towns Act* and *Village Act*.¹³ The GOB

⁹ Sein Myint, "To The Director-General," (18 February 1999). Letter reprinted in ILO, "Measures taken by the Government of Myanmar," Appendix IV.

¹⁰ International Labour Organization, International Labour Office, *Report of the Director-General to the members of the Governing Body on Measures taken by the Government of Myanmar following the recommendations of the Commission of Inquiry established to examine its observance of the Forced Labour Convention, 1930 (No. 29)* (Geneva: International Labour Organization, 21 May 1999) paragraph 2.

¹¹ ILO, *Report of the Director-General*, paragraph 3.

¹² ILO, *Report of the Director-General*, paragraph 61.

¹³ Soe Nyunt, "To the Director-General," (18 May 1999). Letter reprinted in ILO, *Report of the Director-General*, Appendix II.

further stated that Order No. 1/99 provides for action to be taken against a person failing to abide by it.¹⁴ However, the Director-General's Report noted that the Order does not bring either the *Village Act* or the *Towns Act* in line with the Forced Labour Convention, 1930 (No. 29).¹⁵ The text of the Order states that it is to remain in effect unless "any further directive is issued"¹⁶ and does not actually rescind either the *Village Act* or the *Towns Act*. Order No. 1/99 also permits the use of forced labor under specific circumstances that, in the view of both the ILO Committee of Experts on the Application of Conventions and Recommendations (COE) and the COI, are unjustifiable.¹⁷

In regard to the second recommendation to take immediately the necessary steps to ensure that the authorities no longer impose forced labor in practice, governments of member States, international worker organizations, and other NGOs submitted information to the Director-General indicating that no concrete measures to stop the use of forced labor had been taken by mid-May 1999¹⁸ and that forced labor continued to be used by both government and military authorities on a widespread basis after the COI released its 1998 report.¹⁹ The GOB informed the Director-General in a May 12, 1999 letter that "the practical measures envisaged to be taken on the [COI Report's] recommendations have been submitted to the Government of the Union of Myanmar for decision and that they are already in the process of being actively considered by the high authorities."²⁰ However, the Director-General's Report noted that there was no indication of the nature of these "practical measures."²¹

¹⁴ Soe Nyunt, "To the Director-General," (18 May 1999). Union of Myanmar, Ministry of Home Affairs, "Order No. 1/99: Order Directing Not to Exercise Powers Under Certain Provisions of the Towns Act, 1907 and the Village Act, 1907," paragraph 6. Reprinted in ILO, *Report of the Director-General*, Appendix III.

¹⁵ ILO, *Report of the Director-General*, paragraphs 49-54.

¹⁶ ILO, *Report of the Director-General*, paragraph 48.

¹⁷ ILO, *Report of the Director-General*, paragraph 52.

¹⁸ ILO, *Report of the Director-General*, paragraph 46.

¹⁹ ILO, *Report of the Director-General*, paragraph 16.

²⁰ Sein Myint, "To The Director-General," (12 May 1999). Letter reprinted in ILO, *Report of the Director-General*, Appendix I.

²¹ ILO, *Report of the Director-General*, paragraph 9.

The Director-General's Report also detailed numerous incidents in which forced labor was allegedly used for a range of tasks such as domestic work, land cultivation, infrastructure development, and military support operations; the most notorious allegations involved the use of forced labor on infrastructure development and portering for the military. The International Confederation of Free Trade Unions (ICFTU) drew attention to copies of several hundred written official orders from both civil and military authorities demanding that village heads provide laborers for a variety of tasks.²² In addition, reports of forced labor were often accompanied by additional allegations that workers were not compensated for their labor or for any of the food and materials that they may have supplied for a project, and that forced laborers were subject to extortion, fines, beatings, torture, sexual abuse, starvation, and other forms of hardship and human rights abuses.

In regard to the third recommendation to impose penalties on persons exacting forced labor, the Director-General's Report stated that, to the knowledge of the ILO, no person had thus far been penalized under section 374 of the Penal Code for imposing forced labor.²³

C. Government of Burma's response to the Director-General's 1999 Report

The GOB responded to the Director-General's Report in a June 7, 1999 memorandum submitted to the ILO Committee on the Application of Standards during the ILO's 87th International Labour Conference (ILC), held June 1 - 17, 1999. In the memorandum, the GOB asserted that the Director-General's Report was full of "unfounded and biased" charges and "manifestly false" accusations; that allegations of the use of forced labor in Burma "were largely the result of misconceptions and misunderstandings" of the situation; and that the facts of the COI's 1998 Report were inaccurate.²⁴

²² ICFTU, "To Mr. Juan Somavia, Director-General," (3 May 1999). Cited in ILO, *Report of the Director-General*, paragraphs 17-20. Cited in Janek Kuczkiewicz, "Fresh evidence of forced labour in Burma," *Trade Union World* No. 6, June 1999: N. pag.

²³ ILO, *Report of the Director-General*, paragraph 57.

²⁴ Union of Myanmar, "Memorandum of the Government of Myanmar on the Report of the Director-General to the members of the Governing Body dated 21 May 1999," (7 June 1999) N. pag. Also reprinted in International Labour Organization, Committee on the Application of Standards, *Report of the Committee on the Application of Standards: Observations and Information Concerning Particular Countries* (Geneva: International Labour Organization, 15 June 1999) N. pag.

The GOB maintained that all of the allegations mentioned in the Director-General's Report took place before Ministry of Home Affairs Order No. 1/99 was issued on May 14, 1999 and that no allegations had been made after that date.²⁵ In addition, the memorandum asserted that Order No. 1/99 was, in accordance with the COI Report's recommendations, made public and distributed immediately to 16 authorities, including the Supreme Court, the Police Major General, and all Township Peace and Development Councils. Further, GOB representatives announced Order No. 1/99 in a public, international forum – the 13th ASEAN Labor Ministers Meeting in May 1999²⁶ – and proclaimed that officials had pledged to use only military troops as labor on national infrastructure projects.²⁷ The GOB also stated that the Order would be published in the *Myanmar Gazette*, which publishes all laws.²⁸

Though the GOB claimed that no allegations of forced labor had been made after the Ministry of Home Affairs Order No. 1/99 was issued on May 14, 1999, NGOs, and the U.S. Embassy in Rangoon have reported numerous allegations that forced labor was used on government and military projects after the Order was issued.²⁹ In addition, the U.S. Embassy in Rangoon observed that as of July 2, 1999, Order No. 1/99 had not been printed in the *Myanmar Gazette* nor had appeared in Burmese or English language newspapers, apart from brief references from a press conference at the time of the ASEAN Labor Ministers meeting.³⁰

D. Response of the International Labor Conference

Despite the claims of the GOB, reports of the continued use of forced labor by government and military authorities led delegates to the 87th ILO International Labour

²⁵ Union of Myanmar, "Memorandum of the Government of Myanmar," N. pag.

²⁶ Soe Nyunt, "To the Director-General," (18 May 1999).

²⁷ Soe Nyunt, "To the Director-General," (18 May 1999). United States, Department of State, Unclassified Cable from Embassy Rangoon, No. 001936 (23 July 1999) paragraph 3. Amnesty International, *Myanmar. The Kayin (Karen) State: Militarization and Human Rights*, Amnesty International Report ASA 16/12/99 (N.p.: Amnesty International, June 1999) N. pag.

²⁸ Union of Myanmar, "Memorandum of the Government of Myanmar," N. pag.

²⁹ See parts III and IV of this section for recent allegations.

³⁰ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 3.

Conference to denounce labor conditions in Burma. The Conference Committee on the Application of Standards noted in its June 15, 1999 report that there was “convincing” information available that forced and compulsory labor still occurred on a broad scale in Burma.³¹ In the view of this Committee, the explanations provided by the GOB did not respond to the detailed findings and recommendations of the Commission of Inquiry and the Committee of Experts.³² As a result, the Conference Committee on the Application of Standards adopted a special paragraph in its report noting “with great concern” Burma’s continued failure over several years to eliminate serious discrepancies in the application of the Forced Labor Convention, 1930 (No. 29).³³

Because of the GOB’s consistent violations of the Forced Labor Convention, 1930 (No. 29) and failure to respond to repeated rulings by supervisory bodies to put an end to forced labor, the International Labour Conference submitted, discussed, and adopted an unprecedented emergency resolution on the widespread use of forced labor in Burma on June 17, 1999 (located in Appendix II). The Resolution reaffirmed that all member States have an obligation to apply fully, in law and practice, the ILO Conventions that they have voluntarily ratified³⁴ and deplored the GOB’s failure to comply with the recommendations of the COI Report.³⁵ The Resolution further resolved:

- (a) that the attitude and behaviour of the Government of Myanmar are grossly incompatible with the conditions and principles governing membership of the Organization;³⁶
- (b) that the Government of Myanmar should cease to benefit from any technical cooperation or assistance from the ILO, except for the purpose of direct assistance to implement immediately the recommendations of the Commission of Inquiry, until such time as it has

³¹ International Labour Organization, Committee on the Application of Standards, *Report of the Committee on the Application of Standards: General Report* (Geneva: International Labour Organization, 15 June 1999) paragraph 195.

³² ILO, *Report of the Committee on the Application of Standards: General Report*, paragraph 195.

³³ ILO, *Report of the Committee on the Application of Standards: General Report*, paragraph 198.

³⁴ ILO, “Resolution on the widespread use of forced labour in Myanmar,”

³⁵ ILO, “Resolution on the widespread use of forced labour in Myanmar,” paragraph 1.

³⁶ ILO, “Resolution on the widespread use of forced labour in Myanmar,” paragraph 3(a).

implemented the said recommendations;³⁷

- (c) that the Government of Myanmar should henceforth not receive any invitation to attend meetings, symposia and seminars organized by the ILO, except such meetings that have the sole purpose of securing immediate and full compliance with the said recommendations, until such time as it has implemented the recommendations of the Commission of Inquiry.³⁸

This Resolution was originally submitted by the Workers and Employers delegations to the International Labour Conference. The International Labour Conference referred the Resolution to the Selection Committee for examination. The Selection Committee met in closed sessions on June 14 and 15, 1999, discussed proposed amendments to the Resolution, and submitted a report and text of the draft Resolution to the International Labour Conference.

While an overwhelming majority of the delegates to the International Labour Conference supported the emergency Resolution, some Government delegates objected to the inclusion of paragraphs 3(b)³⁹ and 3(c)⁴⁰ in the text of the draft. The Government delegate of Cuba stated that the Resolution contained two separate notions – one referring to the general situation in Burma and one referring to the power to impose sanctions – and that the International Labour Conference did not have the power to impose sanctions, as proposed by paragraphs 3(b) and 3(c).⁴¹ The Government delegate of Cuba, supported by the Government of Mexico, requested that the International Labour Conference vote separately on those parts of paragraph 3.⁴²

The Workers and Employers delegations opposed the motion to put paragraphs 3(b) and

³⁷ ILO, "Resolution on the widespread use of forced labour in Myanmar," paragraph 3(b).

³⁸ ILO, "Resolution on the widespread use of forced labour in Myanmar," paragraph 3(c).

³⁹ Paragraph 3(b) of the Resolution states, "that the Government of Myanmar should cease to benefit from any technical cooperation or assistance from the ILO, except for the purpose of direct assistance to implement immediately the recommendations of the Commission of Inquiry, until such time as it has implemented the said recommendations."

⁴⁰ Paragraph 3(c) of the Resolution states, "that the Government of Myanmar should henceforth not receive any invitation to attend meetings, symposia and seminars organized by the ILO, except such meetings that have the sole purpose of securing immediate and full compliance with the said recommendations, until such time as it has implemented the recommendations of the Commission of Inquiry."

⁴¹ ILO, Provisional Record of the 21st Sitting, 27/12.

⁴² ILO, Provisional Record of the 21st Sitting, 27/11-12.

3(c) to a separate vote. The Government delegate of the U.S. joined them in opposing the request, noting that a majority of the delegates to the International Labour Conference would be against it, and that the motion should therefore be withdrawn.⁴³ In the end, the motion to have a separate vote on paragraphs 3(b) and 3(c) was rejected.⁴⁴

After this vote, the International Labour Conference immediately moved to the emergency Resolution. On June 17, 1999, the “Resolution on the widespread use of forced labour in Myanmar” was adopted by the International Labour Conference with an overwhelming majority of delegates voting in favor of adoption.⁴⁵ The Resolution deplored the GOB’s failure to comply with the recommendations of the COI Report and withdrew 1) technical cooperation or assistance to Burma, except for direct assistance in implementing the recommendations of the COI Report, and 2) future invitations to attend ILO meetings, symposia, or seminars, except for meetings with the sole purpose of securing compliance with the recommendations of the COI Report. This Resolution is unprecedented in the history of the ILO. It does not simply denounce the situation and activities of a country but significantly restricts all contact between Burma and ILO and excludes Burma from almost all participation in the ILO.

II. Recent Allegations of Forced Labor on Infrastructure Development Projects

The Department’s 1998 Report noted that allegations of the use of forced labor on infrastructure development projects was widespread. They included charges that forced labor had been used to construct or repair roads, railway lines, ditches, dams, canals, dikes, airfields, and embankments. Many forced laborers had reported that they worked under very poor conditions with little food, medical care, or rest, and there were repeated reports of gross human rights violations, including beatings, torture and summary execution. The number of people who contributed their labor to infrastructure development projects was so large that the value of their

⁴³ ILO, Provisional Record of the 21st Sitting, 27/12.

⁴⁴ The motion was rejected with 91 in favor, 290 against, and 28 abstentions. ILO, Provisional Record of the 21st Sitting, 27/13.

⁴⁵ The emergency Resolution was adopted by the International Labour Conference with 333 votes in favor, 27 against, and 47 abstentions. ILO, Provisional Record of the 21st Sitting, 27/13.

work in rural development projects had been reported in GOB budget figures.

The findings of the Director-General's 1999 Report and other reports from the ILO, information from the U.S. Embassy in Rangoon, and reports from trade unions and NGOs suggest that forced labor continues to be used on a widespread basis for infrastructure development projects. A large number of the allegations presented in this update relate to the construction and repair of roads. However, there are also numerous allegations that forced labor also continues to be used to build or repair embankments, canals, dykes, and pagodas, and to develop land. Some of the allegations suggest that forced labor continues to be used on infrastructure projects designed to support the tourism industry in Burma. Villagers can avoid forced labor if they pay fees to the authorities, but most individuals do not have enough money to pay on a long-term basis. In addition, many villages appear to have been ordered to supply tools, food, other materials, and transportation for the duration of a given project.

According to Amnesty International, the use of forced labor has decreased in central Burma but is still being reported on a large scale in the seven ethnic minority states surrounding the central Burmese plain.⁴⁶ For instance, three quarters of the Karenni and Shan minority refugees who had been interviewed by Amnesty International in February 1999 stated that they were forced to work on roads and other infrastructure projects such as cultivating crops, transporting logs, digging trenches, and building Buddhist temples.⁴⁷ The GOB asserted that it is attempting to improve the infrastructure of areas which had formerly been affected by fighting between the GOB and armed ethnic minority troops; as a result of this policy, thousands of ethnic minority civilians are forced to work on infrastructure projects on a regular basis.⁴⁸

A. Recent allegations of forced labor on road construction projects

The ILO Director-General's 1999 Report cites numerous allegations that government and/or military authorities continue to use forced labor on road construction and development

⁴⁶ Amnesty International, *Myanmar. Aftermath: Three Years of Dislocation in the Kayah State*, Amnesty International Report ASA 16/14/99 (N.p.: Amnesty International, June 1999) N. pag.

⁴⁷ Amnesty International, *Myanmar: Update on the Shan State*, Amnesty International Report ASA 16/13/99 (N.p.: Amnesty International, June 1999) N. pag. Amnesty International, *Aftermath: Three Years of Dislocation in the Kayah State*, N. pag.

⁴⁸ Amnesty International, *Aftermath: Three Years of Dislocation in the Kayah State*, N. pag.

projects. Specific allegations submitted by the ICFTU to the ILO and contained in interviews conducted and reports published by the Karen Human Rights Group (KHRG) include the following:

- Villagers in Nyaunglebin District were forced to work for up to one month to dig dirt and build new roads (December 1998 - March 1999).⁴⁹
- Members of some 20 villages in Kyauk Kyi township were forced to build a new road from Na Than Gwin to Mone (beginning in January 1999).⁵⁰
- Continued use of forced labor for the construction of the Toungoo - Mawchi road (beginning in October 1998).⁵¹

The ICFTU also submitted copies of a number of orders commanding that people from the villages be sent with their own tools to clear shrub along roads.⁵²

In reply to the Director-General's request for information, the government of a member State detailed allegations that forced labor had been used from August 1998 - May 1999 on a number of projects, including the following:

- Villagers from Htantabin township have been forced to work on earthworks and road construction projects every dry season. The workers were responsible for transportation and food costs.⁵³
- Villagers in Mon State and Tennasserim Division were forced to collect road-building materials and/or widen the trunk road south between Kawthoung and Myeik and between Ye and Dawei.⁵⁴
- Forced labor was used on road projects in Kyaukme and Hsipaw townships in the Shan state.⁵⁵

⁴⁹ ILO, *Report of the Director-General*, paragraph 36.

⁵⁰ ILO, *Report of the Director-General*, paragraph 36.

⁵¹ ILO, *Report of the Director-General*, paragraph 36.

⁵² ILO, *Report of the Director-General*, paragraph 36.

⁵³ ILO, *Report of the Director-General*, paragraph 39.

⁵⁴ ILO, *Report of the Director-General*, paragraph 39.

⁵⁵ ILO, *Report of the Director-General*, paragraph 39.

- Villagers in Arakan (Rakhine) state had to provide labor and collect gravel and other road-building materials, without compensation, for a major road-building project that would link Kyauktaw, Mrauk Oo and Minbya.⁵⁶
- Forced laborers were used on road and bridge-building projects in Maungdaw and Buthidaung. They were paid on occasion.⁵⁷
- Forced labor was used on a new bridge in Myitkyina and support roads.⁵⁸
- Villagers in Paletwa township, southern Chin State, had to provide labor and collect road-building materials for a new trunk road.⁵⁹
- Relocated villagers were forced to work on a road to the Shadaw relocation site (Kayah State). They were paid sporadically with rice.⁶⁰
- Forced labor was used on a new road passing through Thaundaung township (Kayin (Karen) State) into Phasawng township (Kayah State).⁶¹

The U.S. Embassy in Rangoon also reported allegations that forced labor was being used on road construction and repair projects, including the following:

- Villagers built a road from Yay-Way to Ma-Hlaing, Mon-Dine Village, and Bare-Gone Village. Those who did not work were forced to pay 3000 *kyat* per person (beginning in 1999).⁶²
- Villagers were ordered to work on a road between Hle-Seik and Kyun Ngu villages. When some local farmers failed to appear at the appointed time, the local authorities sent a “harsh” letter to the heads of the village wards, warning them to contribute labor on the following day or else pay a fine of 500 *kyat* (April 29, 1999).⁶³

⁵⁶ ILO, *Report of the Director-General*, paragraph 39.

⁵⁷ ILO, *Report of the Director-General*, paragraph 39.

⁵⁸ ILO, *Report of the Director-General*, paragraph 39.

⁵⁹ ILO, *Report of the Director-General*, paragraphs 39 and 44.

⁶⁰ ILO, *Report of the Director-General*, paragraph 39.

⁶¹ ILO, *Report of the Director-General*, paragraph 39.

⁶² U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 15.

⁶³ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 10.

- Villagers had to build a 20-mile road between Myo Tha Town and Tada-Oo Town. About 1000 people are working on the road daily (beginning June 1999).⁶⁴
- Villagers were told to work on the Insein-Nyaung Don road or else pay a fine of 300 *kyat* per family. The local police threatened residents with beatings or detention if they refused and arrested those who could not pay (May 17-30, 1999).⁶⁵
- Civilians were forced to work on completing a section of the Kachanburi-Tavoy highway (October 1998).⁶⁶

Other allegations that forced labor was used on road construction and development projects include the following:

- Villagers were forced to work from dawn until 11:00 pm to build a 50-mile road between Vuangtu village and Thantlang town by May 1999.⁶⁷
- Forced laborers were ordered to dynamite a rocky road and then pick-up the stones while rocks were still falling from above. Soldiers beat and threatened workers who tried to help those who were struck by falling rocks (May 11, 1999).⁶⁸
- A 35-year old Catholic farmer was forced to work on a road from Shadaw to the Pon River for several days without compensation (December 1998).⁶⁹
- Troops arrived at Metta village in the Tavoy area with more than 400 villagers to work on an unfinished section of a highway linking Thailand and Burma. All of the laborers were required to bring their own tools (beginning October 5, 1998).⁷⁰
- People in the Yebyu and Tavoy township were forced to work without compensation to widening the Ye-Tavoy motor road. Villagers had to pay transportation costs to load and

⁶⁴ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 18.

⁶⁵ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 13.

⁶⁶ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 19.

⁶⁷ Chin Human Rights Organization (CHRO), *Rhododendron New Bulletin* Vol. II No. 5 (July 1999): N. pag.

⁶⁸ Chin Human Rights Organization (CHRO), "Slave labour in Thantlang, Chin State," (31 May 1999). CHRO, *Rhododendron New Bulletin* Vol. II No. 5: N. pag.

⁶⁹ Amnesty International, *Aftermath: Three Years of Dislocation in the Kayah State*, N. pag.

⁷⁰ All Burma Students' Democratic Front (ABSDF), "Rangoon forces 'hundreds' to work on Burma-Thai highway," (19 October 1998).

bring the stone to places where they had to be laid. Local battalions allegedly received funds from the government to widen the road but elected to use forced, unpaid labor. They also reportedly took the stones crushed by villagers and sold them for their own profit. Villagers were instructed to carry their own food and tools because the military would not provide such items to the workers (beginning mid-November 1998).⁷¹

B. Recent allegations of forced labor on land development projects

The U.S. Embassy in Rangoon reported several allegations of forced labor being used to develop land. These allegations include several cases in connection with the GOB's project to double the amount of cultivated land by developing 22 million acres of wetlands and virgin lands and the establishment of "labor villages" in order to provide year-round help to entrepreneurs developing the wetlands.⁷²

The Embassy reported additional allegations of the use of forced labor on land development projects through a July 23, 1999 cable, including the following:

- Each village tract from 8 townships in Sagaing Division was told to provide two villagers to work on 500 acres of land per township for a project reclaiming about 4000 acres of virgin land. In addition, each household was required to give 200 *kyat* each for the authorities to buy rice, oil, salt, and provisions (December 1998).⁷³
- Villagers in Sagaing Division, Yinmarbin Township were forced to provide uncompensated labor or else pay 1000 *kyat* per person to reclaim 2000 acres of fallow land for the northwest command. The villagers were told to deny that they were contributing labor if they encountered an army truck and to hide if helicopters flew overhead (the U.S. Embassy noted that such helicopters would probably be military helicopters).⁷⁴
- Villagers in a Sagaing township were forced to clear 1000 acres of land or pay a fine of 3500 *kyat* each.⁷⁵
- Residents of Irawaddy Division were ordered to clear over 100 acres of land as part of a wetlands reclamation project. The government obtained machinery to do the work but

⁷¹ ILO, *Report of the Director-General*, paragraph 35.

⁷² U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 4.

⁷³ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 5.

⁷⁴ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 6.

⁷⁵ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 9.

forced local villagers to pay for the equipment.⁷⁶

- Every household in a series of villages in Pegu Division was ordered to dig 10 pits to clear a dry creek filled with silt (beginning April 30, 1999). In addition, every household in the town of Pegu had to contribute 600 *kyat* for the construction of a moat (May 15, 1999).⁷⁷

C. Recent allegations of forced labor on tourism infrastructure development projects

According to the Department of Labor's 1998 Report, the GOB has allegedly used thousands of people as forced laborers on infrastructure projects designed to support Burma's tourism industry. In 1992, the GOB established a Ministry of Hotels and Tourism, which initially targeted specific areas for tourism development, one of which was the Mandalay area.⁷⁸ The Department's 1998 Report noted several allegations that forced labor was used on various infrastructure development projects in Mandalay; allegations of the use of forced labor on infrastructure projects in that area continue.

The National League for Democracy (NLD) accused the GOB of evicting villagers from their land and using them as forced labor to build an airport road in Mandalay.⁷⁹ A July 23, 1999 cable from the U.S. Embassy in Rangoon supported this allegation, stating that villages have allegedly been relocated and other villages forced to build the temporary entrance to the new Mandalay International Airport.⁸⁰ These villagers were reportedly forced to build a mud road and unload stones from trucks; they also had to repair the road when seasonal rains damaged it.⁸¹ Villagers in Mandalay Division were also allegedly forced to provide labor and collect road-

⁷⁶ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 7.

⁷⁷ National League for Democracy (NLD), "NLD: Statement 69 - Forced Labour in Pegu," (2 June 1999).

⁷⁸ United States, Department of Labor, *Report on Labor Practices in Burma*, (Washington: Department of Labor, September 1998) page 35.

⁷⁹ International Confederation of Free Trade Unions (ICFTU), *ICFTU-APRO Labour Flash* No. 805 (9 July 1999).

⁸⁰ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 8.

⁸¹ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 8.

building materials to improve a trunk road in Thabeikkyin township.⁸²

D. Recent allegations of forced labor on other infrastructure development projects

The Director-General's 1999 Report also listed allegations of the use of forced labor on embankment projects. These allegations, mostly based on reports from the NLD and submitted through the ICFTU, include the following:

- Workers were forced to dig a total of 10,000 pits for the embankment of Sae-ma creek, close to Kayan township. Failure to send a worker resulted in a payment of 1,200-1,500 *kyat* (December 27-31, 1998).⁸³
- Eleven village tracts were forced to give one member of every household to reconstruct a deteriorated embankment on the eastern margin of Kayan township. Failure to send a worker resulted in a penalty of 300 *kyat* (August - September 1998).⁸⁴
- People were called up to work on constructing an embankment to capture water from the creeks and streams running out of the Chin state to irrigate the land (early 1999).⁸⁵
- 3000-4000 people (men, women, minors, and the elderly) were forced to work without compensation to rebuild an embankment along the Ye-Tavoy railway road. Almost all of the villagers in Yebyu, Longlon, Thayet Chaung, and Tavoy townships had to work at the construction sites about 10-15 days every month from June 1998 until the end of the year.⁸⁶

The U.S. Embassy in Rangoon also reported allegations that forced labor was being used on embankment projects. According to the Embassy, villagers were forced to build an embankment in Nga-Thaing-Chuang Township or pay 500 *kyat* per person; a woman who argued that the government had formally announced that there was no forced labor in Burma was allegedly detained for 17 days.⁸⁷ The Embassy also stated that residents of Taung-Dwin-Gyi

⁸² ILO, *Report of the Director-General*, paragraph 39.

⁸³ ILO, *Report of the Director-General*, paragraph 40.

⁸⁴ ILO, *Report of the Director-General*, paragraph 40.

⁸⁵ ILO, *Report of the Director-General*, paragraph 40.

⁸⁶ Cited in ILO, *Report of the Director-General*, paragraph 34.

⁸⁷ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 11.

township were allegedly told to dig a pit to build an embankment or else pay 300 *kyat* (April 9, 1999).⁸⁸ The Ministry for Agriculture and Irrigation set aside fees of 160 *kyat* per pit as labor fees, but the local authorities were reportedly collecting amounts ranging from 300-2000 *kyat* per family to pay for the project.⁸⁹

The NLD, through the ICFTU, submitted allegations to the ILO regarding the use of forced labor for digging canals and building dykes. Other NGOs and the U.S. Embassy in Rangoon also reported allegations of the use of forced labor in canal construction projects.

Specific allegations include the following:

- Villagers were forced to build a canal in the industrial zone of Monywa Township. Families who could not work were forced to pay 800-1000 *kyat* (beginning June 18, 1999).⁹⁰
- One person per household was conscripted from 16 villages in the Myaung Township for a canal construction project. In addition to the forced service, authorities collected approximately 5 million *kyat* (beginning August 1998).⁹¹
- Local government authorities began forcing villagers in Pakokku township to clear all their crops without compensation and work on a large canal project. One villager who protested was subsequently detained (January 1999).⁹²
- Households in Taungdwingi township were forced to provide labor to smaller canal projects or make cash contributions of varying amounts (beginning sometime August 1998 - May 1999).⁹³
- Villagers were required to contribute labor to water projects associated with the Zawgyi dam in south-western Shan State. Some were forced to dig canals which will divert water away from their own fields towards government-run agriculture projects (beginning sometime August 1998 - May 1999).⁹⁴

⁸⁸ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 14.

⁸⁹ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 14.

⁹⁰ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 17.

⁹¹ ILO, *Report of the Director-General*, paragraph 40.

⁹² ILO, *Report of the Director-General*, paragraphs 40 and 44.

⁹³ ILO, *Report of the Director-General*, paragraph 44.

⁹⁴ ILO, *Report of the Director-General*, paragraph 44.

- Households in Waw township, including female-headed households, were being ordered to help rebuild dykes after last year's monsoon season. Those unwilling or unable to contribute any labor were required to hire others to take their place (beginning sometime August 1998 - May 1999).⁹⁵

E. Government of Burma's response to allegations of forced labor on infrastructure development projects

The GOB stated in a June 7, 1999 memorandum to the ILO that it had undertaken a "substantial effort to improve the infrastructure of the country's economy by building roads, bridges, dams and reservoirs."⁹⁶ According to the GOB, the people of Burma recognize the benefits of these infrastructure projects and have traditionally "contributed" labor so that they may be completed more quickly.⁹⁷ Nevertheless, in response to international condemnation of the practice of forced labor, the GOB pledged to use only military troops as labor on national infrastructure projects.⁹⁸ However, there is no evidence that this pledge has been enforced.⁹⁹

IV. Recent Allegations of Forced Labor to Support Military Operations

The Department's 1998 Report noted numerous allegations and reports charging the Burmese military with using forced labor for a variety of tasks. Allegations included the use of forced laborers as porters for troops, support workers in military camps, and laborers for commercial ventures designed to support the military; the most notorious of these allegations involved forced portering.

Reports from the ILO, Amnesty International, the International Confederation of Free Trade Unions (ICFTU), NGOs, and the U.S. Embassy in Rangoon indicate that military authorities continue to use forced labor to support military operations. A large number of the allegations presented in this update relate to the use of forced laborers as porters and sentries for

⁹⁵ ILO, *Report of the Director-General*, paragraph 44.

⁹⁶ Union of Myanmar, "Memorandum of the Government of Myanmar," N. pag.

⁹⁷ Union of Myanmar, "Memorandum of the Government of Myanmar," N. pag.

⁹⁸ General Khin Nyunt, Address to the ASEAN Labor Ministers' Meeting (14 May 1999). Cited in Amnesty International, *The Kayin (Karen) State*, N. pag.

⁹⁹ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 3.

the army, workers in military camps, and workers in commercial ventures designed to profit the military. Reports of human rights abuses, including beatings, torture, summary executions, and starvation often accompany these allegations.

In response to the Director-General's request for information, the ICFTU submitted to the ILO copies of several hundred official, written orders from military authorities demanding that village heads provide laborers to act as porters, repair persons at military camps, or messengers for the military, among other tasks. According to the ICFTU, all of the orders are nearly identical in shape, style, and contents to the forced labor orders examined by the COI and found to be authentic during its investigation.¹⁰⁰ Several dozen orders dated August 1998 – February 1999 ordered villages to send a number of “servants,” “rotation servants,” or “volunteer workers” “without fail” to serve the military.¹⁰¹ In some cases, the number of days of service was indicated but in most cases, the length of the assignment was not specified. The orders sometimes specified that the workers would have to supply their own materials, equipment, food, and money.¹⁰²

In early 1999, Amnesty International interviewed over 100 ethnic minority civilians who had fled to Thailand, every one of whom reported that he or she had been compelled by military authorities to clear forests, build roads and military barracks, and cultivate crops to feed the military.¹⁰³ Three quarters of the dozens of Karenni refugees interviewed by Amnesty International in February 1999 were forced to work by the military as unpaid laborers on military bases, building roads, and clearing land.¹⁰⁴

About 40 documents submitted by the ICFTU to the ILO contained information gathered in interviews conducted and reports published by the Federation of Trade Unions – Burma

¹⁰⁰ ICFTU, “To Mr. Juan Somavia, Director-General.” Cited in ILO, *Report of the Director-General*, paragraph 19.

¹⁰¹ ICFTU, “To Mr. Juan Somavia, Director-General.” Cited in ILO, *Report of the Director-General*, paragraph 26.

¹⁰² ICFTU, “To Mr. Juan Somavia, Director-General.” Cited in ILO, *Report of the Director-General*, paragraph 26.

¹⁰³ Cited in ILO, *Report of the Director-General*, paragraph 24.

¹⁰⁴ Amnesty International, *Aftermath: Three Years of Dislocation in the Kayah State*, N. pag.

(FTUB) and a number of NGOs. They give details of hundreds of cases in which forced labor was exacted from August 1998 – May 1999 for portering, military camp work, sentry duty, and other support work for the military throughout Kayin (Karen) State, Kayah State, Pegu Division, Arakan State, Shan State, Chin State, and Tanintharyi (Tenasserim) Division. The details often included the designation of the military units and/or camps and names of military officers involved, as well as those of villages and of individual victims. In a number of cases, forced labor was reported to have been imposed in circumstances of extreme brutality, involving the destruction of villages, torture, rape, maiming and killing of exhausted, sick or wounded porters, the killing of a non-cooperative village head, and the use of civilians, including women and children, as mine sweepers and human shields.¹⁰⁵

A. Recent allegations of forced labor in the employment of porters and sentries

Forced portering is a particularly harsh form of forced labor that occurs in areas where military troops need people to carry ammunition, food, and other supplies for them. Porters are usually held for at least several days at a time and treated severely – facing beatings, starvation, and even execution – if they complain, cannot carry sufficient supplies, or cannot keep up with the pace of the troops. According to Amnesty International, civilians forced to act as porters are often members of ethnic minority groups since the military is active in areas where armed ethnic minority groups are also active; many women, as well as men, serve as porters.¹⁰⁶

In response to the ILO Director-General's request for information for his May 1999 report to the Governing Body, the government of a member State detailed several allegations that military authorities had demanded porters to carry equipment and goods between August 1998 - May 1999, including the following:

- Households in Myawaddy township were forced to provide porters for military operations against Karen insurgents.¹⁰⁷
- Civilians found traveling outside restricted zones in Kayah state were rounded up to serve

¹⁰⁵ Cited in ILO, *Report of the Director-General*, paragraph 27.

¹⁰⁶ Amnesty International, *The Kayin (Karen) State*, N. pag. Amnesty International, *Aftermath: Three Years of Dislocation in the Kayah State*, N. pag.

¹⁰⁷ ILO, *Report of the Director-General*, paragraph 30.

as porters.¹⁰⁸

- Households in Paletwa township were forced to provide porters to support army movements.¹⁰⁹
- Villagers in Maungdaw, Buthidaung, and Minya townships were forced to serve as porters.¹¹⁰
- Displaced Karen villagers continue to be used for the portering of military supplies.¹¹¹

Reports from Amnesty International also detail specific allegations of forced portering for the military. In February 1999, Amnesty International interviewed dozens of Karen, Karenni, and Shan refugees who had fled Burma for Thailand. They cited several reasons for leaving their homes, including the constant demands for forced labor as porters for troops.¹¹² Villagers also stated that they were frequently required to pay various forms of arbitrary taxes, including fees to avoid forced portering.¹¹³ Three quarters of the Shan refugees interviewed by Amnesty International had been forced to act as porters for troops.¹¹⁴ Specific allegations included the following:

- A 28-year old Baptist farmer from Disakha village tract was seized from Phe Khone township and forced to carry shells, ammunition, food, rice, and office materials. He was beaten when he became too exhausted to walk (October 1998).¹¹⁵
- A 30-year old farmer from Hpa'an District was taken as a porter and never returned. Friends who had been seized with the farmer stated that he had been shot dead and left behind because he could not carry his heavy load (December 1998). The farmer's wife

¹⁰⁸ ILO, *Report of the Director-General*, paragraph 30.

¹⁰⁹ ILO, *Report of the Director-General*, paragraph 30.

¹¹⁰ ILO, *Report of the Director-General*, paragraph 30.

¹¹¹ ILO, *Report of the Director-General*, paragraph 30.

¹¹² Amnesty International, *The Kayin (Karen) State*, N. pag. Amnesty International, *Aftermath: Three Years of Dislocation in the Kayah State*, N. pag.

¹¹³ Amnesty International, *The Kayin (Karen) State*, N. pag.

¹¹⁴ Amnesty International, *Update on the Shan State*, N. pag.

¹¹⁵ Amnesty International, *Aftermath: Three Years of Dislocation in the Kayah State*, N. pag.

stated that she was forced to act as a porter three times after her husband's death.¹¹⁶

- A 42-year old Christian farmer from Hpa'an District was taken regularly, approximately once a month, as a porter. He and his family fled after the last time he was taken in January 1999.¹¹⁷
- A 40-year old Christian farmer from Hpa'an District was forced to act as a porter for five days even though he suffered from an undiagnosed skin disease. He had been forced to porter every month carrying rice and ammunition (December 1998). He died on December 27, 1998.¹¹⁸
- A 33-year old Shan man from Loikaw township was taken by military authorities while he was harvesting crops. He walked with a pronounced limp but was forced to collect food and act as a messenger (October 1998).¹¹⁹
- A 38-year old farmer in Mon State was asked to act as a porter for the military. He refused and was beaten unconscious with sticks. Troops then stabbed him to death (September 1998).¹²⁰
- A 23-year old woman from Murngnai township was forced to carry oil and condensed milk. When she tired and slowed down, she was pushed and kicked. She was not paid and troops took money from her (January 1999).¹²¹
- A 45-year old Catholic farmer was forced to work as a porter carrying from Shadaw to the Pon River (November 1998).¹²²
- A 42-year old Shan farmer had been taken as a porter for 10 days and forced to carry ammunition. He was given so little food that he became weak and unable to walk. A soldier slapped him across the face several times and caught a finger in the farmer's left

¹¹⁶ Amnesty International, *The Kayin (Karen) State*, N. pag.

¹¹⁷ Amnesty International, *The Kayin (Karen) State*, N. pag.

¹¹⁸ Amnesty International, *The Kayin (Karen) State*, N. pag.

¹¹⁹ Amnesty International, *Aftermath: Three Years of Dislocation in the Kayah State*, N. pag.

¹²⁰ Amnesty International, *The Kayin (Karen) State*, N. pag.

¹²¹ Amnesty International, *Update on the Shan State*, N. pag.

¹²² Amnesty International, *Aftermath: Three Years of Dislocation in the Kayah State*, N. pag.

eye, resulting in the permanent loss of sight in that eye (October 1998).¹²³

- A 40-year old Roman Catholic widower was assigned by the village headman to porter for the military and carried shells and ammunition (October 1998).¹²⁴

B. Recent allegations of forced labor in the employment of military camp workers

In reply to the ILO Director-General's request for information for his 1999 report to the Governing Body, the government of a member State reported several allegations that the military demanded labor to perform construction and maintenance work from August 1998 - May 1999, including the following:

- People from several towns in the Shan State were required to contribute labor to prepare for a visit by a senior general. Tasks ranged from menial activities aimed at beautifying the area to providing transport free of charge to the general's convoy.¹²⁵
- Villagers were forced to cut bamboo to supply army camps in Mon State.¹²⁶
- Households in Myawaddy township were routinely forced to provide labor for army camps, including carrying water over long distances.¹²⁷
- Villagers were required to provide support services to army camps in all six townships in Kayah State.¹²⁸
- Villagers in Maungdaw, Buthidaung, and Minbya townships were forced to work in construction and camp maintenance.¹²⁹

The U.N. Special Rapporteur for Burma also noted that it is common practice for the military to

¹²³ Amnesty International, *Update on the Shan State*, N. pag. Cited in ILO, *Director-General's Report*, paragraph 28.

¹²⁴ Amnesty International, *Aftermath: Three Years of Dislocation in the Kayah State*, N. pag.

¹²⁵ ILO, *Report of the Director-General*, paragraph 30.

¹²⁶ ILO, *Report of the Director-General*, paragraph 30.

¹²⁷ ILO, *Report of the Director-General*, paragraph 30.

¹²⁸ ILO, *Report of the Director-General*, paragraph 30.

¹²⁹ ILO, *Report of the Director-General*, paragraph 30.

force villagers to work on military bases.¹³⁰

C. Recent allegations of forced labor on commercial ventures

Documentation submitted by the ICFTU for the Director-General's 1999 Report contains information alleging the use of forced labor on commercial ventures undertaken by the military for profit, including work cultivating rubber plantations operated by the army, digging irrigation ditches to grow rice, producing bricks, and growing beans or other vegetables for the army.¹³¹ Specific allegations that forced labor was used on such projects between August 1998 - May 1999 include the following:

- The army and police forced villagers from Mawlamyaingyun township to contribute labor to a range of income-generating projects, including agriculture, livestock breeding, and brick production. The army reportedly demanded that local truck owners transport finished bricks without payment.¹³²
- Villagers in Maungdaw township were forced to provide labor for government-owned peanut fields while villagers in Eastern Arakan (Rakhine) State had to work on rice and sugarcane fields.¹³³
- Villagers were forced to work on land reclamation projects in Kalay, Monywa and Gangaw townships. At least 10 workers have reportedly died from malaria.¹³⁴
- Forced labor was used on new agricultural projects near Hopong and Taunggyi that are run by private entrepreneurs closely connected with the Government. In Hopong, farmers were reported to be forced to grow soya beans under contract for the army.¹³⁵

In addition, forced laborers are allegedly used in military ventures involving the raising and harvesting of seafood such as fish and prawns (shrimp). The Director-General's Report

¹³⁰ United Nations, Economic and Social Council, Commission on Human Rights, *Situation of human rights in Myanmar: Report of the Special Rapporteur, Mr. Rajsoomer Lallah, submitted in accordance with Commission on Human Rights resolution 1998/63* (Geneva: United Nations, 22 January 1999) paragraph 43.

¹³¹ Cited in ILO, *Report of the Director-General*, paragraph 31.

¹³² ILO, *Report of the Director-General*, paragraph 33.

¹³³ ILO, *Report of the Director-General*, paragraph 33.

¹³⁴ ILO, *Report of the Director-General*, paragraph 33.

¹³⁵ ILO, *Report of the Director-General*, paragraph 33.

noted allegations submitted by the ILO that forced laborers were being used to raise fish.¹³⁶ The army and police reportedly forced villagers from Mawlamyaingyun township to contribute labor to a range of income-generating projects, including fish farming.¹³⁷ An NGO – Images Asia – interviewed a refugee from Burma who stated that almost everyday, particularly during the rainy season, the Na Sa Ka¹³⁸ have been collecting workers, both men and children, and forcing them to work on tiger prawn farms.¹³⁹

The U.S. Embassy in Rangoon also reported allegations that forced labor was used in support for agricultural and other production projects for the military. In a July 23, 1999 cable, the Embassy stated that farmers from 10 villages were reportedly forced to work land which the military had confiscated to grow crops; those who did not contribute labor were forced to pay 500 *kyat*.¹⁴⁰ The Embassy also reported that villagers were allegedly forced to clear land for the military on a 100-acre plot managed by the army in Htan-Ta-Bin township.¹⁴¹

Other allegations that forced labor was used on agricultural and other production projects for the military include the following:

- A military camp commander ordered the leaders of nine village tracts to bring 1500 cane sticks from each village tract to the army camp in order to be sold for the army's profit. The forest where the cane plants grew was far away from one village, so the villagers had to sell their domesticated animals and rice to pay the army *in lieu* of their share of the cane sticks (January 1999).¹⁴²
- A 45-year old farmer from Murngnai township was forced to carry teak logs and grow

¹³⁶ Cited in ILO, *Report of the Director-General*, paragraph 31.

¹³⁷ ILO, *Report of the Director-General*, paragraph 33.

¹³⁸ The combined forces of the army, border police, and immigration officials posted along the Bangladesh border.

¹³⁹ Images Asia, *Additional Submission from Images Asia, Thailand: Labor Practices in Arakan State, Burma* (6 September 1999) Part I, Interview No. 2.

¹⁴⁰ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 11.

¹⁴¹ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 5.

¹⁴² Chin Human Rights Organization (CHRO), *Rhododendron News Bulletin* Vol. II No. 6 (August 1999).

soya beans for the military (January 1999).¹⁴³

- The military used 200-300 forced, uncompensated workers on a daily basis to construct a range of dykes on the coast in Yebyu township. The laborers were conscripted from the more than ten Mon villages of Kywethonnyima village tract. Each village was required to provide 30 to 50 laborers to work on the dyke construction for 15 days per month during the low-tide period (beginning October 1998).¹⁴⁴
- Villagers in Shan state were forced to plant yellow beans for the army, tend the plots, and “do weeding and fencing” for troops at local bases (September 1998).¹⁴⁵
- Army battalions forced villagers to work for periods of up to two weeks splitting rocks near the Salween River crossing of Ta Sarn in Shan state. The rocks were conveyed by the army to large cities where they were sold for 12,000 – 15,000 *kyat* per truckload (throughout 1998).¹⁴⁶

V. Recent Developments Regarding Allegations of Forced Labor in Construction of the Yadana Pipeline

The Department’s 1998 Report looked into repeated allegations that the GOB had used forced labor on the pipeline, that forced labor was used to build support facilities for the pipeline, and that forced labor was used to support the operations of military troops providing security for the pipeline. In addition, there were numerous allegations that the Ye-Tavoy railway, on which the GOB is widely acknowledged to have used forced labor, was being constructed in order to facilitate army operations near and in support of the pipeline.

Oil companies involved with the pipeline vigorously denied allegations of human rights abuses and particularly the association of forced labor with actual pipeline construction.¹⁴⁷ U.S. oil company Unocal Corporation, one of the investors in the Yadana pipeline, has issued a discussion paper titled *Human Rights and Unocal* stating that it has “taken a leadership role in

¹⁴³ Amnesty International, *Update on the Shan State*, N. pag.

¹⁴⁴ ILO, *Report of the Director-General*, paragraphs 41 and 42.

¹⁴⁵ ILO, *Report of the Director-General*, paragraph 32.

¹⁴⁶ ILO, *Report of the Director-General*, paragraph 32.

¹⁴⁷ See Appendix III for an exchange of correspondence between Unocal and Department of Labor officials regarding the 1998 Report and the preparation of the 1999 Report.

assuring that no human rights abuses have occurred in the project's activities. ...From the onset of the project, Unocal has carefully monitored the labor practices followed by the project operator, Total, a French energy company. We have sent our own fact-finding teams to the pipeline area."¹⁴⁸ The same discussion paper also states that "Unocal would not tolerate the use of forced labor or other human rights abuses on any of our projects."¹⁴⁹

There is little new information with regard to the construction of the Yadana Pipeline. Statements reportedly made by the Chair of a French Parliamentary Mission examining the role of oil companies suggest that forced labor may have been used for work on facilities supporting pipeline construction. However, questions regarding the alleged use of forced labor on the pipeline project have yet to be completely resolved, and officials from Unocal Corporation have continued to dispute allegations that forced labor was used on the pipeline and to communicate their concern over the methodology used by the Department of Labor in researching the 1998 Report as well as this update.

In March 1999, a French Parliamentary Mission traveled to Burma and visited the Yadana pipeline project. The Parliamentary Mission, made up of members of the French National Assembly's Foreign Affairs Committee, was formed to evaluate the role of oil companies in international politics as well as their social and environmental impacts worldwide. In addition to field visits to Chad, Cameroon, Burma, Thailand and the United States, the Mission also conducted about 40 hearings in France in the fall of 1998. Persons testifying at the hearings included government officials, representatives of various NGOs, academics, journalists, and representatives of several oil companies.¹⁵⁰

In an interview published in May 1999, the Chair of the Parliamentary Mission stated that "the Burmese army resorted to forced labour for various preliminary works on the building site of the gas pipeline, built thereafter by Total. Some clearings of undergrowth and portering was

¹⁴⁸ Unocal Corporation, *Human Rights and Unocal: A Discussion Paper*, Section titled "Human Rights and Economic Engagement," at <http://www.unocal.com/responsibility/humanrights/hr4.htm>.

¹⁴⁹ Unocal Corporation, *Human Rights and Unocal: A Discussion Paper*, Section titled "Human Rights and Economic Engagement."

¹⁵⁰ Unites States, Department of State, Unclassified Cable from Embassy Paris, No. 012719 (22 July 1999) paragraph 1.

accomplished with forced labour before the Total personnel began the construction of the gas pipeline. Total representatives revealed that when they were informed of these facts, they told the Burmese army that it should cease and so it would have ceased.”¹⁵¹ The Chair of the Parliamentary Mission also reportedly stated that allegations that Total and Unocal have financially supported the Burmese army to ensure the safety of the pipeline were not credible.¹⁵² However, the Mission has thus far not released any report.

VI. Recent Allegations of Forced Relocations

The Department’s 1998 Report noted that, according to the U.S. Embassy in Rangoon, tens of thousands of villagers in Burma have been displaced. The Department observed that forced relocations in Burma generally take two forms that affect both urban and rural populations: 1) as part of urban redevelopment programs, or 2) in the context of counter-insurgency campaigns. While the practice of forcibly relocating villages in Burma started before 1988, the report observed that it seemed to escalate significantly after that year. The area to which villagers were forced to locate were commonly ill-prepared, if at all. People had to buy or build new accommodations on arrival, and there was often no water, sewage, or health care facilities. The Department also noted reports that forcibly relocated villagers had been subjected to forced labor.

Reports from the United Nations, Amnesty International, Human Rights Watch, other NGOs, and the U.S. Embassy in Rangoon indicate that forced relocations are still a serious problem in Burma. Many villagers, particularly in ethnic minority regions, are apparently still subject to forcible relocations, often to relocation sites with very poor living conditions. It also seems as if the practice of forced labor often goes hand in hand with the policy of forced relocations. Specific allegations of forced relocations include the following:

- Villagers from Sai Khao, Kaeng Kham and Kaeng Lom have been forcibly relocated over

¹⁵¹ Marie-Helene Aubert, interview, “Oil Companies Role in International Politics,” *Info Birmaine* (19 May 1999).

¹⁵² Marie-Helene Aubert, interview.

the last two to three years to the outskirts of Kunhing.¹⁵³

- Villages have been relocated to build the temporary entrance to the new Mandalay International Airport.¹⁵⁴
- A 35-year old Christian widow from Hlaingbwe township stated that all of the residents of her village were ordered to leave after fighting broke out between the armies of two different ethnic minority opposition groups. Villagers were told that they would be shot if they did not leave within five days (January 14, 1999).¹⁵⁵

A. Forced relocations and ethnic tensions

The practice of forcibly relocating entire villages and populations of people in Burma is apparently one component of the military's "Four Cuts" counter-insurgency strategy, which severs alleged links of intelligence, food, money, and recruits between armed opposition groups and civilians.¹⁵⁶ In addition to being subject to searches, destruction and burning of houses, and confiscation of property and food, entire communities living in or near combat zones are forced to move to relocation sites subject to strict military control with little or no warning.¹⁵⁷ As a consequence, the ethnic origin or perceived political beliefs of village(s) often play a determining role in whether or not they are forced to relocate.

Human Rights Watch believes that the GOB has stepped up its practice of targeting villagers suspected of supporting ethnic insurgents for relocation. According to this organization, forced relocations were especially prevalent in the central southern Shan state, Kayah (Karenni) state, Karen state, and Tenasserim division, all areas where peace talks or cease fires had broken down in the previous three years.¹⁵⁸ The January 22, 1999 report of the U.N.

¹⁵³ Cited in ILO, *Report of the Director-General*, paragraph 38.

¹⁵⁴ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 8.

¹⁵⁵ Amnesty International, *The Kayin (Karen) State*, N. pag.

¹⁵⁶ Amnesty International, *The Kayin (Karen) State*, N. pag. Amnesty International, *Aftermath: Three Years of Dislocation in the Kayah State*, N. pag.

¹⁵⁷ U.N., *Report of the Special Rapporteur*, paragraphs 37 and 38.

¹⁵⁸ Human Rights Watch, "Burma: Human Rights Developments," *World Report 1999* (N.p.: Human Rights Watch, 1999) N. pag.

Special Rapporteur on the situation of human rights in Burma (hereinafter “Report of the Special Rapporteur”) also noted that the scale of forced relocations had increased significantly after 1996.¹⁵⁹

Reports from Amnesty International support this assessment, noting that hundreds of thousands of ethnic minority civilians in the Karen, Karenni, and Shan states have been forcibly relocated by the military since 1996.¹⁶⁰ In February 1999, Amnesty International interviewed dozens of Karen refugees in Thailand who had fled Burma in late 1998 and early 1999. They cited several reasons for leaving their homes, including forced relocation by the Burmese military, and many of the Karen civilians from Papun District and other areas interviewed by Amnesty International had been forced off their land by the military.¹⁶¹ In the Kayah state, Amnesty International found that forced relocations appear to be carried out solely on account of the ethnic origin or perceived political beliefs of the affected Karenni civilians.¹⁶²

B. Living conditions at relocation sites

Forced relocations place people into life-threatening conditions in relocation centers. According to the 1999 report of the U.N. Special Rapporteur, no particular arrangements are made by the authorities to accommodate forcibly relocated populations.¹⁶³ Relocation centers often have inadequate or entirely lack housing, proper sanitation, safe drinking water, food, and medical care. For example, the Shadaw relocation site, established in mid-1996, is located in a deep valley with very little arable land in the area and a limited water supply.¹⁶⁴ There is often little or no medical care, hypodermic needles are re-used without being cleaned, and many die of diarrhea and malaria.¹⁶⁵

¹⁵⁹ U.N., *Report of the Special Rapporteur*, paragraph 36.

¹⁶⁰ Amnesty International, *The Kayin (Karen) State*, N. pag.

¹⁶¹ Amnesty International, *The Kayin (Karen) State*, N. pag.

¹⁶² Amnesty International, *Aftermath: Three Years of Dislocation in the Kayah State*, N. pag.

¹⁶³ U.N., *Report of the Special Rapporteur*, paragraph 66.

¹⁶⁴ Amnesty International, *Aftermath: Three Years of Dislocation in the Kayah State*, N. pag.

¹⁶⁵ Amnesty International, *Aftermath: Three Years of Dislocation in the Kayah State*, N. pag.

The residents of relocation centers do not possess freedom of movement. According to the report of the U.N. Special Rapporteur, villagers cannot leave the relocation site without a pass, which they have to purchase.¹⁶⁶ Residents of relocation sites are reportedly subject to being shot if found outside of a certain radius of the camp.¹⁶⁷ In one case, an individual who had been forcibly relocated to Kunhing town was given permission by the local authorities to return to his village to collect his cattle; he was caught and shot dead by troops after departing for his village.¹⁶⁸

Unemployment is also a major problem at relocation sites. Because they no longer own land, residents are forced to find work as daily workers. Some are able to find jobs working 12 hours a day for about \$2 per week.¹⁶⁹ However, most are not so fortunate, and income-generating activities are curtailed by the forced, uncompensated labor they have to perform regularly for the military.¹⁷⁰

C. Recent allegations of forced labor at relocation sites

The practice of forced labor often seems to go hand in hand with the policy of forced relocations. The report of the U.N. Special Rapporteur noted that the people most seriously affected by demands for forced labor are those who have been forcibly relocated since they have been forced to leave their land and become wage laborers instead of farmers.¹⁷¹ According to Amnesty International, Shan villagers who were relocated from their villages into larger sites near towns or army bases became sitting targets for forced labor duties by the military, and they were used as a pool of laborers to perform forced labor without pay.¹⁷² In one case, Shan villagers forcibly relocated to Kunhing town were forced to work on a large Buddhist temple in

¹⁶⁶ U.N., *Report of the Special Rapporteur*, paragraph 65.

¹⁶⁷ Amnesty International, *Aftermath: Three Years of Dislocation in the Kayah State*, N. pag.

¹⁶⁸ Amnesty International, *Update on the Shan State*, N. pag.

¹⁶⁹ U.N., *Report of the Special Rapporteur*, paragraph 65.

¹⁷⁰ Amnesty International, *Three Years of Dislocation in the Kayah State*, N. pag.

¹⁷¹ U.N., *Report of the Special Rapporteur*, paragraph 42.

¹⁷² Amnesty International, *Update on the Shan State*, N. pag.

the northern part of Kunhing.¹⁷³

VII. Conclusion

There has been no evident improvement in the situation with respect to forced labor and forced relocations in Burma since the release of the Department of Labor's 1998 Report. Forced labor continues to be used throughout Burma for infrastructure development projects and to support military operations, and allegations of human rights abuses still accompany charges of forced labor on a frequent basis. Forced relocations continue to affect a great number of people, and the incidence of it may even be growing.

The use of forced labor continues to be legal in Burma. The national laws of Burma have not yet been changed to prohibit the practice. Numerous reports received by the ILO Director-General, information from NGOs, and reports from the U.S. Embassy in Rangoon indicated that the Order No. 1/99 issued by the Ministry of Home Affairs does not bring either the *Village Act* or the *Towns Act* in line with the Forced Labor Convention, 1930 (No. 29), and to the knowledge of the ILO, no person has thus far been penalized under section 374 of the Penal Code for imposing forced labor.

In addition, the GOB has never given any indication of the nature of the practical measures it has taken with regard to the ILO Commission of Inquiry's recommendations. The Director-General received many reports from member States of the ILO, international worker organizations, and NGOs detailing numerous incidents in which forced labor was allegedly used for a range of tasks on infrastructure development projects and military support operations.

Other reports and information from the United Nations, NGOs, and the U.S. Embassy in Rangoon also refer to specific projects which allegedly used forced labor. A large number of the allegations with respect to the use of forced labor on infrastructure development projects relate to the construction and repair of roads, but there are also a number of allegations that forced labor continues to be used to build or repair embankments, canals, dykes, and pagodas, and to develop land. Some of the allegations include the continued use of forced labor on infrastructure projects

¹⁷³ Shan Human Rights Foundation, "7-8 year old children forced to work in Kun-Hing," (17 May 1999). Cited in Amnesty International, *Myanmar: Update on the Shan State*, N. pag.

in those areas of the country originally targeted by the Ministry of Hotels and Tourism for tourism development. In addition, reports indicate that the military continues to use forced labor to support military operations. A large number of these allegations relate to the use of forced laborers as porters and sentries for the army, workers in military camps, and workers in commercial ventures by the military.

Forced laborers continue to work under very poor conditions. Villagers are apparently forced to supply their own food, tools, and transportation. There are also repeated reports of human rights abuses, including beatings, torture, starvation, and summary executions.

There is little new information with regard to allegations of forced labor related to the Yadana Pipeline. In March 1999, a French Parliamentary mission traveled to Burma and visited the site of the Yadana pipeline project. In an interview published in May 1999, the Chair of the Parliamentary Mission reportedly stated that the Burmese army had used forced labor for infrastructure work related to the pipeline, but before Total personnel began construction of the pipeline itself. The Chair also reportedly stated that allegations that Total and Unocal have financially supported the Burmese army to ensure the safety of the pipeline were not credible. However, the Mission's report has not yet been released. In addition, officials from Unocal Corporation have continued to dispute allegations that forced labor was used on the pipeline and to communicate their objections to actions and findings by the Department of Labor with regard to the 1998 Report as well as this update.

Forced relocations remain a serious problem in Burma, and the number of people affected by forced relocations may be increasing. Forced relocations place people into life-threatening conditions in relocation centers. The sites often have inadequate or entirely lack housing, proper sanitation, safe drinking water, food, and medical care. Residents of relocation centers do not have freedom of movement. Unemployment is a major problem, and the practice of forced labor often seems to go hand in hand with the policy of forced relocations; villagers forced to relocate near military camps are particularly vulnerable to demands for forced labor by military authorities.

Forced relocations are one component of the military's "Four Cuts" counter-insurgency strategy. As a consequence, the ethnic origin or perceived political beliefs of populations often play a determining role in whether or not they are forced to relocate, and ethnic minorities are

particularly vulnerable to forced relocations. The Report of the U.N. Special Rapporteur also noted that the scale of forced relocations had increased significantly over the past three years.

Because of the GOB's consistent violations of the Forced Labor Convention, 1930 (No. 29) and failure to respond to repeated rulings by supervisory bodies to put an end to forced labor, the ILO's 87th International Labor Conference submitted, discussed, and adopted an unprecedented emergency resolution on the widespread use of forced labor in Burma on June 17, 1999. The Resolution deplored the GOB's failure to comply with the recommendations of the COI Report and withdrew 1) technical cooperation or assistance to Burma, except for direct assistance in implementing the recommendations of the COI Report, and 2) future invitations to attend ILO meetings, symposia, or seminars, except for meetings with the sole purpose of securing compliance with the recommendations of the COI Report. This Resolution is unprecedented in the history of the ILO. It does not simply denounce the situation and activities of a member State but excludes Burma from almost all activities of the ILO.

2000 UPDATE ON FREEDOM OF ASSOCIATION AND THE RIGHT TO BARGAIN COLLECTIVELY

For over 40 years, the ILO has criticized the lack of freedom of association and collective bargaining in Burma. The United Nations, international trade unions, and other organizations have also continued to note failure on the part of the GOB to grant the people of Burma basic worker's rights. These failures include the continued non-recognition of independent trade unions by the Government (there are no independent trade unions operating openly in Burma), lack of legal status and protection for worker organizations, lack of collective bargaining mechanisms, and harassment and imprisonment of individuals suspected of worker's rights activities by government and military authorities.

I. Summary of Findings from the 1998 Report

The Department's 1998 Report noted that the GOB has been criticized for not bringing its laws into compliance with the ILO's Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), refusing to recognize independent trade unions, harassing workers who attempt to organize, and for the absence of collective bargaining. Several Burmese laws relate to freedom of association and union organizing, but each is inconsistent with international standards and ignored in practice.

The ILO Committee of Experts has criticized the lack of freedom of association in Burma for over 40 years. This criticism increased after the 1962 military coup and intensified further after the GOB's suppression of the pro-democracy movement in 1988. Similarly, the ILO's Conference Committee on the Application of Standards has regularly denounced Burma's

violation of Convention No. 87. In 1995, the Conference Committee highlighted the Government's failure to implement this core convention in special paragraphs, and it has continued to do so in each of its reports in subsequent years.

II. Recent Developments Regarding Freedom of Association and the Right to Collective Bargaining

The United Nations, the ILO, international trade unions, and other organizations have continued to report the failure of the GOB to grant the people of Burma freedom of association and the right to collective bargaining. These failures include the continued non-recognition of independent trade unions by the Government (there are no independent trade unions operating openly in Burma), lack of legal status and protection for worker organizations, lack of collective bargaining, and harassment and imprisonment of individuals suspected of worker rights activities by government and military authorities.

A. Recent actions at the International Labour Organization (ILO)

In June 1999, the ILO Credentials Committee for the 87th International Labor Conference noted the lack of representative worker organizations in Burma and deemed the situation “unacceptable.”¹⁷⁴ The Credentials Committee also concluded that the GOB had not complied with its obligation under Article 3 of the ILO Constitution to nominate a workers’ delegate to represent the workers of Burma at the International Labor Conference.¹⁷⁵

The ILO’s Committee on the Application of Standards, for the fourth consecutive year, noted in a special paragraph in its report to the 87th International Labor Conference that Burma has continually failed to eliminate serious discrepancies in the application of the Freedom of

¹⁷⁴ International Labour Organization, Credentials Committee, “Second and Third Reports of the Credentials Committee: Submission and Noting,” *Provisional Record, No. 27* (Geneva: International Labour Organization, June 1999) 27/37.

¹⁷⁵ Article 3, paragraph 1 of the ILO Constitution states, “The meetings of the General Conference of representatives of the Members shall be held from time to time as occasion may require, and at least once in every year. It shall be composed of four representatives of each of the Members, of whom two shall be Government delegates and the two others shall be delegates representing respectively the employers and the workpeople of each of the Members.” Article 3, paragraph 5 goes on to state, “The Members undertake to nominate non-Government delegates and advisers chosen in agreement with the industrial organizations, if such organizations exist, which are most representative of employers or workpeople, as the case may be, in their respective countries.”

Association and Protection of the Right to Organize Convention, 1948 (No. 87).¹⁷⁶ The Committee observed that the laws and practices of Burma diverge significantly from the provisions of Convention No. 87 and deplored the lack of progress and cooperation from the GOB in this regard.¹⁷⁷ It “strongly urged,” once again, that the GOB adopt measures that would guarantee the right to freedom of association, both in legislation and in practice, to all workers and employers.¹⁷⁸ The worker members of the Committee on the Application of Standards observed that both trade unions and collective bargaining were virtually non-existent in Burma.¹⁷⁹

In addition, the ILO Committee of Experts on the Application of Conventions and Recommendations (COE) reiterated “the urgent need” for the GOB to adopt the necessary measures to ensure fully the right to organize and the right to affiliate with international organizations.¹⁸⁰

B. Recent developments within other organizations

In an April 23, 1999 resolution, the U.N. Commission on Human Rights deplored the severe restrictions on the freedom of assembly and association in Burma.¹⁸¹ The resolution went on to “strongly” urge the GOB to ensure full respect for human rights and fundamental freedoms, including freedom of association and assembly.¹⁸²

¹⁷⁶ ILO, *Report of the Committee on the Application of Standards: General Report*, paragraph 198.

¹⁷⁷ ILO, *Report of the Committee on the Application of Standards: General Report*, paragraph 196.

¹⁷⁸ ILO, *Report of the Committee on the Application of Standards: General Report*, paragraph 196.

¹⁷⁹ ILO, *Report of the Committee on the Application of Standards: General Report*, paragraph 116.

¹⁸⁰ International Labour Organization, Committee of Experts on the Application of Conventions and Recommendations, *CEACR: Individual Observation concerning Convention No. 87, Freedom of Association and Protection of the Right to Organise, 1948 Myanmar (ratification: 1955)* (Geneva: International Labour Organization, 1999) N. pag.

¹⁸¹ United Nations, High Commissioner for Human Rights, “Situation of human rights in Myanmar: Commission on Human Rights resolution 1999/17,” (Geneva: United Nations, 23 April 1999) paragraph 4(g).

¹⁸² U.N. High Commissioner for Human Rights, Resolution 1999/17, paragraph 7(b).

The ICFTU has called attention to the “grave” trade union rights situation in Burma,¹⁸³ accusing the GOB of denying all fundamental worker’s rights.¹⁸⁴ Organizations such as the Federation of Trade Unions - Burma (FTUB) are forced to operate underground and are under constant surveillance by the police and military intelligence.¹⁸⁵ In one case, high school students in Burma held demonstrations in August 1999, in part for the right to form a union; according to the All Burma Students’ Democratic Front (ABSDF), these students were detained by military authorities as part of a crackdown to prevent unrest.¹⁸⁶

The ICFTU helped organize an international trade union conference, “Democracy for Burma,” aimed at demonstrating international trade union solidarity with the people and workers of Burma and devising a global strategy to restore democracy and ensure respect for human and trade unions rights. The conference was scheduled to take place in Bangkok, Thailand on May 24 - 26, 1999, but the Government of Thailand decided to ban the conference.¹⁸⁷ The ICFTU rescheduled the conference for July 1999 in India and invited exiled Burmese trade unionists. However, the Government of India also banned the conference, stating that it was “too political.”¹⁸⁸

On October 14, 1998, the International Federation of Chemical, Energy, Mine and General Workers’ Unions (ICEM) sent a letter to the European Commission Vice-President Sir Leon Brittan stating that the GOB “tramples freedom of association under foot.” The letter asked Vice-President Brittan to withdraw a complaint lodged by the European Union (EU) with the WTO asking the organization to rule that the State of Massachusetts rescind its measures

¹⁸³ International Confederation of Free Trade Unions, “ICFTU Briefing Note” for the United Nations Commission on Human Rights - 55th Session (Brussels: International Confederation of Free Trade Unions, 22 March - 30 April 1999).

¹⁸⁴ Luc Demaret, International Confederation of Free Trade Unions, “Asia: repression and crisis,” *ICFTU OnLine* 114/990608/LD (1999): N. pag.

¹⁸⁵ Demaret, “Asia: repression and crisis,” N. pag.

¹⁸⁶ “Myanmar dissidents say 33 students held in south,” Reuters Limited (16 August 1999).

¹⁸⁷ International Confederation of Free Trade Unions, “Thailand blocks conference on democracy in Burma,” *ICFTU OnLine* 101/990521/JK (21 May 1999).

¹⁸⁸ International Confederation of Free Trade Unions, “Indian Government bans Burma democracy conference for political reasons,” *ICFTU OnLine* 134-990702-DD (2 July 1999).

prohibiting companies that are doing business with or in Burma from receiving public contracts from the state.¹⁸⁹

On June 6, 1999, the National Coalition Government of the Union of Burma (NCGUB), Burma's democratically-elected government in exile, issued a statement on the 25th anniversary of the Workers' Movement in Burma. The statement encouraged workers in Burma to take a leading role in the fight for their rights and democracy by progressively confronting the GOB, asserting that workers will never have the freedom of association to form unions under the rule of a military dictatorship.¹⁹⁰

III. Conclusion

The GOB has continued to fail to bring its laws and practices into compliance with the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87). These failures include the continued non-recognition of independent trade unions by the Government (there are no independent trade unions operating openly in Burma), lack of legal status and protection for worker organizations, lack of collective bargaining, and harassment and imprisonment of individuals suspected of worker rights activities. Worker's rights organizations such as the Federation of Trade Unions - Burma (FTUB) are forced to operate underground and are under constant surveillance by the police and military intelligence.

The United Nations, the ILO, international trade unions, and other organizations have continued to report the failure of the GOB to grant the people of Burma freedom of association and the right to collective bargaining. The ILO's Committee on the Application of Standards, for the fourth consecutive year, noted in a special paragraph in its report to the 87th International Labor Conference that Burma has continually failed to eliminate serious discrepancies in the application of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87). The U.N. Commission on Human Rights also deplored the severe restrictions on the freedom of assembly and association in Burma in an April 23, 1999 resolution.

¹⁸⁹ International Federation of Chemical, Energy, Mine and General Workers' Unions, "EU Moves Against Burma Sanctions - World's Unions Protest," *ICEM Update* No. 85/1998 (14 October 1998).

¹⁹⁰ National Coalition Government of the Union of Burma, "Statement on Occasion of Silver Jubilee Workers' Movement," (6 June 1999).

2000 UPDATE ON CHILD LABOR PRACTICES

Allegations that government and military authorities in Burma use forced and abusive forms of child labor have been raised by a number of organizations, including the ILO, the United Nations, Amnesty International and other NGOs, the U.S. Embassy in Rangoon, and the media. Allegations of the use of child labor include reports that children are being used as forced laborers in infrastructure development projects and military support operations. There are also reports that children are being drafted as soldiers. The Government's apparent lack of commitment to primary education continues to be a contributing factor to child labor conditions in Burma.

I. Summary of Findings from the 1998 Report

According to the Department's 1998 Report, child labor appeared to be an endemic problem correlated in large part with widespread poverty and lack of investment by the GOB in primary education. While national laws to protect children were in place, little appeared to be done to enforce them, and exploitive and dangerous forms of child labor had been widely reported, including work on infrastructure development projects, in military support operations, as child soldiers, and in the sex industry.

Children allegedly participated alongside adults when forced labor was demanded by government or military authorities. Households would sometimes send children when they

needed to fulfill forced labor quotas, and it was common to see children doing forced labor in place of adults who need to engage in income-generating labor or helping women who perform forced labor in place of the male members of a family. The Department's 1998 Report also stated that the army viewed children as a cheap source of labor to support the military and as a labor pool from which to draw new soldiers.

II. Recent Developments Regarding Child Labor Practices

Since the Department of Labor's 1998 report was completed, allegations that government and military authorities use forced and abusive forms of child labor continue to be raised by a number of organizations. On April 23, 1999, the U.N. Commission on Human Rights passed a resolution deploring the "continuing violations of the rights of children, in particular through the lack of conformity of the existing legal framework with the Convention on the Rights of the Child, through conscription of children into forced labour programmes, through their military and sexual exploitation and through discrimination against children belonging to ethnic and religious minority groups."¹⁹¹

Allegations of the use of child labor include reports that children are being used as forced laborers in infrastructure development projects and military support operations. There are also reports that children are being drafted as soldiers. In the ILO Director-General's 1999 report, information was provided with regard to families sending children instead of adults to perform forced labor in order to reduce disruptions in adults' income-earning activities.¹⁹² In many cases, the demand for villages to fill forced labor quotas seems so burdensome¹⁹³ that families feel compelled to send their children to meet the demands for forced labor.

A. Education

The Department's 1998 Report noted that despite a compulsory education law, only 40% of children enroll in school and only 25-35% complete the 5-year primary school course. In

¹⁹¹ U.N. Commission for Human Rights, Resolution 1999/17, paragraph 4(e).

¹⁹² Cited in ILO, *Report of the Director-General*, paragraphs 21, 22 and 24.

¹⁹³ See section "1999 Update on Forced Labor and Forced Relocations" for the situation with respect to forced labor.

addition, the military has closed down schools several times. Schools at all levels were closed for much of 1997 out of apparent concern that students might publicly protest or challenge GOB policies, and all universities had been closed at the time the 1998 Report was written. While primary schools have been re-opened, many of the universities remain closed. According to a State Department official, only a couple of medical and vocational schools have been allowed to re-open.

The Government's apparent lack of commitment to primary education continues to be a contributing factor to child labor conditions in Burma. In the case of children who have been forcibly relocated along with the rest of their villages, many are forced to work and help support their families rather than attend school since many schools have been closed or destroyed, and the children often do not speak the language used by the schools at relocation sites.¹⁹⁴ Orphaned and poor boys living in youth centers are reportedly educated only to the primary school level.¹⁹⁵

B. Recent allegations of child labor on infrastructure development projects

Children sent to perform forced labor on infrastructure development projects apparently work alongside adults on the same tasks. The ICFTU submitted to the ILO an April 1999 report by the Shan Human Rights Foundation stating that military authorities in Kunhing township were forcing many children, some as young as 7-8 years old, to break stones for paving roads. According to the report, military authorities had stated that the children were "useless and had nothing to do," and since they could not go to school, they had to work; almost 200 children are allegedly being forced to split stones.¹⁹⁶ Other allegations of the use of child labor on infrastructure development projects include the following:

- Children from 8-15 years of age made up approximately 10% of the workforce on a temple construction project in northern Kunhing. One worker said that the children often worked in place of their parents, who were busy earning money to support the family (February 1999).¹⁹⁷

¹⁹⁴ U.N., *Report of the Special Rapporteur*, paragraph 72.

¹⁹⁵ Shan Herald Agency for News, "SPDC Orders Mobilization of Child Soldiers," (28 July 1999).

¹⁹⁶ Shan Human Rights Foundation, "7-8 year-old children forced to work in Kun-Hing," (17 May 1999). Cited in ILO, *Report of the Director-General*, paragraph 38.

¹⁹⁷ Amnesty International, *Update on the Shan State*, N. pag.

- People from Shadaw relocation site were ordered to work on the road between Shadaw and the Pon River. Each house was required to provide one person to renovate the road after the rainy season. If no man was available, women or children over 12 years old were required to attend instead (November 1998).¹⁹⁸
- In Tada-Oo Township, the Chairman stated that everyone, including children, had been recruited to build a 20-mile road between Myo Tha Town and Tada-Oo Town, which is scheduled to be opened at the end of 1999 (beginning June 1999).¹⁹⁹
- Many children, usually between the ages of 13-15 years, are forced to help maintain dams in Maungdaw. Fathers often send their children to work in their place, and children are required to go if there are no adult males in the family (May 1999).²⁰⁰

C. Recent allegations of child labor to support military operations

Children in Burma are not spared from forced military duties. Some forty documents submitted by the ICFTU to the ILO give details of hundreds of cases in which forced labor was exacted during August 1998 – May 1999 for portering, military camp work, sentry duty, and other support work for the military all over Kayin (Karen) State, Kayah State, Pegu Division, Arakan State, Shan State, Chin State, and Tanintharyi (Tenasserim) Division. The cases include allegations that women and children were used as human mine sweepers and shields.²⁰¹ The Report of the Special Rapporteur also noted that children were often forced to work on military bases constructing or maintaining barracks, bunkers, or fences, or performing menial tasks such as cleaning, weeding, and fetching firewood and water.²⁰² Other allegations that children performed forced labor for the military include the following:

- Ten children from 12-15 years of age were forced to work as porters carrying chicken and dried meat (February 1999).²⁰³

¹⁹⁸ Amnesty International, *Three Years of Dislocation in the Kayah State*, N. pag.

¹⁹⁹ U.S. Department of State, Embassy Rangoon, No. 001936, paragraph 18.

²⁰⁰ Images Asia, Part I, Interview No. 2.

²⁰¹ ILO, *Report of the Director-General*, paragraph 27.

²⁰² U.N., *Report of the Special Rapporteur*, paragraph 43.

²⁰³ Amnesty International, *Update on the Shan State*, N. pag.

- A 15-year old Karenni girl stated that when she was forced to move to Nwa La Bo relocation center at age 13, she could no longer attend school and was forced to work for the military. She was forced to cut grass and carry heavy stones to build roads.²⁰⁴
- A 16-year old girl from Loikaw township was forced repeatedly to build fences and barracks in a military outpost near Paw Th He village.²⁰⁵
- Many women and children were forced to work on constructing four major dykes in the Yebu township instead of the men, who had to work on farms and in other day jobs to produce income for their families' survival. A majority of women and children on several worksites suffered from diarrhea, weakness, and fever resulting from various diseases (late 1998).²⁰⁶

There are also allegations the children are being forced to work in commercial ventures profiting the military. While there are no statistics or studies on the number of children in the workforce and the types of labor they are performing, many families have apparently resorted to sending children instead of adults when forced labor is demanded in order to reduce disruptions in adults' income-earning activities. Therefore, children perform forced labor alongside adults and on the same tasks. Section IV of the COI Report included allegations that child labor was used to cultivate or produce a variety of goods including beans, bricks, fish, rice, shrimp, and wood, and an NGO recently reported that children have been forced to work alongside men on tiger prawn farms.²⁰⁷

Other sources reported that the Burmese high command issued orders to induct and train boys between 12-18 years of age. A major-general in the Northeastern Command allegedly issued a directive to:

- Give boys between 12 - 18 years of age full military training so that they may be prepared to mobilize at any time.²⁰⁸
- Educate Ye Nyunt Youth members only to the primary school level (Ye Nyunt Youth

²⁰⁴ Amnesty International, *Three Years of Dislocation in the Kayah State*, N. pag.

²⁰⁵ Amnesty International, *Three Years of Dislocation in the Kayah State*, N. pag.

²⁰⁶ Cited in ILO, *Report of the Director-General*, paragraph 42.

²⁰⁷ Images Asia, Part I, Interview No. 2.

²⁰⁸ Shan Herald Agency for News, 28 July 1999.

centers provide room, board, and schooling for orphaned and poor boys).²⁰⁹

- Train youth to serve in the reserve forces.²¹⁰
- Compel youth who continue their schooling to join the army when they are 18.²¹¹

III. Conclusion

Allegations that government and military authorities use forced and abusive forms of child labor continued to be raised by a number of organizations. While there are no statistics or studies on the number of children in the workforce and the types of labor they are performing, there are numerous allegations that children are being used as forced laborers in infrastructure development projects and for military support operations. Many families have apparently resorted to sending children instead of adults when forced labor is demanded in order to reduce disruptions in adults' income-earning activities. Therefore, children seem to perform forced labor on infrastructure development projects and work supporting the military alongside adults and on the same tasks.

There are allegations that children have broken stones for paving roads, helped construct temples, and worked on dams. Children also perform forced labor for the military, ranging from camp work to portering. There are also reports that children are being drafted as soldiers and used as human mine sweepers and shields.

The Government's apparent lack of commitment to primary education continues to be a contributing factor to child labor conditions in Burma. Despite a compulsory education law, less than half of the children in Burma enroll in school and only 25-35% of those students complete the 5-year primary school course. In addition, the regime has closed down schools several times since 1988. In the case of children who have been forcibly relocated along with the rest of their villages, many are forced to work and help support their families rather than attend school since many schools have been closed or destroyed, and the children often do not speak the language used by the schools at relocation sites.

²⁰⁹ Shan Herald Agency for News, 28 July 1999.

²¹⁰ Shan Herald Agency for News, 28 July 1999.

²¹¹ Shan Herald Agency for News, 28 July 1999.

U.S. POLICY WITH RESPECT TO BURMA

The U.S. Government (USG) has repeatedly condemned the suppression of democracy and the widespread violation of fundamental human rights that have occurred under the current regime in Burma, deploring, in particular, the pervasive use of forced labor by both government and military authorities. In its effort to address and correct practices of forced labor in Burma, the USG has invoked a variety of political, economic, and other policy measures.

I. U.S. Policy Measures to Increase Pressure on Burma

Since the SLORC unlawfully seized power in 1988, the United States has pursued a steady course of action consisting of economic, political, and military policies designed to support a transition to democratic rule and to document and bring international attention to persistent human rights abuses, including the use of forced labor, in Burma. These efforts include the following:

Economic Actions

- Suspending bilateral economic aid.
- Withdrawing Generalized System of Preferences (GSP) benefits.
- Denying investment facilitation through the Overseas Private Investment Corporation.
- Denying credits from the Commodity Credit Corporation.
- Denying Export-Import Bank assistance.
- Restricting the importation of oil and gas.
- Banning new investments in Burma by U.S. persons by Presidential Order.
- Encouraging other countries to withdraw GSP benefits.²¹²
- Successfully opposing assistance from the International Financial Institutions (IFIs) to

²¹² The European Union suspended Burma's GSP benefits for industrial and agricultural products in December 1996, and Canada suspended GSP tariff preferences for imports of Burmese origin in August 1997.

Burma.²¹³

- Urging other governments to maintain the suspension of much of their bilateral economic aid program, including large scale development assistance.

Diplomatic and Other Actions

- Downgrading diplomatic representation in Rangoon from Ambassador to Charge d'affaires.
- Restricting visas for Burmese nationals who formulate, implement, or benefit from policies impeding Burma's transition to democracy.
- Instituting an arms embargo against the GOB.²¹⁴
- De-certifying Burma as a narcotics cooperating country, which requires the USG, by law, to vote against assistance to Burma by international financial institutions.
- Engaging in multilateral diplomacy to encourage ASEAN, Japan, Korea, China, the EU and other nations to encourage progress by the GOB on the issues of forced labor and the transition of power to a democratically elected government.
- Encouraging other countries such as the EU, Canada and Japan to join in the arms embargo.
- Supporting the efforts of the U.N.'s special envoy for Burma.
- Endorsing U.N. General Assembly resolutions on Burma.²¹⁵
- Endorsing U.N. Commission on Human Rights resolutions on Burma.²¹⁶
- Supporting a series of ILO findings and actions and supporting the adoption of an emergency resolution on Burma.

II. U.S. Denunciation of Burma in Multilateral Fora

Since the Department released its *Report on Labor Practices in Burma* in September 1998, the Administration has continued to condemn the GOB's suppression of democracy and its persistent human rights violations in a variety of multilateral fora, including the Association of Southeast Asian Nations (ASEAN), U.N. Commission on Human Rights (UNCHR), and the U.N. General Assembly (UNGA). The Administration has utilized a variety of multilateral fora

²¹³ The USG has interpreted a 1977 law requiring the U.S. to oppose IFI assistance "to any country found to have a consistent pattern of gross violations of human rights" to apply to Burma.

²¹⁴ The European Union has also banned transfers of military and arms equipment, and there are no EU military attachés in Burma.

²¹⁵ The most recent was U.N. General Assembly, Resolution A/RES/53/162 (25 February 1999).

²¹⁶ The most recent was U.N. Commission on Human Rights, Resolution 1999/17, "Situation of Human Rights in Myanmar," (23 April 1999).

to express condemnation of the current regime in Burma and lead worldwide efforts to bring about change in that country and to document and bring international attention to on-going human rights violations.

A. Association of Southeast Asian Nations (ASEAN)

At a press conference the day before the 6th meeting of the ASEAN Regional Forum, Secretary of State Madeleine Albright made it clear that, despite the reluctance of ASEAN members to criticize one another, she intended to raise the issue of Burma. She stated, “it is essential within this particular context to make sure that it is understood that what is going on in Burma does in fact pose a threat to the stability of the region and therefore an appropriate subject for discussion.”²¹⁷

During the meeting of the ASEAN Regional Forum on July 26, 1999, Secretary Albright criticized Burma’s repressive policies and supported the role of the U.N. in encouraging the GOB to begin dialogue with democratic opposition parties. She stated that:

Burma continues to pose a threat to regional stability because of the government's failure to prevent wide-scale narcotics production and trafficking activities, and because its repressive policies have created strife and caused the outflow of refugees.

The United States urges Burma to shift direction and begin a dialogue with the democratic opposition, including Aung San Suu Kyi, and other representative groups. We support the UN role in encouraging this, and are disappointed that Special Envoy DeSoto has not yet been able to return to Burma, despite several requests over the past six months. We call upon the Burmese authorities to allow such a visit as soon as possible.²¹⁸

B. United Nations General Assembly (UNGA)

With the strong backing of the United States, the 53rd Session of the United Nations General Assembly (UNGA) adopted Resolution 53/162, “Situation of human rights in Myanmar,” on February 25, 1999. The Resolution stated that it was “[g]ravelly concerned at the continuing and consistent violations of human rights in Myanmar [Burma], as reported by the

²¹⁷ Madeleine K. Albright, Statements at press conference, Singapore, 25 July 1999.

²¹⁸ Madeleine K. Albright, Intervention at the 6th ASEAN Regional Forum, Singapore, 26 July 1999.

Special Rapporteur,” and it further deplored several specific continuing human rights violations in Burma, including forced labor, forced relocations, and denial of freedom of association.²¹⁹

Using language that was later adopted by the U.N. Commission for Human Rights, the UNGA strongly urged the GOB to “ensure full respect for human rights and fundamental freedoms, including freedom of association.... to put an end to... forced labour and forced relocations.”²²⁰ It further urged the GOB to “fulfil its obligations as a State party to the Forced Labour Convention, 1930 (No. 29), and to the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and to implement the recommendations of the Commission of Inquiry of the International Labour Organization regarding the implementation of the Forced Labor Convention,”²²¹ and to fulfil its obligations with regard to the Convention on the Rights of the Child.²²²

C. United Nations Commission on Human Rights (UNCHR)

The United States strongly supported the United Nations Commission on Human Rights Resolution 1999/17, “Situation of human rights in Myanmar,” which was adopted on April 23, 1999. The United States delegation in Geneva worked to obtain the passage of the Resolution, which expressed grave concern with “widespread and systematic use of forced labour... and the failure of the Government so far to implement the [Commission of Inquiry’s] recommendation that it ensure the cessation by the authorities, and in particular the military, of such practices.”²²³

The Resolution also deplored the widespread disrespect of the rule of law as well as numerous continuing human rights violations in Burma, as reported by the U.N. Special Rapporteur, including “systematic programmes of forced relocation... and the widespread use of

²¹⁹ United Nations, General Assembly, “Resolution adopted by the General Assembly 53/162: Situation of human rights in Myanmar,” 53rd session of the General Assembly (Geneva: United Nations, 25 February 1999) N. pag.

²²⁰ U.N. General Assembly, Resolution 53/162, paragraph 10.

²²¹ U.N. General Assembly, Resolution 53/162, paragraph 14.

²²² U.N. General Assembly, Resolution 53/162, paragraph 13.

²²³ U.N. High Commissioner for Human Rights, Resolution 1999/17, paragraph 3(c).

forced labour, including for work on infrastructure projects and as porters for the army”²²⁴ as well as the “continuing violations of the rights of children, in particular through the lack of conformity of the existing legal framework with the Convention on the Rights of the Child, through conscription into forced labour programmes, through their military and sexual exploitation, and through discrimination against children belonging to ethnic and religious minority groups.”²²⁵

Finally, the Resolution strongly urged the GOB to “ensure full respect for human rights and fundamental freedoms, including freedoms of expression, association, movement and assembly... and to put an end to... forced labor and forced relocations.”²²⁶ It also strongly urged the GOB to “fulfil its obligations as a State party to the Forced Labour Convention, 1930 (No. 29) and to the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87) of the International Labour Organization and to cooperate with the International Labour Organization, in particular by implementing the conclusions of the Commission of Inquiry.”²²⁷

III. ILO Resolution on Forced Labor in Burma

On June 16, 1999, President Clinton addressed the ILO’s 87th International Labor Conference in Geneva, Switzerland. In his speech to the Conference, he singled out the Government of Burma for its flagrant violations of human rights and continued defiance of the ILO’s fundamental values. He stated that:

Today, one member State, Burma, stands in defiance of the ILO’s most fundamental values and most serious findings. The Director-General has just reported to us that the flagrant violation of human rights persists, and I urge the ILO Governing Body to take definite steps. For Burma is out of step with the standards of the world community and the aspirations of its people. Until people have the right to shape their destiny, we must stand

²²⁴ U.N. High Commissioner for Human Rights, Resolution 1999/17, paragraph 4(a).

²²⁵ U.N. High Commissioner for Human Rights, Resolution 1999/17, paragraph 4(e).

²²⁶ U.N. High Commissioner for Human Rights, Resolution 1999/17, paragraph 7(b).

²²⁷ U.N. High Commissioner for Human Rights, Resolution 1999/17, paragraph 7(j).

by them and keep up the pressure for change.²²⁸

President Clinton is the first U.S. President to address the ILO in Geneva since its creation in 1919, and his presence underscored the U.S. commitment to labor rights around the globe. The President's decision to single out Burma for denunciation at this important and historic moment illustrated the high priority that he places on ending the human rights and worker's rights abuses occurring in Burma.

Furthermore, the President's address, with its condemnation of Burma, occurred just one day before the International Labour Conference was scheduled to vote upon an emergency resolution addressing forced labor in Burma. The U.S. delegation took a leading role in supporting this Resolution. During the discussion of the Resolution at the International Labor Conference, the Government delegate from the United States lent strong support to the Resolution, stating that:

We have before us a most grave, most serious and most troubling issue -- the widespread use of forced labor in Burma, a widespread and continuing use that stands in clear and repeated defiance of the most urgent appeals and recommendations of every supervisory procedure of this Organization. ...

Yesterday, in his address to this Conference, President Clinton clearly placed on the record my Government's support for the efforts the ILO, and our Director-General, have already taken to insist on compliance by Burma.

We also, of course, strongly support the resolution introduced by the Workers and Employers. It seems to us that the reasons for the very strong views about this matter felt by the Organization are to be found in the conclusions and recommendations of the Commission of Inquiry report submitted to us last year. ...

Let me cite ... the last paragraph from the Commission of Inquiry:
"This report reveals a saga of untold misery and suffering, oppression and exploitation of large sections of the population by the Government, military and other public officers. It is a story of gross denial of human rights to which the people of Myanmar have been subjected particularly since 1988 and from which they find no escape,

²²⁸ William J. Clinton, Address, 87th Session of the International Labour Organization International Labor Conference, Geneva, 16 June 1999.

except fleeing from the country. The Government, the military and the administration seem oblivious to the human rights of the people and are trampling them with impunity. Their actions gravely offend human dignity.”²²⁹

This Resolution is unprecedented in the history of the ILO – it does not simply denounce the situation and activities of a member State but significantly restricts all contact between Burma and ILO.²³⁰ The resolution withdraws ILO technical cooperation or assistance to Burma, except for direct assistance in implementing the recommendations of the COI Report and withdraws future invitations to attend ILO meetings, symposia, or seminars, except for meetings with the sole purpose of securing compliance with the recommendations of the COI Report. These actions are to remain in force until Burma has implemented the recommendations of the ILO Commission of Inquiry, and the situation in Burma will remain on the agendas of subsequent Governing Body and International Labor Conference meetings. Some press accounts reported the Resolution as a *de facto* expulsion of Burma from the ILO.²³¹

IV. Conclusion

The Administration has repeatedly condemned the suppression of democracy and the widespread violation of fundamental human rights that have occurred under the current regime in Burma and has deplored, in particular, the pervasive use of forced labor by both government and military authorities. In an effort to support a transition to democratic rule and to encourage an end to persistent human rights abuses, including the use of forced labor, in Burma, the Administration has used a variety of political, economic, and other policy

²²⁹ ILO, Provisional Record of the 21st sitting, 27/10.

²³⁰ Article 33 of the ILO Constitution states, “In the event of any Member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Inquiry, or in the decision of the International Court of Justice, as the case may be, the Governing Body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith.”

²³¹ Communications International, *News* No. 6 (June 1999).

measures. Such measures include economic sanctions, withdrawal of aid, an arms embargo, and a ban on investment in Burma.

The Administration has also brought persistent and high level denunciations of the GOB in a variety of multilateral fora, including the ILO, Association of Southeast Asian Nations (ASEAN), the U.N. Commission on Human Rights (UNCHR), and the U.N. General Assembly (UNGA). The United States has utilized these fora to express condemnation of the current regime in Burma and led worldwide efforts to support change in that country, as well as to document and bring international attention to the gross violations of human rights in Burma.

On June 16, 1999, President Clinton addressed the ILO's 87th International Labor Conference in Geneva Switzerland. In his speech to the Conference, he singled out the Burmese regime for its flagrant violations of human rights and continued defiance of the ILO's fundamental values. The President's address underscored the U.S. commitment to labor rights around the globe, and illustrated the high priority that the United States places on ending the human rights and worker's rights abuses in Burma.

The President's denunciation of Burma in his address was also significant because it occurred the day before the International Labor Conference was scheduled to consider an emergency Resolution addressing forced labor in Burma. The adoption of such a Resolution is unprecedented in the history of the ILO – it does not simply denounce the situation and activities of a member State but significantly restricts all contact between Burma and ILO. Some press accounts reported the Resolution as a *de facto* expulsion of Burma from the ILO.

CONCLUSION

There has been little change and no evident improvement in labor conditions in Burma since the Department of Labor released its *Report on Labor Practices in Burma* in September 1998. Forced labor, including child labor, continues to be used on a widespread basis throughout the country on infrastructure development projects and to support military operations. The incidence of forced relocations continue to affect a large number of people in the country and may even be increasing, particularly in ethnic minority areas. Freedom of association continues to be denied in Burma and there are no legal trade unions. However, while the circumstances in Burma may not have improved, the international community has taken significant action against the current regime through the ILO's adoption of an emergency resolution on forced labor in Burma.

Nevertheless, forced labor continues to be used with impunity by authorities throughout Burma, and numerous reports received by the ILO Director-General, information from NGOs, and reports from the U.S. Embassy in Rangoon indicate that the Government of Burma (GOB) has not yet implemented the recommendations of the ILO Commission of Inquiry's Report. The GOB has never given any indication of the nature of the practical measures it was taking with regard to such recommendations.

Forced labor is apparently used on a widespread basis for infrastructure development projects, including the construction and repair of roads,

embankments, canals, dykes, and pagodas and to develop land. Some allegations suggest that forced labor continues to be used on infrastructure projects designed to support the tourism industry in Burma. Forced labor also continues to be reported in military operations, with people being forced to work as porters, sentries, military camp workers, and laborers for commercial ventures designed to profit the military. Some villagers can avoid forced labor if they pay fees to the authorities, but most individuals do not have enough money to pay on a long-term basis.

Allegations of extremely harsh working conditions and human rights abuses continue to accompany charges of forced labor. Many villagers appear to have been ordered to supply their own tools, supplies, food, and transportation for the duration of a given project. There are continuing reports of beatings, torture, starvation, and summary executions. Individuals forced to act as porters for the military reportedly continue to be used as human mine sweepers and shields. Women working as forced laborers are reportedly raped. Forced labor may also be more targeted at ethnic minorities.

The use of forced labor continues to be legal in Burma. The national laws of Burma have not been changed to prohibit the practice. Order No. 1/99 issued by the Ministry of Home Affairs does not bring either the *Village Act* or the *Towns Act*, the two major pieces of national legislation authorizing the use of forced labor, in line with the Forced Labor Convention, 1930 (No. 29). In addition, to the knowledge of the ILO, no person has thus far been penalized under section 374 of the Penal Code for imposing forced labor.

There is little new information with regard to allegations of the use of forced labor in construction of the Yadana Pipeline. Statements reportedly made by the Chair of a French Parliamentary mission examining the role of oil companies suggest that forced labor may have been used for work supporting pipeline construction. However, questions regarding the alleged use of forced labor on the pipeline have yet to be completely resolved, and officials from Unocal Corporation have continued to dispute allegations that forced labor was

used on the pipeline and to communicate their concern over the methodology used by the Department in researching the 1998 Report as well as this update.

Because of the GOB's consistent violations of the Forced Labor Convention, 1930 (No. 29) and failure to respond to repeated rulings by supervisory bodies to put an end to forced labor, the ILO's 87th International Labor Conference submitted, discussed, and adopted an emergency resolution on the widespread use of forced labor in Burma on June 17, 1999. The Resolution deplored the GOB's failure to comply with the recommendations of the COI Report and withdrew 1) technical cooperation or assistance to Burma, except for direct assistance in implementing the recommendations of the COI Report, and 2) future invitations to attend ILO meetings, symposia, or seminars, except for meetings with the sole purpose of securing compliance with the recommendations of the COI Report.

With respect to forced relocations, reports from the United Nations, NGOs, and the U.S. Embassy in Rangoon indicated that forced relocations are still a serious problem in Burma. These relocations place people into life-threatening conditions. Relocation sites often have inadequate or entirely lack housing, proper sanitation, safe drinking water, food, and medical care. Residents of relocation centers do not have freedom of movement, and unemployment is a major problem.

The practice of forced labor often seems to go hand in hand with the policy of forced relocations. The people most seriously affected by demands for forced labor are those who have been forcibly relocated since they have been forced to leave their land and become wage laborers instead of farmers. Villagers forced to relocate near military camps are particularly vulnerable to demands for forced labor by military authorities.

A large number of villagers are subject to forced relocations, particularly ethnic minorities. The practice of forcibly relocating entire villages and populations of people in Burma is one component of the military's "Four Cuts" counter-insurgency strategy. As a consequence, the ethnic origin or perceived

political beliefs of populations often play a determining role in whether or not they are forced to relocate, and ethnic minorities are particularly vulnerable to forced relocations. The GOB may have stepped up its practice of targeting villagers suspected of supporting ethnic insurgents for relocation.

With respect to freedom of association, the GOB continued to fail to bring its laws and practices into compliance with the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87). These failures include the continued non-recognition of independent trade unions by the Government (there are no independent trade unions operating openly in Burma), lack of legal status and protection for worker organizations, lack of collective bargaining, and harassment and imprisonment of individuals suspected of worker's rights activities. Worker rights organizations such as the Federation of Trade Unions - Burma (FTUB) are forced to operate underground and are under constant surveillance by the police and military intelligence.

The United Nations, the ILO, international trade unions, and other organizations have continued to note failure on the part of the GOB to grant the people of Burma freedom of association and the right to collective bargaining. The ILO's Committee on the Application of Standards, for the fourth consecutive year, noted in a special paragraph in its report to the 87th International Labor Conference that Burma has continually failed to eliminate serious discrepancies in the application of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87). The U.N. Commission for Human Rights also deplored the severe restrictions on the freedom of assembly and association in Burma in an April 23, 1999 resolution.

With respect to the use of child labor, allegations that government and military authorities use forced and abusive forms of child labor continued to be raised by a number of organizations. There are numerous allegations that children are being used as forced laborers in infrastructure development projects and for military support operations. Many families have apparently resorted to sending children instead of adults when forced labor is demanded in order to reduce

disruptions in adults' income-earning activities. Therefore, children perform forced labor on infrastructure development projects and work supporting the military alongside adults and on the same tasks. There are allegations that children have broken stones for paving roads, helped construct temples, and worked on dams. Children also perform forced labor for the military, ranging from camp work to portering, and there are reports that children are being drafted as soldiers and used as human mine sweepers and shields.

The Government's apparent lack of commitment to primary education continues to be a contributing factor to child labor conditions in Burma. Despite a compulsory education law, less than half of the children in Burma enroll in school and only 25-35% of those students complete the 5-year primary school course. In addition, the regime has closed down schools several times since 1988. In the case of children who have been forcibly relocated along with the rest of their villages, many are forced to work and help support their families rather than attend school since many schools have been closed or destroyed, and the children often do not speak the language used by the schools at relocation sites.

The Administration has repeatedly condemned the suppression of democracy and the widespread violation of fundamental human rights that have occurred under the current regime in Burma and has deplored, in particular, the pervasive use of forced labor by both government and military authorities. In an effort to support a transition to democratic rule and to encourage an end to persistent human rights abuses, including the use of forced labor, in Burma, the Administration has used a variety of political, economic, and other policy measures. Such measures include economic sanctions, withdrawal of aid, an arms embargo, and a ban on investment in Burma.

The United States has also brought persistent and high level denunciations of the GOB in a variety of multilateral fora, including the ILO, Association of Southeast Asian Nations (ASEAN), U.N. Commission on Human Rights (UNCHR), and the U.N. General Assembly (UNGA). The Administration has utilized these fora to express condemnation of the current regime in Burma, to

lead worldwide efforts to support change in that country, and to document and bring international focus to the gross violations of human rights in Burma.

On June 16, 1999, President Clinton addressed the ILO's 87th International Labor Conference in Geneva, Switzerland. In his speech to the Conference, he singled out the Burmese regime for its flagrant violations of human rights and continued defiance of the ILO's fundamental values. The President's address underscored his commitment to labor rights around the globe and illustrated the high priority that he places on ending the human rights and worker's rights abuses in Burma.

The President's denunciation of Burma in his address was also significant because it occurred the day before the International Labor Conference was scheduled to consider an emergency resolution addressing forced labor in Burma. The adoption of this Resolution is unprecedented in the history of the ILO – it does not simply denounce the situation and activities of a member State, but significantly restricts all contact between Burma and the ILO. As some press accounts reported, the Resolution amounts to a *de facto* expulsion of Burma from the ILO.

APPENDIX I

U.S. Department of Labor *Federal Register* Notice for Public Submission of Information

DEPARTMENT OF LABOR

Office of the Secretary; Bureau of International Labor Affairs; Notice for Public Submissions of Information on Labor Practices in Burma

The Department of Labor (DOL) is currently undertaking a Congressionally-mandated report addressing labor practices in Burma (pursuant to the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 § 564, Pub. L. 105-277, 112 Stat 2681, 2681-193). House Conference Report No. 105-825 requests that DOL provide comprehensive details on child labor practices, workers' rights, forced relocation of laborers, forced labor performed to support the tourism industry, and forced labor performed in conjunction with, and in support of, the Yadonna gas pipeline. In addition, the report should address whether the Government of Burma is in compliance with international labor standards and should provide details regarding the U.S. Government's efforts to address and correct practices of forced labor in Burma. This report will update the findings of the Congressionally-mandated report, "Report on Labor Practices in Burma," which was published by DOL in September 1998, pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1998 § 568, Pub. L. 105-118, 111 Stat 2386, 2429).

This document is a notice for public submissions for the purpose of gathering information regarding labor practices in Burma. DOL is now accepting written submissions on this subject matter from all interested parties. The Department is not able to provide financial assistance to those preparing written submissions.

Information provided through written submissions will be considered by the Department of Labor in preparing its report to Congress. Materials submitted should be confined to the specific topic of the study. Copies of the 1998 report can be obtained from the DOL website at <http://www.dol.gov/dol/ilab> or by calling DOL's Bureau of International Labor Affairs, Office of Foreign Relations at (202) 219-7616.

This Notice is a general solicitation of comments from the public. The Department is seeking facts or opinions in response to this Notice and is not requiring commenters to supply specific information about themselves.

DATES: Individuals submitting information will be required to provide two (2) copies of their written submissions to the Bureau of International Affairs by 5:00 p.m., Friday, August 20, 1999 at the address noted below.

ADDRESSES: Written submissions should be addressed to the Bureau of International Affairs, U.S. Department of Labor, Attention: Sue Hahn, Room S-5006, 200 Constitution Avenue, NW, Washington, DC 20210. Individuals may also submit their information via fax at the following FAX number: (202) 219-5613.

FOR FURTHER INFORMATION CONTACT: Sue Hahn, Bureau of International Labor Affairs, U.S. Department of Labor, Room S-5006, 200 Constitution Avenue, NW, Washington, DC 20210; telephone: (202) 219-9403, ext. 161; fax: (202) 219-5613. All written comments submitted pursuant to this notice will be made part of the record of review and will be available for public inspection.

Signed at Washington, DC, this 15th day of July, 1999.

Andrew J. Samet,
Deputy Under Secretary, Bureau of International Labor Affairs.

[FR Doc. 99-18596 Filed 7-20-99; 8:45 am]

BILLING CODE 4510-28-P

APPENDIX II

ILO Resolution on Forced Labor in Burma

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

The International Labour Conference,

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

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

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

Recalling the decision of the Governing Body to place on the agenda of its November 1999 session an item entitled: "Measures, including recommendations under article 33 of the ILO Constitution, to secure compliance by the Government of Myanmar with the recommendations of the Commission of Inquiry",

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

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

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

1. Deeply deplores that:
 - (a) the Government has failed to take the necessary steps to bring the relevant legislative texts, in particular the Village Act and Towns Act, into line with the Forced Labour Convention, 1930 (No. 29), by 1 May 1999, as recommended by the Commission of Inquiry;
 - (b) at the end of the twentieth century, the State Peace and Development Council (SPDC) has continued to inflict the practice of forced labour — nothing but a contemporary form of slavery — on the people of Myanmar, despite repeated calls from the ILO and from the wider international community for the past 30 years;
 - (c) there is no credible evidence that those exacting forced labour in Myanmar have been punished under section 374 of the Penal Code;
2. Reaffirms that this issue should be further considered by the Governing Body in November 1999.
3. Resolves:
 - (a) that the attitude and behaviour of the Government of Myanmar are grossly incompatible with the conditions and principles governing membership of the Organization;
 - (b) that the Government of Myanmar should cease to benefit from any technical cooperation or assistance from the ILO, except for the purpose of direct

assistance to implement immediately the recommendations of the Commission of Inquiry, until such time as it has implemented the said recommendations;

- (c) that the Government of Myanmar should henceforth not receive any invitation to attend meetings, symposia and seminars organized by the ILO, except such meetings that have the sole purpose of securing immediate and full compliance with the said recommendations, until such time as it has implemented the recommendations of the Commission of Inquiry.

APPENDIX III

Response to Correspondence Received from the Unocal Corporation

Response to Correspondence Received from the Unocal Corporation

After the release of the Department of Labor's 1998 Report, Roger C. Beach, Chairman and CEO of Unocal Corporation, wrote to Secretary of Labor Alexis Herman on September 30, 1998, expressing the following concerns about the sections of the Department's 1998 Report dealing with the Yadana pipeline:

- (1) the Report repeats "unsubstantiated and outrageous allegations about labor practices in the Yadana project." The repetition in the Report of "these allegations, unsupported by credible evidence of independent proof, does not provide a basis for the Labor Department findings";
- (2) the Report "seriously misrepresents the Department's efforts to verify independently ... [the] scurrilous allegations through a visit to Burma. In fact, the lead investigator and a State Department employee were granted visas. Unocal made arrangements for this investigator to meet with appropriate officials of Total, the project operator and to have access to the pipeline area. Despite these arrangements, the trip was vetoed by Labor Department management"; and
- (3) to prepare the Report, "the Department of Labor hired, without competitive bid, a 'research consultant.'" This individual "has been a prominent activist on this issue and a source of these false allegations for years." This individual "is not qualified to serve as paid consultant to a supposedly objective report to the Congress of the United States."²³²

Mr. Beach's letter requested that the Inspector General of the Department of Labor investigate: (1) charges and allegations in the Report that are unsupported by credible evidence or independent proof; and (2) whether Department officials knew about a conflict of interest involving the "research consultant" and whether this "consultant misrepresented himself as a Labor Department employee to people he sought to interview in Asia."²³³

In another letter to Secretary of Labor Alexis M. Herman dated October 23, 1998, Mr. Beach stated: "I can assure you that Unocal does not, and will not

²³² Roger C. Beach, letter to Secretary of Labor Alexis M. Herman, 30 September 1998. See Attachment 1.

²³³ Roger C. Beach, 30 September 1998. See Attachment 1.

use – or countenance the use of – forced labor in any of its projects or investments, as ... [the Department’s 1998 Report] so falsely and irresponsibly implies. We have repeatedly offered US Embassy officials the opportunity to visit the Yadana project pipeline route, including stops at all 13 nearby villages. Several have done so. None has ever called our actions into question or presented even a scintilla of evidence to us that forced labor has been used on the project. Had they done so, we would have investigated any such claims immediately, and have taken corrective action.” Mr. Beach further stated that the Department “did not avail itself of the opportunity to visit the project as it prepared the report” and called again for an investigation by the Secretary and the Inspector General of the Department of Labor regarding “the method and apparent bias with which... [the 1998 Report] was prepared.”²³⁴

Secretary of Labor Alexis M. Herman responded to both of Mr. Beach’s letters on November 23, 1998. Secretary Herman acknowledged receipt of correspondence expressing “concerns about the objectivity of the report in relation to labor practices on the Yadana Project and our contracting process.” Secretary Herman stated that Mr. Beach’s letters “have been referred to the Inspector General for his review and direct response to you.”²³⁵

Also on November 23, 1998, Department of Labor Inspector General Charles C. Masten wrote to Mr. Beach with regard to his investigation of concerns expressed regarding the 1998 Report, specifically: (1) the objectivity of the report in relation to labor practices on the Yadana project; (2) the cancellation of a planned trip to Burma; and (3) the Department’s contracting process.

The Inspector General responded as follows:

- (1) “[The Department of] Labor’s Bureau of International Labor Affairs (ILAB), in consultation with the State Department, was given the task of researching the issue and assembling the necessary information in order to issue the required report. This particular report is the result of a compilation of information from various reliable existing sources and

²³⁴ Roger C. Beach, letter to Secretary of Labor Alexis M. Herman, 23 October 1998. See Attachment 2.

²³⁵ Secretary of Labor Alexis M. Herman, letter to Roger C. Beach, 23 November 1998. See Attachment 3.

primary data gathered by individuals knowledgeable of the issues, peoples and culture of the surrounding area”;

- (2) “... the decision not to proceed with the trip [to the pipeline area] appears to have been made on the fact that visas were unavailable for everyone on the research team. Moreover, we have also learned that repeated requests at a later date were ignored by the Government of Burma”; and
- (3) “... the consultants hired to conduct the research and draft the report appear to have extensive experience in both labor law and reporting human rights practices in Burma and surrounding areas. Their expertise in this area as well as their availability to work on a temporary basis on short notice were the sole factors on which they were selected. ... As you know, identifying individuals with specific expertise on issues such as this one is a challenge. However, ILAB appears to have involved individuals who were capable of doing an objective job. Our review determined that ILAB was aware of the background of the individual researchers contracted to carry out the project and the Deputy Under Secretary of ILAB is confident that objectivity in assembling the information has not been compromised in any way. ... Finally, our review disclosed that ILAB adhered to the contracting procedures for small purchase orders as required, and we did not find any irregularities.”²³⁶

The Department’s 1998 Report also detailed the circumstances surrounding the issuance of visas for the Department of Labor research team to visit Burma. In that report, the Department stated that on February 5, 1998, it had submitted a request to the Burmese Embassy in Washington for a three-person team (two Department of Labor officials and a State Department official from the Bureau of Democracy, Human Rights, and Labor) to visit Burma from February 23 - March 6, 1998. The State Department’s East Asia and Pacific Affairs Bureau (EAP) desk also requested a visa from the Burmese Embassy in Washington, DC in order to accompany the team and pursue separate consultations after the team’s visit. Plans were made for the team to travel during that period, and a potential list of interviews was prepared in collaboration with the Department of State. However, on February 23, the day the team was scheduled to arrive in Rangoon, the Department was informed by the Burmese Embassy in Washington that

²³⁶ Inspector General Charles C. Masten, letter to Roger C. Beach, 23 November 1998. See Attachment 4.

permission for visa issuance had been granted by authorities in Rangoon for only one of the three team members and for the State EAP desk officer. On February 25, the Department sent a second request to the Burmese Embassy for visas for the other two team members but received no response. Because of the delay and the refusal of the GOB to grant access to the full research team, the Department chose not to proceed with its visit to Burma.

Unocal has also communicated with the Department with regard to the preparation of the 1999 update report. In response to the notice published in the *Federal Register* on July 21, 1999 intended to gather information from the public to assist the Department of Labor in preparation of the 2000 update report, J. William Ichord, Vice President, Washington Office, Unocal Corporation, wrote on August 20, 1999, to the Bureau of International Labor Affairs stating:

[W]e observe that the Department's solicitation appears to encourage unsubstantiated submissions including the type of misinformation that has characterized so much of the discussion on labor practices in Burma in the past. Specifically, the House Conference Report (No. 105-825) "requests that DOL provide comprehensive details on ... [various labor issues]." In contrast, the Department's solicitation reads: *The Department is seeking facts or opinions in response to this Notice and is not requiring commenters to supply specific information about themselves.* (Emphasis added)

Congress is requesting comprehensive factual information and confirmed details. The Department, however, is soliciting anonymous and unsubstantiated opinion without limitation as to time, location or other specifics. We believe anything less than a careful, factual report is inconsistent with Congress' directive. We hope that information provided to the department – especially anonymous information – will be subject to careful analysis and verification.²³⁷

On November 22, 1999, the Department of Labor replied to Mr. Ichord, clarifying that the statement in question was included in the *Federal Register* notice to signify that the Department was operating in accordance with the requirements of the Paperwork Reduction Act, as amended, 44 U.S.C. 3501 et.

²³⁷ J. William Ichord, letter to Bureau of International Labor Affairs, 20 August 1999. See Attachment 5.

Seq.²³⁸ The Paperwork Reduction Act requires all Federal agencies to seek and obtain approval from the Office of Management and Budget (OMB) before undertaking a “collection of information” directed to 10 or more persons, in order to ensure that paperwork burdens on the public are evaluated and minimized. “Information” is broadly defined in the Act and the implementing OMB regulations (5 C.F.R. 1320.3(h)) and includes “any statement or estimate of fact or opinion, regardless of form or format.” Those same regulations, however, also state that:

“Information” does not generally include....

(4) Facts or opinions submitted in response to general solicitations of comments from the public, published in the *Federal Register* or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency’s full consideration of the comment.

Therefore, the language, “This Notice is a general solicitation of comments from the public. The Department is seeking facts or opinions in response to this Notice and is not requiring commenters to supply specific information about themselves...,”²³⁹ tracks the language in the OMB regulations, and it is the same as language which has been used by the Department in other *Federal Register* notices. The language used in the *Federal Register* notice in no way should be construed to suggest that the Department of Labor is not committed to providing a responsible and carefully considered report to the United States Congress.

²³⁸ Associate Solicitor of Labor Robert A. Shapiro, letter to J. William Ichord, 22 November 1999. See Attachment 6.

²³⁹ United States, Department of Labor, Office of the Secretary, Bureau of International Labor Affairs “Notice for Public Submission of Information on Labor Practices in Burma,” *Federal Register* vol. 64, no. 139 (Washington: Government Printing Office, 21 July 1999) 39173. See Appendix I.

ATTACHMENT 1

Unocal Corporation
2141 Rosecrans Avenue
Suite 4000
El Segundo, California 90245
Telephone (310) 726-7601

980014250



RECEIVED
1998 OCT -2 P 2:03

September 30, 1998

EXECUTIVE SECRETARIAT
OFFICE OF THE SECRETARY
U.S. DEPARTMENT OF LABOR
WASHINGTON, D.C. 20210

Roger C. Beach
Chairman of the Board
and Chief Executive Officer

The Honorable Alexis Herman
Secretary of Labor
US Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Madam Secretary:

I am extremely disappointed by your Department's use of public moneys and misuse of authority in its discussion of issues relating to Unocal's investment in the Yadana Project in the recently released Report on Labor Practices in Burma. Frankly, I am surprised that you would lend your name and high office to such a document. American citizens should expect the highest standards from their federal government officials; therefore, I respectfully request that you ask the Inspector General of the Department to investigate the bias and waste upon which the report's sections on the Yadana project and Unocal are based.

The Senate Conferees on the FY1998 Foreign Operations Appropriations bill ordered your Department to prepare the report, in consultation with the Department of State. The report and accompanying press release (dated September 25, 1998) repeat unsubstantiated and outrageous allegations about labor practices on the Yadana project. In effect, the presentation makes the U.S. Government a party to innuendo and insinuation. That is a clear misuse of Departmental power and authority.

Critics of our investment in Yadana have failed to provide credible evidence of labor abuses on the project in any number of forums. Instead, they have ceaselessly repeated their false and baseless charges before Labor Department and Congressional hearings, in Internet campaigns, and to the media. The endless repetition of these allegations, unsupported by credible evidence or independent proof, does not provide a basis for the Labor Department findings. Labor Department support of such charges and tactics demands Inspector General investigation. ((

The Honorable Alexis Herman

Page Two

September 30, 1998

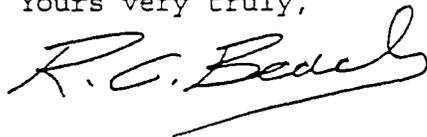
The body of the report, for example, seriously misrepresents the Department's efforts to verify independently these scurrilous allegations through a visit to Burma. In fact, the lead investigator and a State Department employee were granted visas. Unocal made arrangements for this investigator to meet with appropriate officials of Total, the project operator, and to have access to the pipeline area. Despite these arrangements, the trip was vetoed by Labor Department management.

In addition, the Labor Department hired, without competitive bid, a "research consultant" for the report. This person has been a prominent activist on this issue and a source of these false allegations for years. He is entitled to his opinions, wrong as they are, but he is not qualified to serve as a paid consultant to a supposedly objective report to the Congress of the United States. Your Inspector General should determine if Department officials knew of his conflict of interest, and whether anyone at Labor or State objected. The Inspector General should also investigate whether this consultant misrepresented himself as a Labor Department employee to people he sought to interview in Asia.

Madam Secretary, you should not issue biased reports that raise the hypothetical "possibility" of such abhorrent practices in order to smear the reputation of a productive and lawful U.S. corporation.

I look forward to hearing from you. I will be pleased to meet with you, your Solicitor, and your Inspector General to discuss this matter.

Yours very truly,



cc: The Honorable Ted Stevens, US Senate
The Honorable Bob Livingston, US House of Representatives
The Honorable Charles C. Masten, Inspector General ..

ATTACHMENT 2

Unocal Corporation
2141 Rosecrans Avenue
Suite 4000
El Segundo, California 90245
Telephone (310) 726-7601

UNOCAL 

9/20/5201
RECEIVED

1998 OCT 27 A 6:34

EXECUTIVE SECRETARIAT
OFFICE OF THE SECRETARY
DEPARTMENT OF LABOR
WASHINGTON, D.C. 20210

Roger C. Beach
Chairman of the Board
and Chief Executive Officer

October 23, 1998

The Honorable Alexis Herman
Secretary of Labor
US Department of Labor
200 Constitution Avenue, NW
Washington, D.C. 20210

Dear Madam Secretary:

In my letter to you of 30 September, 1998, I objected to your Department's treatment of Unocal in its Report on Labor Practices in Burma. The report and accompanying press release (dated September 25, 1998) repeat unsubstantiated allegations about labor practices on the Yadana project and artfully craft them into a report filled with innuendo, insinuation, and anonymous accusations.

I can assure you that Unocal does not, has not, and will not use – or countenance the use of—forced labor on any of its projects or investments, as this report so falsely and irresponsibly implies. We have repeatedly offered US Embassy officials the opportunity to visit the Yadana project pipeline route, including stops at all 13 nearby villages. Several have done so. None has ever called our actions into question or presented even a scintilla of evidence to us that forced labor has been used on the project. Had they done so, we would have investigated any such claims immediately, and have taken corrective action.

Let me remind you that your Department did not avail itself of the opportunity to visit the project as it prepared the report.

The issuance of this report has led to several news articles, including the Los Angeles Times article I have enclosed. The report also has been cited as justification for sanctions by a Los Angeles City Council committee.

The Honorable Alexis Herman

October 23, 1998

Page Two

In light of this, I request again that you and the Inspector General of the Department investigate the method and apparent bias with which this report was prepared. I look forward to your immediate response and will be happy to meet with you. ((

Yours very truly,

A handwritten signature in cursive script that reads "R. C. Beach". The signature is written in black ink and is positioned above the printed name.

Roger C. Beach

cc: The Honorable Charles C. Masten, Inspector General

10.23.98

Unocal Forced-Labor Allegations 'Credible'

■ Asia: Labor Department report lends credence to charges of worker abuse in pipeline construction. Oil firm cites bias.

By EVELYN IRITANI
TIMES STAFF WRITER

Allegations that forced labor was used in the early stages of a Unocal Corp. pipeline project in Myanmar have "substantial credibility" based on the "preponderance of evidence," according to a new report by the Department of Labor.

The report says such allegations fell sharply in late 1996 after criticism of the Unocal project surfaced. But it also cited a U.S. Embassy source stating it was "plausible" that the military battalions guarding the pipeline are still using forced labor.

The report, fresh ammunition for critics trying to force Unocal out of Myanmar, formerly known as Burma, has touched off a bitter dispute between Unocal and the Labor Department.

In a letter to Labor Secretary Alexis Herman on Sept. 30, Unocal accused the

department of misusing taxpayer funds and abusing "departmental power and authority" by publishing the report, which was written in consultation with the State Department.

Unocal asked Herman to investigate its charge that the report is biased because one of the authors, Doug Steele, is a well-known critic of Myanmar. The government of Myanmar is a partner in the \$1.2-billion pipeline along with Total, the French energy company.

Andrew Samet, deputy undersecretary for international affairs at the Department of Labor, denied those charges and said the Myanmar report was a "fair and accurate description of a very troubling human rights situation in Burma" and the conditions at the Yadana pipeline.

Samet said Steele was one of three consultants hired to work on the 111-page report and that his work was reviewed and approved by numerous government officials. He also noted that his staff was unable to conduct independent research in Myanmar because the government denied visas for two of the three staffers.

As evidence of violations, the report

Please see UNOCAL, C3

UNOCAL

Continued from C1

quotes a Singapore-based Unocal official telling a U.S. Embassy officer in January 1996 that "the rate at which these workers run away has decreased sharply" since the company began paying the workers directly rather than going through the government.

The report commented that if workers on the project had to "run away" that might indicate they were not working voluntarily.

Human rights activists hailed the Labor Department report, which was delivered to Congress last month. It is the latest of several critical studies on forced labor in Myanmar and the Yadana pipeline, but the first with the imprimatur of the Clinton administration.

"This . . . shows clearly that the allegations are not irresponsible," said Robert Benson, a Loyola Marymount University law professor and backer of an unsuccessful campaign to get Unocal's corporate charter revoked by the state of California.

The Labor Department report was cited Tuesday when a Los Angeles City Council committee approved an ordinance prohibiting companies doing business in Myanmar from receiving city contracts. The proposed ordinance—which was forwarded to the full council—is similar to the selective purchasing laws passed by 22 other U.S. cities and states.

El Segundo-based Unocal called the Labor Department report "scurrilous" and "unsubstantiated" and vehemently denied that forced labor was ever used on the construction of the pipeline project.

The company acknowledges the military may have forced villagers to serve as porters or in other support roles in the initial phase of the project, but said it has since demanded that anyone associated with the pipeline is working voluntarily and is paid.

The government of Myanmar is a partner in the pipeline project, and Unocal pays the military to provide security for the pipeline.

Unocal has stressed it has no control over what the military does outside the pipeline region. But Barry Lane, a Unocal spokesman, said the pipeline operators have made a "concerted effort" to ensure that all villagers hired by the military guarding the pipeline be paid.

Lane said Unocal's insistence on strict labor standards in Myanmar has substantially improved work-

ing conditions in the area.

"Rather than sitting there taking snipes at us, these activist groups should be embracing what we're doing," he said.

As the largest U.S. investor still operating there, Unocal has been the target of an international campaign designed to undermine Myanmar's aging rulers, who wrested control of the country in a bloody coup in 1988 and refused to relinquish power after the opposition led by Nobel laureate Aung San Suu Kyi won a national election in 1990.

The Clinton administration has initiated some of the toughest sanctions against the repressive regime, including last year's implementation of a ban on new U.S. investment. A campaign by human rights activists has led to the pullout of dozens of U.S. firms from Myanmar.

Myanmar's military leaders deny that they force their people to work without pay. They argue that their people contribute their labor because of a religious belief in the importance of volunteerism.

But the Department of Labor report cites numerous instances where villagers, including children and elderly, claim they were forced to work under inhumane conditions. That included being placed at the heads of military columns to detonate mines and booby traps and spring ambushes.

The report identified more than 80 major infrastructure projects—including roads, dams, airfields and tourism development projects—that were built with what the Myanmar officials call "voluntary labor."

Similar findings were included in a report on Myanmar issued in July by a special commission appointed by the International Labor Organization, a United Nations-affiliated body monitoring global labor issues. That report states that the government of Myanmar and the military "seem oblivious to the human rights of the people and are trampling on them with impunity."

ATTACHMENT 3
U.S. DEPARTMENT OF LABOR
SECRETARY OF LABOR
WASHINGTON, D.C.

NOV 23 1950

Mr. Roger C. Beach
Chief Executive Officer
Unocal Corporation
2141 Rosecrans Avenue, Suite 4000
El Segundo, California 90245

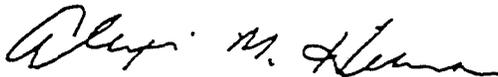
Dear Mr. Beach:

Thank you for your letters concerning the recently released Report on Labor Practices in Burma. You have expressed concerns regarding the objectivity of the report in relation to labor practices on the Yadana Project and our contracting process. You have also raised issues that involve procurement procedures and the appearance of bias on the part of one of the outside researchers who was hired to help on the project. We appreciate your bringing these matters to our attention.

Your letters have been referred to the Inspector General for his review and direct response to you.

Again, we appreciate your bringing these matters to our attention.

Sincerely,



Alexis M. Herman



NOV 23 1998

Mr. Roger C. Beach
Chairman of the Board
And Chief Executive Officer
Unocal Corporation
2141 Rosecrans Avenue, Suite 4000
El Segundo, California 90245

Dear Mr. Beach:

Your letter concerning the recently released Report on Labor Practices in Burma was referred to me for investigation. You have expressed concerns regarding the objectivity of the report in relation to the labor practices on the Yadana project, the cancellation of a planned trip and the Department's contracting process.

In 1997, through the FY 1998 Foreign Operations Appropriations bill, Congress directed the Secretary of Labor, in consultation with the Secretary of State to address labor issues in Burma of which the Yadana gas pipeline was one. In dealing with such requests, as is customary, Labor's Bureau of International Labor Affairs (ILAB), in consultation with the State Department, was given the task of researching the issue and assembling the necessary information in order to issue the required report. This particular report is the result of a compilation of information from various reliable existing sources and primary data gathered by individuals knowledgeable of the issues, peoples and culture of the surrounding areas.

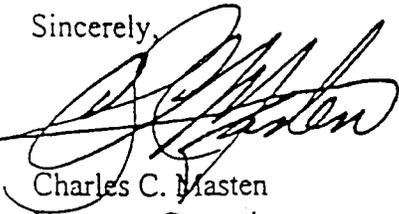
You have raised issues that involve procurement procedures and appearance of conflict of interest involving outside researchers who were contracted to help on the project. The issues you have raised are very important to us, and we appreciate your bringing these matters to our attention. However, the consultants hired to conduct the research and draft the report appear to have extensive experience in both labor law and in reporting human rights practices in Burma and surrounding areas. Their expertise in this area as well as their availability to work on a temporary basis on short notice were the sole factors on which they were selected. Although two other consultants were considered for the job, ILAB did not extend the offer to these candidates as they lacked familiarity with the particular issue of interest. Furthermore, they were also not prepared to undertake the job at the time their services would have been needed. As you know, identifying individuals with specific expertise on issues such as this one is a challenge. However, ILAB appears to have involved individuals who were capable of doing an objective job.

Our review determined that ILAB was aware of the background of the individual researchers contracted to carry out the project and the Deputy Under Secretary of ILAB is confident that

objectivity in assembling the information has not been compromised in any way. We have also reviewed the factors associated with the cancellation of a planned trip to the Pipeline area and the decision not to proceed with the trip appears to have been made on the fact that visas were unavailable for everyone on the research team. Moreover, we have also learned that repeated requests for visas at a later date were ignored by the Government of Burma. Finally, our review disclosed that ILAB adhered to the contracting procedure for small purchase orders as required, and we did not find any irregularities.

Again, we appreciate your bringing these matters to our attention.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Masten", written over a horizontal line.

Charles C. Masten
Inspector General

Unocal Corporation
1401 New York Avenue, N.W., Suite 1250
Washington, D.C. 20005
Telephone (202) 639-0299
Facsimile (202) 639-0356

UNOCAL 

August 20, 1999

J. William Ichord
Washington Office

Bureau of International Affairs
Attention: Sue Hahn
U.S. Department of Labor
200 Constitution Avenue, NW
Washington, DC 20210

Dear Ms. Hahn:

Unocal submits this statement in response to the Department of Labor solicitation of comments [FR Doc.99-18596 Filed 7-20-99] relating to Labor Practices in Burma.

First, we resubmit by reference our submittal of February 1998 to the Department, without addition or amendment.

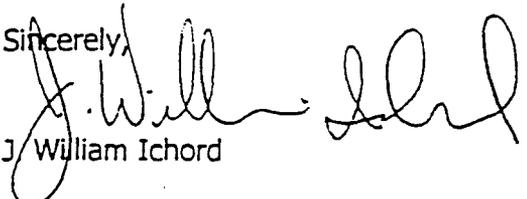
Second, we observe that the Department's solicitation appears to encourage unsubstantiated submissions including the type of misinformation that has characterized so much of the discussion on labor practices in Burma in the past. Specifically, the House Conference Report (No. 105-825) "requests that DOL provide comprehensive details on . . . [various labor issues]." In contrast, the Department's solicitation reads:

*The Department is seeking facts or opinions in response to this Notice and is **not** requiring commenters to supply specific information about themselves.*
(Emphasis added)

Congress is requesting comprehensive factual information and confirmed details. The Department, however, is soliciting anonymous and unsubstantiated opinion without limitation as to time, location or other specifics. We believe anything less than a careful, factual report is inconsistent with Congress' directive. We hope that information provided to the department – especially anonymous information – will be subject to careful analysis and verification.

Thank you for the opportunity to comment.

Sincerely,


J. William Ichord

U.S. Department of Labor

Office of the Solicitor
Washington, D.C. 20210

November 22, 1999

Mr. J. William Ichord
Unocal Corporation
1401 New York Avenue, N.W., Suite 1250
Washington, D.C. 20005

Dear Mr. Ichord:

I have been asked by the Bureau of International Labor Affairs (ILAB) to address a matter raised in your August 20, 1999, correspondence regarding the Department's "Notice for Public Submissions of Information on Labor Practices in Burma" published in the Federal Register on July 21, 1999.

Your letter indicated that you believe the Department's solicitation of comments is inconsistent with Congress' directive to provide "comprehensive details" on labor practices in Burma and "appears to encourage unsubstantiated submissions." In particular, you emphasized that the Notice stated that the "Department is seeking facts or opinions in response to this Notice and is not requiring commenters to supply specific information about themselves." You asserted that this language reflected an intent on the part of the Department to solicit "anonymous and unsubstantiated opinion without limitation as to time, location or other specifics."

The language in the Notice to which you refer was part of a paragraph that reads as follows:

This Notice is a general solicitation of comments from the public. The Department is seeking facts or opinions in response to this Notice and is not requiring commenters to supply specific information about themselves.

The purpose of including this paragraph in the Notice was to signify that the Department was operating in accordance with the requirements of the Paperwork Reduction Act, as amended, 44 U.S.C. 3501 et. seq. The Paperwork Reduction Act requires all Federal agencies to seek and obtain approval from the Office of Management and Budget (OMB) before undertaking a "collection of information" directed to 10 or more persons, in order to ensure that paperwork burdens on the public are evaluated and minimized. "Information" is defined broadly in the Act and implementing OMB regulations (5 C.F.R. 1320.3(h)), and includes "any statement or estimate of fact or opinion, regardless of form or format." Those same regulations, however, also state that:

"Information" does not generally include

(4) Facts or opinions submitted in response to general solicitations of comments from the public, published in the FEDERAL REGISTER or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency's full consideration of the comment.

As you can see, the language in the Notice to which you refer tracks the language in the OMB regulations.

I hope this is responsive to your concern.

Sincerely,



Robert A. Shapiro
Associate Solicitor for Legislation
and Legal Counsel

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