

## Credentials

### **Brief report submitted by Mr. C.L.N. Amorim, Chairperson of the Governing Body of the International Labour Office, on the credentials of delegates and advisers to the 89th Session of the International Labour Conference, Geneva, 4 June 2001**

1. The Chairperson of the Governing Body of the International Labour Office has the honour to present the customary report prescribed by article 26 of the Standing Orders of the International Labour Conference.

2. The composition of each delegation and the method of appointment of delegates and advisers to the sessions of the International Labour Conference are governed by article 3 of the Constitution of the International Labour Organization.

3. In accordance with paragraphs 8 and 9 of this article, it is for the governments to communicate to the International Labour Office the nominations made. The Conference examines these nominations and decides, in the case of dispute, whether delegates and advisers have been nominated in accordance with article 3 of the Constitution.

4. The Conference exercises this power in accordance with the procedure laid down in articles 5 and 26 of its Standing Orders.

5. In particular, paragraph 2 of article 26 of the Standing Orders of the Conference provides that “A brief report upon these credentials, drawn up by the Chairman of the Governing Body, shall, with the credentials, be open to inspection by the delegates on the day before the opening of the session of the Conference and shall be published as an appendix to the record of the first sitting.”

6. The present report is submitted in compliance with this provision. The list given in the table below was closed on Monday, 4 June 2001 at 16.00 in order that it might be available for inspection by the members of the delegations that same day, that is, the day before the opening of the Conference.

7. In addition, the present report serves for fixing provisionally, in accordance with paragraph 1(2) of article 20 of the Standing Orders of the Conference, the quorum necessary to give validity to the votes taken.

8. The table below, based on the files containing the names of the delegates and advisers and the credentials with which they have been provided or the official communications transmitted to the Interna-

tional Labour Office, shows the numerical composition of the Conference. It is to be noted in this regard that persons who have been nominated both as substitute delegates and as advisers, in the letters communicating the nominations, have been included among the advisers.

9. To date, 155 States have notified the names of the members of the delegations. 83 countries deposited the credentials within the 15-day deadline before the date fixed for the opening of the Conference, in compliance with paragraph 1 of article 26 of the Standing Orders of the Conference.

10. On the other hand, while the Conference and the Credentials Committee have already previously insisted on the obligation which article 3 of the Constitution imposes on governments requiring them to send complete delegations to the Conference, three countries (Afghanistan, Bosnia and Herzegovina, and The former Yugoslav Republic of Macedonia) had only nominated Government delegates, one country (Fiji) had nominated an Employers' delegate but not a Workers' delegate, and two countries (Lao People's Democratic Republic and Tajikistan) had nominated a Workers' delegate but not an Employers' delegate.

11. It should be noted that in the letters or facsimiles communicating their nominations, 14 governments have not mentioned the organizations to which the employers and workers belong. In addition, 68 governments have not confirmed that they were paying the travelling and subsistence expenses of their delegates and advisers in accordance with paragraph 2(a) of article 13 of the Constitution. In this regard, in order to ensure greater clarity in establishing the credentials, it would be advisable that governments use, for the nomination of delegates and advisers, the form enclosed with the letter of convocation and the Memorandum on the Conference which the Office addresses every year to member States.

12. Finally, I should like to urge delegates and advisers to register in person at the Information and Reception Desk, the quorum being calculated on the basis of the number of delegates registered.

### *Composition of the Conference and quorum*

13. At present 308 Government delegates, 150 Employers' delegates and 151 Workers' delegates — a total of 609 delegates are accredited to the Conference.

14. There are, in addition, 835 Government advisers, 404 Employers' advisers and 482 Workers' advisers — a total of 1,721 advisers.

15. The total number of delegates and advisers who have been nominated in conformity with the provisions of the Constitution of the Organization to take part in the work of the Conference is 2,330.

16. Since 34 of the States now represented are in arrears in the payment of their contributions to the Organization, those Members, under the terms of paragraph 4 of article 13 of the Constitution, may not at present participate in the voting in the Conference or any of its committees (Afghanistan, Antigua and Barbuda, Armenia, Azerbaijan, Bosnia and Herzegovina, Central African Republic, Chad, Comoros, Congo, Costa Rica, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Gambia, Georgia, Guinea, Guinea-Bissau, Iraq, Kyrgyzstan, Lao People's Democratic Republic, Liberia, Mauritania, Republic of Moldova, Paraguay, Rwanda, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Tajikistan, The former Yugoslav Republic of Macedonia, Togo, Turkmenistan, Uzbekistan). Account is therefore not taken of 81 delegates in calculating the quorum. A further vote is excluded, that of the only incomplete delegation with the right to vote (Fiji).

17. In conformity with article 17 of the Constitution of the Organization and with article 20 of the Standing Orders of the Conference, the necessary quorum to give a vote validity will provisionally be 263.<sup>1</sup>

#### *Observers*

18. Out of the two observer delegations invited by the Governing Body of the ILO to participate in the Conference, Holy See and the Democratic People's

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<sup>1</sup> i.e., half the total number of accredited delegates (609), after subtraction of the number not entitled to vote on account of arrears (81) and the number of incomplete non-governmental delegations (1).

Republic of Korea, at present only the former has appointed its representatives.

#### *Organizations and liberation movement invited*

19. The Conference is also being attended by:

- a tripartite delegation from Palestine, as a liberation movement invited in conformity with article 2, paragraph 3(k), of the Standing Orders of the Conference;
- representatives of the United Nations and some of its organs, invited by virtue of Article II, paragraph 1, — relating to reciprocal representation — of the Agreement between the United Nations and the International Labour Organization, which came into effect on 14 December 1946;
- representatives of specialized agencies and other official international organizations, invited in conformity with article 2, paragraph 3(b), of the Standing Orders of the Conference;
- representatives of non-governmental international organizations with which consultative relations have been established, invited in conformity with article 2, paragraph 3(j), of the Standing Orders of the Conference;
- representatives of other non-governmental international organizations also invited in conformity with article 2, paragraph 3(j), of the Standing Orders of the Conference.

A list of these representatives is appended to the list of delegations published as a Supplement to the *Provisional Record* of the Conference.

Geneva, 4 June 2001.

*(Signed)* H.E. C.L.N. Amorim,  
*Chairperson of the Governing Body.*

- 1) Government delegates  
2) Government advisers  
3) Employers' delegates

- 4) Employers' Advisers  
5) Workers' delegates  
6) Workers' Advisers

## List of accredited delegates and advisers

	1)	2)	3)	4)	5)	6)		1)	2)	3)	4)	5)	6)		1)	2)	3)	4)	5)	6)							
Afghanistan.....	1	-	-	-	-	-	Dominican Republic.....	2	4	1	7	1	6	Liberia.....	2	5	1	5	1	8	Sierra Leone.....	2	-	1	1	1	-
Albania.....	2	4	1	4	1	1	Ecuador.....	2	5	1	2	1	2	Libyan Arab Jamahiriya.....	2	7	1	1	1	3	Singapore.....	2	6	1	1	1	7
Algeria.....	2	14	1	8	1	7	Egypt.....	2	8	1	6	1	8	Lithuania.....	2	2	1	-	1	-	Slovakia.....	2	7	1	4	1	5
Angola.....	2	3	1	-	1	1	El Salvador.....	2	1	1	-	-	-	Luxembourg.....	2	5	1	3	1	7	Slovenia.....	2	5	1	1	1	1
Antigua and Barbuda.....	-	-	-	-	-	-	Equatorial Guinea.....	-	-	-	-	-	-	Madagascar.....	2	7	1	1	1	-	Solomon Islands.....	-	-	-	-	-	-
Argentina.....	2	14	1	8	1	8	Eritrea.....	-	-	-	-	-	-	Malawi.....	2	3	1	-	1	-	Somalia.....	-	-	-	-	-	-
Armenia.....	-	-	-	-	-	-	Estonia.....	2	4	1	1	1	1	Malaysia.....	2	10	1	1	1	4	South Africa.....	2	8	1	6	1	4
Australia.....	2	3	1	1	1	1	Ethiopia.....	2	6	1	-	1	1	Mali.....	2	3	1	1	1	2	Spain.....	2	12	1	8	1	8
Austria.....	2	5	1	3	1	5	Fiji.....	2	-	1	-	-	-	Malta.....	2	3	1	6	1	7	Sri Lanka.....	2	6	1	-	1	5
Azerbaijan.....	2	-	1	2	1	1	Finland.....	2	6	1	4	1	4	Mauritania.....	2	2	1	-	1	2	Sudan.....	2	1	1	1	1	2
Bahamas.....	2	-	1	-	1	1	France.....	2	18	1	8	1	8	Mauritius.....	2	3	1	-	1	1	Suriname.....	2	-	1	-	1	-
Bahrain.....	2	7	1	1	1	2	Gabon.....	2	3	1	2	1	8	Mexico.....	2	14	1	8	1	8	Swaziland.....	-	-	-	-	-	-
Bangladesh.....	2	3	1	-	1	4	Gambia.....	-	-	-	-	-	-	Republic of Moldova.....	2	1	1	-	1	1	Sweden.....	2	13	1	6	1	6
Barbados.....	2	4	1	-	1	-	Georgia.....	2	1	1	-	1	2	Mongolia.....	2	-	1	2	1	-	Switzerland.....	2	8	1	5	1	2
Belarus.....	2	3	1	2	1	2	Germany.....	2	10	1	6	1	6	Morocco.....	2	5	1	6	1	8	Syrian Arab Republic.....	2	7	1	2	1	3
Belgium.....	2	12	1	7	1	9	Ghana.....	2	3	1	8	1	4	Mozambique.....	2	4	1	1	1	-	Tajikistan.....	2	-	-	-	1	-
Belize.....	2	1	1	-	1	1	Greece.....	2	15	1	8	1	8	Myanmar.....	2	11	1	-	1	-	United Republic of Tanzania.....	2	10	1	3	1	-
Benin.....	2	4	1	1	1	5	Grenada.....	-	-	-	-	-	-	Namibia.....	2	3	1	1	1	1	Thailand.....	2	7	1	3	1	5
Bolivia.....	2	3	1	-	1	-	Guatemala.....	2	5	1	1	1	2	Nepal.....	2	3	1	-	1	1	The Former Yugosl.Rep. of Mace	1	-	-	-	-	-
Bosnia and Herzegovina.....	2	2	-	-	-	-	Guinea.....	2	4	1	3	1	2	Netherlands.....	2	9	1	1	1	4	Togo.....	2	1	1	-	1	3
Botswana.....	2	2	1	-	1	-	Guinea-Bissau.....	2	1	1	-	1	1	New Zealand.....	2	3	1	1	1	1	Trinidad and Tobago.....	2	1	1	-	1	-
Brazil.....	2	11	1	8	1	8	Guyana.....	-	-	-	-	-	-	Nicaragua.....	2	4	1	1	1	1	Tunisia.....	2	4	1	3	1	5
Bulgaria.....	2	4	1	4	1	5	Haiti.....	2	3	1	-	1	1	Niger.....	2	4	1	1	1	3	Turkey.....	2	13	1	7	1	8
Burkina Faso.....	2	6	1	1	1	3	Honduras.....	2	2	1	5	1	1	Nigeria.....	2	10	1	1	1	1	Turkmenistan.....	-	-	-	-	-	-
Burundi.....	2	-	1	-	1	-	Hungary.....	2	11	1	7	1	7	Norway.....	2	5	1	7	1	5	Uganda.....	-	-	-	-	-	-
Cambodia.....	2	-	1	2	1	-	Iceland.....	2	2	1	1	1	-	Oman.....	2	6	1	-	1	-	Ukraine.....	2	3	1	2	1	1
Cameroon.....	2	8	1	1	1	1	India.....	2	9	1	7	1	6	Pakistan.....	2	3	1	-	1	-	United Arab Emirates.....	2	9	1	1	1	1
Canada.....	2	11	1	4	1	5	Indonesia.....	2	10	1	8	1	8	Panama.....	2	3	1	2	1	2	United Kingdom.....	2	8	1	5	1	6
Cape Verde.....	2	1	1	-	1	-	Islamic Republic of Iran.....	2	6	1	2	1	4	Papua New Guinea.....	2	1	1	-	1	-	United States.....	2	13	1	6	1	8
Central African Republic.....	2	-	1	-	1	-	Iraq.....	2	3	1	-	1	-	Paraguay.....	2	2	1	4	1	4	Uruguay.....	2	6	1	2	1	1
Chad.....	2	1	1	-	1	-	Ireland.....	2	13	1	1	1	1	Peru.....	2	6	1	1	1	3	Uzbekistan.....	-	-	-	-	-	-
Chile.....	2	6	1	5	1	8	Israel.....	2	12	1	1	1	1	Philippines.....	2	3	1	3	1	3	Venezuela.....	2	7	1	6	1	8
China.....	2	20	1	6	1	8	Italy.....	2	9	1	3	1	5	Poland.....	2	7	1	5	1	5	Viet Nam.....	2	3	1	1	1	2
Colombia.....	2	9	1	8	1	8	Jamaica.....	2	6	1	1	1	6	Portugal.....	2	8	1	8	1	6	Yemen.....	2	3	1	-	1	2
Comoros.....	-	-	-	-	-	-	Japan.....	2	16	1	5	1	8	Qatar.....	2	3	1	-	1	-	Yugoslavia.....	2	2	1	1	1	4
Congo.....	2	8	1	-	1	-	Jordan.....	2	3	1	3	1	2	Romania.....	2	4	1	8	1	8	Zambia.....	2	6	1	5	1	1
Costa Rica.....	2	6	1	1	1	1	Kazakhstan.....	2	2	1	-	1	1	Russian Federation.....	2	9	1	8	1	7	Zimbabwe.....	2	9	1	3	1	1
Côte d'Ivoire.....	2	6	1	1	1	4	Kenya.....	2	8	1	4	1	3	Rwanda.....	2	-	1	-	1	2							
Croatia.....	2	1	1	1	1	1	Kiribati.....	2	-	1	-	1	-	Saint Kitts and Nevis.....	-	-	-	-	-	-							
Cuba.....	2	3	1	-	1	1	Republic of Korea.....	2	10	1	8	1	8	Saint Lucia.....	-	-	-	-	-	-							
Cyprus.....	2	3	1	6	1	6	Kuwait.....	2	13	1	2	1	3	Saint Vincent and the Grenadines.....	-	-	-	-	-	-							
Czech Republic.....	2	5	1	3	1	5	Kyrgyzstan.....	-	-	-	-	-	-	San Marino.....	2	5	1	7	1	4							
Democratic Republic of the Congo	2	13	1	7	1	8	Lao People's Dem. Republic.....	2	-	-	-	1	-	Sao Tome and Principe.....	-	-	-	-	-	-							
Denmark.....	2	9	1	4	1	5	Latvia.....	2	-	1	1	1	-	Saudi Arabia.....	2	10	1	2	1	1							
Djibouti.....	2	-	1	1	1	2	Lebanon.....	2	9	1	5	1	7	Senegal.....	2	3	1	5	1	8							
Dominica.....	-	-	-	-	-	-	Lesotho.....	2	2	1	-	1	-	Seychelles.....	2	-	1	-	1	-							

1) 2) 3) 4) 5) 6)  
**Total 308 835 150 404 151 482**

## Credentials

### First report of the Credentials Committee

1. The Credentials Committee of the 88th Session of the Conference is composed of Mr. Jules Medenou Oni, Government delegate, Benin, Chairman; Ms. Lucia Sasso Mazzufferi, Employers' delegate, Italy; and Mr. Ulf Edström, Workers' delegate, Sweden.

#### *Composition of the Conference*

2. Since the signing of the brief report made by the Chairman of the Governing Body of the International Labour Office (Provisional Record No. 4), the following modifications have occurred in the composition of the Conference.

3. The number of member States of the International Labour Organization represented at the Conference is at present 158. To date 17 member States (Antigua and Barbuda, Armenia, Comoros, Dominica, Equatorial Guinea, Eritrea, Gambia, Grenada, Guyana, Kyrgyzstan, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Sao Tome and Principe, Solomon Islands, Turkmenistan, Uzbekistan) have not sent a delegation. Since the signing of the brief report, the following Members have accredited delegations: Somalia, Swaziland and Uganda.

4. Concerning the credentials of Afghanistan, the Committee confirmed, having regard to Resolution 396 (V) of the UN General Assembly and to the current situation in the General Assembly with respect to Afghanistan, that the representative accredited in the communication from the Permanent Mission of the Islamic State of Afghanistan to the United Nations in Geneva should be permitted to participate in the Conference pending a decision in the General Assembly on the entity which should be recognized as representing that country.

#### *Accredited delegates and advisers*

5. The total number of accredited delegates is 619, comprising 314 Government delegates, 152 Employers' delegates and 153 Workers' delegates.

6. There are 1,770 accredited advisers, comprising 861 Government advisers, 419 Employers' advisers and 490 Workers' advisers.

7. The total number of accredited delegates and advisers is therefore 2,389.

8. With regard to the resolution concerning the participation of women in ILO meetings, adopted by the Conference at its 67th Session in June 1981, there

are 86 women among the 619 delegates accredited to the Conference and 394 among the 1,770 accredited advisers. The total number of women accredited to the Conference is therefore 480, i.e. 20.09 per cent of the total number of delegates and advisers as against 21.5 per cent last year. The Committee regrets the reduction in the number of women.

#### *Registered delegates and advisers*

9. The following is the present situation concerning the registration of delegates, which (in accordance with practice, approved by this session of the Conference) is the basis for determining the quorum for voting (see enclosed table).

10. At this time the number of registered delegates is 487, comprising 258 Government delegates, 117 Employers' delegates and 112 Workers' delegates.

11. In addition, the number of registered advisers is 1385, comprising 714 Government advisers, 284 Employers' advisers and 387 Workers' advisers.

#### *Incomplete delegations*

12. The Committee notes that, at the present time, the accredited delegations of four countries (Afghanistan, Bosnia and Herzegovina, Somalia and The former Yugoslav Republic of Macedonia) are exclusively governmental. Two countries (Lao People's Democratic Republic and Tajikistan) have a Workers' delegate but not an Employers' delegate, while one country (Fiji) has an Employers' delegate but not a Workers' delegate. The Committee regrets the number of incomplete delegations and wishes to affirm once again the necessity for governments to comply with the requirement of Article 3 of the Constitution that a complete tripartite delegation be sent to the Conference. The Committee recalls that pursuant to a decision of the Governing Body, the Director-General each year requests the governments of all member States which did not send complete tripartite delegations to the Conference to indicate the reasons for their failure to do so, and that the information received in reply to that request is duly communicated to the Governing Body.

13. The Committee also notes that there is some imbalance between the number of advisers to the delegates of each group and also between the number of Employers' and Workers' advisers. It once again urges governments to take greater account, when nominating delegations, of the proportions in the composi-

tion of the Conference envisaged by paragraphs 1 and 2 of Article 3 of the Constitution. The Committee further recalls the request contained in the resolution concerning the strengthening of tripartism in the overall activities of the International Labour Organization, adopted by the Conference in 1971, and expresses the hope that Governments will accord equal treatment to each of the groups when appointing advisers to their country's delegation to the International Labour Conference. The Committee recalls in this connection the obligation of Members under Article 13, paragraph 2(a), of the Constitution, to pay the travelling and subsistence expenses of their delegates and advisers and trusts that this obligation will be respected for the whole duration of the Conference.

#### *Quorum*

14. Thirty eight advisers, who are substitutes to delegates who have not registered, are taken into account in calculating the voting strength of the Conference.

15. Since thirty four States represented at the Conference are in arrears in the payment of their financial contributions to the Organization so as to come within the terms of paragraph 4 of Article 13 of the Constitution, these States may not at present participate in the voting in the Conference or in its committees (Afghanistan, Antigua and Barbuda, Armenia, Azerbaijan, Bosnia and Herzegovina, Central African Republic, Chad, Comoros, Congo, Costa Rica, Democratic Republic of the Congo, Djibouti, Equatorial Guinea, Gambia, Georgia, Guinea, Guinea-Bissau, Iraq, Kyrgyzstan, Lao People's Democratic Republic, Liberia, Mauritania, Republic of Moldova, Paraguay, Rwanda, Sao Tome and Principe, Sierra Leone, Solomon Islands, Somalia, Tajikistan, The former Yugoslav Republic of Macedonia, Togo, Turkmenistan, Uzbekistan). For this reason, in fixing the quorum, 42 registered delegates are not taken into consideration. A further vote is excluded, that of the only incomplete delegation with the right to vote (Fiji).

16. At the present time the quorum required to give a vote validity is 241. This number represents 487 registered delegates (see para. 10), plus 38 substitute delegates (para. 14) minus 43 registered delegates not entitled to vote (see para. 15), the total divided by two. The Committee appeals to delegates to the Conference to register in person upon their arrival so that the quorum will be as precise as possible and to ensure that they are not considered present when they in fact not yet at the Conference.

17. The Committee regretted the fact that so many Member States were in arrears of their contributions, thereby depriving the tripartite delegations from exercising their right to vote.

#### *Observers, organizations and liberation movement invited*

18. The Conference is also being attended by:

- representatives of two observer delegations (the Holy See and the Democratic People's Republic of

Korea), invited in conformity with Article 2, paragraph 3(e) of the Standing Orders of the Conference;

- representatives of a liberation movement (Palestine) invited in conformity with Article 2, paragraph 3(k), of the Standing Orders of the Conference.
- representatives of the United Nations and some of its organs invited by virtue of Article II, paragraph (1)? relating to reciprocal representation of the Agreement between the United Nations and the International Labour Organization, which came into effect on 14 December 1946;
- representatives of specialized agencies and other official international organizations, invited in conformity with Article 2, paragraph 3(b), of the Standing Orders of the Conference;
- representatives of non-governmental international organizations with which consultative relations have been established, invited in conformity with Article 2, paragraph 3(j), of the Standing Orders of the Conference;
- representatives of other non-governmental international organizations also invited in conformity with Article 2, paragraph 3(j), of the Standing Orders of the Conference;

19. A list of these representatives is appended to the List of Delegations published as a Supplement to the Provisional Record of the Conference.

#### *Objections and complaints*

20. To date, the Committee has before it several objections and communications concerning the credentials of certain delegates and advisers. It has forthwith commenced its examination. The Committee considers that its work has been facilitated by the fact that a substantial number of credentials had reached the office prior to the Conference. Further, it is important that governments utilise the suggested form for credentials of delegates, enclosed with the letter of convocation and the Memorandum communicated to governments every year prior to the session of the Conference. In order to comply with article 3, paragraph 5 of the Constitution, it is necessary that Governments provide exact information on the employers' and workers' organizations consulted in nominating Employers' and Workers' delegates and advisers as well as on the organizations which have agreed to such nominations.

21. The Credentials Committee submits the present report to the Conference in order that the Conference may take note of it.

Geneva, 6 June 2001.

(Signed) Mr. Jules Medenou Oni,  
*Chairperson*

Ms. Lucia Sasso Mazzufferi

Mr. Ulf Edström



## Credentials

### Second report of the Credentials Committee

#### COMPOSITION OF THE CONFERENCE

1. Since 6 June 2001, when the Committee adopted its first report (*Provisional Record* No. 5), credentials have been received from Eritrea and Equatorial Guinea. This brings the total number of member States at present represented at the Conference to 159. The Committee notes that there has been no change with regard to delegations of Member States which are exclusively governmental or to that of incomplete delegations, mentioned in paragraph 12 of the first report. Four member States have regained the right to vote (Costa Rica, Liberia, Mauritania and Rwanda). It is interesting to note that 152 Ministers or Vice Ministers will have taken part this year in the Conference as against 146 last year. A total of 3,663 persons were accredited to the Conference with 3,236 registered at this time. Details concerning the number of registered delegates and advisers are contained in the annex to this report.

2. The Committee also took note of the information compiled by the Secretariat from the information provided by Governments in the Form for Credentials for the Conference concerning the payment of travel and subsistence expenses of delegations accredited to the Conference. This year, the Governments of 86 member States (as against 90 last year) had responded to the request for information when they issued the credentials of their delegation. Sixty-one of those Governments (as against 72 last year) had declared that they had paid the expenses of their whole delegation and 25 (as against 18 last year) had said that they only covered the expenses of some members of their delegations or only part of the expenses of their delegations.

3. The Committee noted with satisfaction that 83 States, as stated in the Brief Report on Credentials (*Provision Record* No. 4), as against 71 last year, had communicated their credentials within the deadline provided for in article 26, paragraph 1, of the Standing Orders of the Conference. However, a number of credentials or modifications to credentials were still communicated to the Director-General after the publication of the provisional list of delegations on the opening day of the Conference, and even after the publication of the revised list, which is issued in the course of the second week of the Conference. Since the deadline for the submission of objections runs from the publication of those lists, the late submission of credentials or modifications to credentials may result in the inability of the Conference to exercise its

duty under article 3, paragraph 9, of the Constitution. The Committee also noted that despite its concern, made known last year and recalled in the Memorandum for the present Conference, in relation to the absence of information about the organizations which each Employers' and Workers' delegate and adviser represented and as to their function within that organization, nine Governments (Ecuador, Guatemala, Haiti, Lesotho, Mozambique, Namibia, Nicaragua, Suriname and Zambia) had this year provided no information at all and 19 Governments had provided incomplete information (Albania, Argentina, Chile, Djibouti, Dominican Republic, Egypt, El Salvador, Honduras, India, Jordan, Lebanon, Liberia, Malawi, Nigeria, Oman, Paraguay, Rwanda, Sudan and Yemen). This information was indispensable for the Committee to fulfil its mandate or for interested parties to consider whether the nominations had been made in accordance with article 3 of the Constitution of the ILO. Therefore, the Committee wished to urge Governments to communicate in good time their credentials, including information on the capacity of each delegate and adviser. Should this not prove sufficient, the Committee considered that Governments failing to do so should be duly reminded of their duty in this respect at an early stage of the Conference so that any shortcomings be rectified before the start of the Committee's work.

#### OBJECTIONS

4. The Committee had before it 15 objections which are listed below in French alphabetical order.

#### *Objection concerning the nomination of the Workers' delegation of Argentina*

5. An objection has been submitted by the *Central de Trabajadores Argentinos* (CTA) to the Committee concerning the nomination of the Workers' delegation of Argentina. The objecting organization contended that the appointment of the Workers' delegation had not been made in accordance with article 3, paragraph 5, of the ILO Constitution, which provides for the selection of non-Government delegates and advisers who are members of the most representative worker organizations in the country. The CTA, which claimed to have more than 800,000 members (direct and indirect) as well as 240 affiliate organizations, was one of the two most recognized trade union centres, the other being the *Confederación General del Trabajo* (CGT). This fact was recognized by Mr. Jorge

Sappia, the Argentine Government delegate, in response to the objection submitted by the CTA the previous year. Another indication of the representative character of the organization was the fact that it had been invited by the Government to participate in the Mixed Tripartite Commission whose mandate was the revision of Argentine trade union law, following the report of the Commission of Experts on the Application of Conventions and Recommendations presented to the 86<sup>th</sup> International Labour Conference. As a consequence, the objecting organization requested that the three representatives of the CTA be included in the Argentine Workers' delegation.

6. In a written communication to the Committee, the Workers' delegate and Secretary General of the CGT rejected the CTA's objection to his nomination. The Workers' delegate expressed doubt as to whether the objecting organization represented the number of workers claimed, and affirmed that the CGT, which represented more than four million workers and 90 per cent of the recognized trade union organizations, had been consulted in its capacity as the most representative organization during the process of selecting the delegation to the Conference. This communication further stated that the invitation extended by the Government to the CTA to participate in the Mixed Tripartite Committee had been addressed to the participants in their private capacities as experts on the subject, and not as a testimony to their representative character.

7. In response to the Committee's invitation to submit a written response, the Government explained that although there were two representative trade unions centres in Argentina, the CGT and the CTA, only the organization with the greater number of affiliates enjoyed general consultative status ("personería gremial"), which involved more than being simply a registered organization. In Argentina, the CGT was the most representative organization, enjoying general consultative status. Consequently, the Government had consulted only with CGT in the process of selecting the Workers' delegation for the 89th session of the Conference. The CTA's objection was totally unfounded. In spite of this, the Government had decided to include in the Workers' delegation, representatives of the CTA in the capacities of adviser and observer, not as an indication of any change in the criteria previously applied but as a demonstration of good faith in order to avoid any prolonged proceedings before the Committee.

8. Subsequent to the inclusion of two CTA members in the Argentine Workers' delegation, the CTA notified the Committee in writing of the withdrawal of its objection, but indicated that the number of CTA representatives in the Argentine delegation was not consistent with the organization's representative status. As such, the objection was withdrawn with reservation. The Committee took note of the withdrawal of the objection by the CTA, and consequently decided that it was unnecessary to take any action in the matter.

#### *Objection concerning the nomination of the Workers' delegate of Burundi*

9. An objection signed by the President and Vice-President of the *Confédération de Syndicats du Burundi* (COSYBU) has been submitted to the Com-

mittee concerning the nomination of the Workers' delegate of Burundi. The author of the objection contended that COSYBU was the most representative workers' organization in the country, and that in a repeat of what occurred the previous year, the Workers' delegate had been selected by the Government instead of being nominated by the regular organs of COSYBU, notwithstanding the fact that the organization had elected a new President during an extraordinary congress held on 29 April 2000. The minutes of this congress had been duly transmitted to the Government which had not contested the holding of the congress. However, by correspondence dated 12 January 2001, the Government declared that as a result of its investigations, evidence of irregularities had surfaced pertaining to the congress, and consequently, the Government challenged the decisions adopted during that congress, particularly in relation to the removal of the former President of COSYBU. Several meetings were held in March 2001 in order to resolve the situation, without success. On the other hand, the author of the objection maintained that there had been no irregularities at the time of the congress of 2000, and alleged numerous violations of freedom of association by the Government, in particular the dismissal in May 2000 of the COSYBU President elected during the congress of April 2000, because of his involvement in trade union activities.

10. In a document addressed to the Director General of the ILO, the representative of COSYBU nominated as the Workers' delegate at the present session on the Conference, had provided explanations in respect of the internal conflicts of COSYBU. He contended that the congress of April 2000 had been conducted in a clandestine manner, and as such he was still the legitimate head of this organization.

11. In a written communication submitted to the Committee at its request, Mr. Emmanuel Tungamwese, Minister of Labour, Public Service and Vocational Training and Head of the Burundi delegation, recalled that a similar objection had been presented the previous year and had been rejected by the Committee. The Government asserted that the present objection raised no new issues. In accordance with the Labour Code, COSYBU was the most representative organization by reason of its membership and the number of its affiliates. It had been observed that since January 2000, there was serious internal strife among the COSYBU leadership. In this connection, the Minister had attempted to offer his good office without interfering in the internal affairs of the union, but had been unsuccessful. The consultative procedure for the nomination of the Workers' delegate had been respected. Indeed, during a meeting of 15 March 2001, the Minister of Labour had invited the workers to nominate their representative to the Conference. The latter had nominated Mr. Anicet Niyongabo, First National Secretary of the Union of Leather and Textile Workers and a member of the Confederal Committee of COSYBU. The Government, recognizing COSYBU as the most representative organization, had not objected to this selection in order to avoid being accused of interference. Moreover, Mr. Hajayandi, signatory of the objection, did not contest the capacity of Mr. Niyongabo as a worker and trade unionist, but merely that of President of COSYBU. As regards the congress of 29 April 2000 during which Mr. Hajayandi was said to have been

elected President of COSYBU, the Government explained that this congress had been contested by the titular President of COSYBU, Mr. Niyongabo, due to a number of irregularities. The Government emphasized the fact that internal conflicts should be resolved within COSYBU, in this case by organizing a congress in due form or by recourse to the judicial authorities. Finally, regarding the violations of freedom of association and in particular the dismissal of Mr. Hajayandi, the Government added that Mr. Hajayandi was free to submit the matter to the ILO supervisory bodies.

12. The Committee pointed out that this year again, it was not the representative character of COSYBU which was being challenged, but the capacity of the person purporting to represent it, following the power struggle which had surfaced at the beginning of 2000 within the leadership of the organization. The Committee noted that according to the author of the objection, the extraordinary congress of 29 April 2000 had revoked the former COSYBU President, even though the latter and the Government had contested the legitimacy of that congress and alleged numerous irregularities. In this regard, the Committee recalled that it was within the jurisdiction of the independent judiciary and not the Government to determine whether the congress of 29 April 2000 had been conducted in a legitimate manner or not. However, the Committee observed that the questions raised by the objection were essentially internal to COSYBU and that they therefore fell within the domain of the relevant national authorities and not within the Committee's mandate. Moreover, the Committee reiterated that the present parties could have recourse to the ILO's supervisory bodies, particularly with regard to the question of freedom of association. The Committee therefore decided not to uphold the objection.

*Objection concerning the nomination of the Workers' delegation of Cameroon*

13. An objection has been submitted by the *Confédération des Syndicats indépendants du Cameroun* (CSIC) concerning the nomination of the Workers' delegation of Cameroon. The objecting organization contended that the appointment of the Workers' delegation had not been made in accordance with article 3, paragraph 5, of the ILO Constitution, since it had been made without the agreement of the CSIC, one of the most representative workers' organizations in the country, the other two being the *Confédération syndicale des travailleurs du Cameroun* (CSTC) and the *Union des Syndicats libres du Cameroun* (USLC). The objecting organization contended that as a result of the internal dissension occurring within the CSTC since 1997, the membership of the latter could go to one or other of the two factions depending on decisions in the local courts. In addition, the objecting organization alleged that the Workers' delegate from the CSTC belonged to one of the factions, but had nonetheless been selected by the Government without the consent of the most representative trade unions, because the court had ruled in favour of this faction. However, these decisions were merely interim, as the opposing faction would lodge an appeal. As a consequence, the CSTC had lost its representative character. In these circumstances, the objecting organization, registered in April 2001, maintained that it could offer guarantees of independence and stability.

14. In a written communication submitted to the Committee at its request, Mr. Pius Ondoua, Minister of Employment, Labour and Social Security and Head of the Cameroon delegation to the Conference, indicated that by letters of 2 May 2001, copies of which were included in the file, he had requested that the most representative organizations (CSTC and the USLC) send him the names of their representatives to be included in the Cameroon delegation to the Conference. These responses were received on 4 May 2001. As regards the representative character of these two confederations, the sole criterion required by Article 20 of the Cameroon Labour Code was the number of members of an organization. In this connection, the only objective reference in determining the ratios was the shop stewards' elections of April-June 2000, which had confirmed the representativeness of the CSTC and the USLC. The CSIC, which became a registered organization on 28 March 2001, had not participated in this poll and in the absence of data pertaining to their activities, could not claim to have any type of objective or legal representative character when one applied the criterion of membership strength.

15. The Committee noted that the representative character of the CSTC and the USLC, could hardly be challenged in view of the results of the most recent shop steward elections which had taken place in the spring of 2000. The Committee observed that these two confederations had been consulted by the Government and that they were indeed part of the Workers' delegation. With regard to the internal conflicts within the CSTC, the members of this confederation had submitted no objection in 2001. Concerning the representative character of the CSIC, the Committee took note of the fact that the latter had not provided any information with regard to its membership or its affiliates. In addition, since this organization had been established after the last shop steward elections of April 2000, there was no objective and reliable data for determining the representative character of the CSIC. In these circumstances and in the light of the information available, there was no evidence to support the conclusion that the nomination of the Workers' delegation had not been conducted in conformity with the provisions of article 3, paragraph 5, of the Constitution. The Committee therefore decided not to uphold the objection.

*Objection concerning the nomination of the Workers' delegation of Djibouti*

16. An objection has been submitted to the Committee by Mr. Adan Mohamed Abdou, Secretary-General of the *Union djiboutienne du travail* (UDT) and spokesman for the UDT and the *Intersyndicale UDT/Union général des travailleurs djiboutiens* (UGTD), concerning the nomination of the Workers' delegation of Djibouti. According to the objecting organization, the nomination of the Workers' delegation, composed of two alleged representatives of the UGTD and one of the UDT was made by the Government without consulting the UDT and UGTD centres. The designated persons were false representatives of these two unions, who emerged from a congress which took place on 15 July 1999. The objecting organization considered this congress to be totally illegitimate.

17. In a written communication submitted to the Committee at its request, Ms. F. Abeba Mocreca, Government delegate to the Conference, stated on behalf of the Minister of Employment and National Solidarity, that the objection should be considered as null and void in view of the fact that its author was not a trade union representative, but a political representative of the Armed FRUD, the armed rebel movement with which the Government had just signed a peace accord on 12 May 2001. The Government produced the records of working meetings, which it had convened with the Armed FRUD, in which the name of the author of the objecting organization appeared as a representative of this movement. As regards the nomination of the Workers' delegation to the Conference, the Government affirmed that it had consulted with the two trade unions centres in the country — the UDT and the UGTD — and had accepted their selection.

18. Firstly, the Committee considered that the fact that the author of the objection was a representative of a political movement, the Armed FRUD (which now seemed to be recognized by the Government), did not necessarily prevent him from being a trade unionist, nor did it prevent him from submitting an objection to the Committee. Secondly, the Committee noted that, while the Government had been invited to provide its observations on the substance of the case, it had not replied to the allegation that the persons nominated as Workers' delegates were not legitimate representatives of the UGTD and the UDT since they emerged following the congress of 15 July 1999, which had been challenged. Furthermore, the Government did not provide any specific information regarding the consultations it claimed to have held. The Committee observed that concerning an objection regarding the nomination of the Workers' delegate of Djibouti at the 9th Regional African Meeting of the ILO (Abidjan, 8-11 December 1999), who had emerged from the congress of 15 July 1999, the Credentials Committee of the said meeting stated that: "Considering the information before it, the Committee expressed serious doubts with regard to the representativity of the Workers' delegate of Djibouti. It considered that the situation was serious enough for a proposal for invalidation to be considered if this objection had been placed before the International Labour Conference." In addition, the Committee observed that the Committee on Freedom of Association, in its 318th Report (para. 205), approved by the Governing Body at its 276th session, had noted irregularities in relation to the congress of 15 July 1999 and had insisted on "the workers of Djibouti to be able to elect freely and democratically their trade union representatives" and had requested the Government "to allow elections to be held in the different affiliated unions and general meetings to be held by the UDT and UGTD under the sole supervision of independent judicial bodies". On the other hand, the Committee had before it recent information collected by the members of the ILO Multidisciplinary Advisory Team in Addis Ababa, according to which and contrary to the previous situation, all the parties concerned, including the trade union leaders of the country, now wished for trade union elections to be held. The reinstatement of the trade unionists to their jobs who had been dismissed because of their union activities, constituted a necessary condition for the holding of such elections.

19. The Committee expressed concern over the issues raised by the objection, but in view of the insufficient information provided by the author of the objection and the Government, the Committee considered that it could not reach a conclusion. In the light of the information available, it nevertheless hoped that the process requested by the Committee on Freedom of Association would lead to the nomination of the Workers' delegate in agreement with the most representative workers' organizations of the country without any future interference from the Government in the internal affairs of these organizations.

*Objection concerning the nomination of the Workers' delegate of the United Arab Emirates*

20. An objection has been submitted to the Committee by the International Confederation of Free Trade Unions (ICFTU) concerning the nomination of the Workers' delegate of the United Arab Emirates. The objecting organization contended that the appointment of the Workers' delegate had not been made in accordance with article 3, paragraphs 1 and 5, of the ILO Constitution. According to the Provisional List of delegations, the Workers' delegate was the President of the Coordination Council for Professional Associations (CCPA). This association was not a workers' organization pursuant to article 3, paragraph 5, of the Constitution. Acknowledging that there were no trade unions in the country, the objecting organization alleged that the nominated Workers' delegate had neither been appointed by a representative workers' organization to represent the workers of his country, nor elected as an office-bearer of any such organization. Noting the link between freedom of association and the fundamental principle of tripartism enshrined in article 3 of the Constitution, the objecting organization requested that the credentials of the Workers' delegate of the United Arab Emirates be rejected.

21. In a written communication submitted by the Government at the Committee's request, Mr. Khaled Al-Khazarji, Under-Secretary for Labour Affairs and Government delegate to the Conference, maintained that the selection of the Workers' delegate by the CCPA, the most representative organization in the United Arab Emirates, was in accordance with the provisions of article 3, paragraph 5, of the ILO Constitution. The CCPA was the sole workers' organization in the United Arab Emirates, and had chosen the Workers' delegate freely and without interference by the Government or any other party in the country, upon receipt of an invitation by the Government to nominate the Workers' delegate and a substitute member. The Government had merely endorsed the selection of the CCPA. Adding that the Workers' delegate was a representative of the public sector and that the Adviser and Substitute delegate was employed within the private sector, the Government emphasized the fact that both delegates were workers under the relevant national legislation. The Workers' delegate was also the elected President of the Board of the Teachers' Association which had nominated him as its representative on the Board of the CCPA. In addition, pursuant to Federal Law No. 6 of 1974, a Ministerial decree No. 279 of 1994 had been issued, which empowered professional associations registered in the country to defend their interests and to promote them at international fora.

22. Clarifications requested by the Committee were provided orally by Al-Khazarji, accompanied by Mr. Salem Al-Mouhairi, Director, International Relations Department, Ministry of Labour and Social Affairs, and Mr. Siraj Al-Nour, Labour Expert. Mr. Al-Khazarji stated that there were 110 associations in the country which represented not only diverse social, cultural and sporting interests, but also the interests of the foreign communities living in the country. Nine of these organizations were purely professional, in sectors such as teaching, health, engineering, law, social work, banking, insurance and commerce. While it was not possible to provide precise figures, he stressed that the Teachers' Association was the largest, with about 40,000 members. The Government had complied with the provisions of article 3, paragraph 5, of the ILO Constitution by nominating the Workers' delegate in consultation with the most representative organization of the country and without any interference. Further, Mr. Al-Khazarji stressed that significant changes had occurred since the creation of the country, notably population growth, with a marked increase in the number of foreign workers who were attracted by the comfortable living and working conditions in the country. As such, there were approximately 1.4 million workers in the country, of whom only 180,000 were citizens of the United Arab Emirates. Although the Government was determined to make more progress in a number of areas, including professional relations, these changes would have to be made in stages. One of the most recent changes had been the adoption of rules on associations, including professional associations, and the national laws did not prohibit the creation of civic associations. Finally, he informed the Committee that his country had sought the assistance of the ILO in the implementation of the principles enunciated in the ILO Declaration on Fundamental Principles and Rights at Work, in which respect his country had already ratified six of the eight fundamental Conventions.

23. The Committee observed that the Workers' delegate had been nominated by the CCPA, which itself was a grouping of only nine professional associations whose members were citizens and professional workers. Although there was no national legislation prohibiting the right to create associations, it did not appear that the workers of other sectors in the country made use of this opportunity or that it was available to foreign workers, although they represented close to 90 per cent of the country's workers. In this regard, the Committee observed that even if the Workers' delegate could be considered a representative of the workers elected by his peers within the CCPA, this organization did not correspond to the notion of the most representative Workers' organization encompassed by article 3, paragraph 5, of the Constitution. The nomination of the Workers' delegate to the Conference should be examined by reference to article 3, paragraph 1, of the Constitution. This provision imposed the obligation to nominate delegates "representing respectively the employers and the workpeople of each of the Members." It followed that the Workers' representatives nominated by the Government should satisfy three conditions: they should be true workers; they should have been chosen freely by workers; and they should be as representative as possible of the workers in the country concerned. On the basis of the information provided

by the Government, the first two conditions might be considered to have been complied with, but the third had obviously not been met. The Committee considered that in order to ensure that the Workers' delegate was as representative as possible of all the workers in the country, there should be more extensive consultations involving workers from other sectors of the country's economic activities, without exceptions based on nationality. Although the nomination had not been made in accordance with article 3, paragraph 1, of the Constitution, the Committee decided not to propose this year any further action on the objection, trusting that the Government would take immediate steps to ensure the Workers' delegate to the Conference would be representative of the greatest possible number of workers of the United Arab Emirates.

*Objection concerning the credentials of the Government delegation of Fiji*

24. The Committee had before it an objection challenging the credentials of the Government delegation of Fiji submitted by the International Confederation of Free Trade Unions (ICFTU). The objecting organization alleged that the Government delegation, headed by the Minister of Labour and Industrial Relations, represented an illegitimate regime installed after the April 2000 armed coup against the elected Government of Prime Minister Mahendra Chaudhry. The regime had been declared illegal pursuant to the 1997 Constitution by the Fiji Court of Appeal in a judgement of 1 March 2001. In its judgement, the Court had called for the urgent reconvening of the elected Parliament. Instead, the Government continued to plunge the country into economic and social chaos, including ethnic violence against the Indian minority in the country.

25. In so far as the objection concerns the Government delegation of a member State, the Committee recalled that, in conformity with its constant practice, it does not accept objections against governments recognized by the United Nations. In this connection, the Committee noted that the credentials issued by the present regime of Fiji had been accepted by the current session of the General Assembly in its resolution 55/16 of 5 December 2000 and that they had not been challenged thereafter. The Committee therefore could not, irrespective of the situation in the country, accept the objection.

*Objection concerning the nomination of the Workers' delegate of Haiti*

26. An objection concerning the nomination of the Workers' delegate of Haiti has been submitted to the Credentials Committee by the *Secteur syndical haïtien* (SSH). The objecting organization, which is made up of the *Centrale autonome des travailleurs haïtiens* (CATH), the *Confédération des travailleurs haïtiens* (CTH), the *Confédération ouvrière des travailleurs haïtiens* (KOTA) and the *Organisation générale indépendante des travailleurs haïtiens* (OGITH), alleges that the Workers' delegate was nominated by the Minister of Labour and that it is totally opposed to this nomination. The SSH maintains that Ms. St-Clair Almeus, Secretary-General of the CTH, had been duly chosen by this organization as the Workers' delegate at the Conference. In addition, the objecting

organization indicated that a judicial decision in favour of Ms. St-Claire Almeus' faction had been rendered on 15 June 1999 but had never been enforced, thereby prolonging the CTH's internal conflict.

27. In a written communication submitted at the Committee's request, Ms. St. Preux Craan, Minister of Social Affairs and Labour and Head of the Haitian delegation to the Conference, explained that since 17 March 1995, the date of the split within the CTH, Ms. St-Claire Almeus and Mr. Lebrun, the latter a member of the Fédération FENATAPA and of the tripartite committee for conciliation and arbitration, were in dispute regarding the leadership of this confederation and that to date no solution had been found. The Minister of Social Affairs and Labour, in the capacity of conciliator, had proposed a resolution which had been rejected by both parties, who continued using the same official logos. Consequently, the Minister of Social Affairs and Labour, who assumed office on 5 March 2001, wishing to remain neutral, deemed it necessary that the two branches of the CTH be represented at the 89th session of the Conference in the absence of a final resolution of the crisis.

28. In a subsequent communication submitted at the Committee's request, the Minister of Social Affairs and Labour explained that the Government had never intended to designate a titular delegate and a substitute delegate, and that since the first delegate to register happened to be Mr. Lebrun, he assumed the rôle of titular delegate. Regarding the judicial decision of 15 June 1999, it stipulated that no final decision had been rendered in the matter and that the decision of June 1999 had been valid for a period of just six months.

29. The Committee noted that it was not the representativeness of the CTH which was being questioned, but the capacity of the person purporting to represent it as a result of the internal conflict within the executive organs of the organization. The Committee observed that the representatives of the two factions of the CTH had been included in the Workers' delegation without any indication of which one of them had been designated as the Workers' delegate and which one had been designated as the adviser. As a consequence, the person first mentioned in the credentials received by the Committee had been registered as the delegate. The Committee pointed out that the questions raised by the objection were essentially internal to the CTH and recalled in this regard that it lacked jurisdiction to adjudicate upon the differences of the opposing factions of a trade union and that these questions were within the domain of the relevant national authorities, including the judiciary. Finally, in the absence of sufficient information on the decision of June 1999, the Committee decided not to uphold the objection. In relation to the credentials issued by the Government, the Committee recalled that as it had indicated in paragraph 3 of the present report, it was incumbent upon the Government to provide full particulars of the capacity of each member of the Workers' and Employers' delegations, as this information was indispensable to the execution of the Committee's functions.

*Objection concerning the nomination of the Workers' delegate of Kiribati*

30. An objection has been submitted to the Committee by the Kiribati Trade Union Congress

(KTUC), supported by the International Confederation of Free Trade Unions (ICFTU), concerning the nomination of the Worker's delegate of Kiribati. According to the objection, signed by the General Secretary and President of that organization, the nomination of the Workers' delegate had not been made in agreement with the most representative Workers' organization of the country. In a meeting convened by the Minister of Labour on 18 May 2001 with a view to designating the Workers' delegate to the Conference, to which the 12 trade unions of Kiribati were invited, KTUC's President was chosen by the ten trade unions present. However, the Minister of Labour, dissatisfied with KTUC's anti-government attitude, convened a second meeting on 20 May, to which only a few union representatives were invited. In that meeting, the President of the Hotel Union was nominated as the Workers' delegate to the Conference. During a further meeting among eight unions and the Minister held on 26 May, six unions resolved to denounce the nomination made on 20 May. Of the 12 trade unions of Kiribati, the Kiribati Islands Overseas Seamen's Union (KIOSU) (of which KTUC's President was the Secretary-General), had the largest membership of 1,200, followed by the Kiribati National Union of Teachers (KNUT) with about 500 members. Among the smaller organizations was the Hotel Union, with about 40 members.

31. In a written communication submitted at the request of the Committee, Mr. Teekabu Tiikai, Government delegate, confirmed that KIOSU was the largest of the 12 active unions with membership of 1,800, and that the KNUT was the second largest with 300 members, while the Otintaa Hotel Workers' Union was among the smallest with 30 members. The 12 unions were affiliated to the KTUC, the national confederation of approximately 2,526 members. The Government also confirmed that ten unions had been consulted at a meeting on 18 May 2001. The meeting on 20 May had been attended by representatives of the General Workers' Union (one of the smaller unions with a membership of 57), KIOSU and the Otintaa Hotel Workers' Union. In the meeting of 26 May 2001, eight unions were consulted.

32. Clarifications requested by the Committee were provided orally by Mr. Taatu Teburea, Acting Chief Labour Officer, Ministry of Labour, Employment and Co-operatives and Government delegate to the Conference. Mr. Teburea re-asserted that the Government had consulted with trade union organizations. He explained that since the KTUC was currently not very active or organized, the Government had felt that it was necessary to intervene and to coordinate the process of selecting the Workers' delegate. He pointed out that in addition to being a member of the Hotel Workers' Union, the Workers' delegate was also an affiliated member of the KTUC. Since the KTUC was the only confederation of trade unions to which all of the country's trade unions were affiliated, and the selection of the Workers' delegate had been based on the consensus of the members present at a meeting of the unions, the Government had felt that the relevant provisions of the Constitution had been complied with. Nonetheless, he stressed that the Government was willing to review the selection process in the future.

33. The Committee recalled that article 3, paragraph 5, of the ILO Constitution imposed on Govern-

ments the obligation to consult with the most representative organizations for the nomination of the Workers' delegate to the Conference. The Committee observed that according to the Government, there was only one such organization in the country, the KTUC, to which all the unions of Kiribati belonged. Therefore, the Government should have ensured that the nomination of the Workers' delegate had been made in agreement with the KTUC, yet the Government had only consulted with one of the smaller unions affiliated to the KTUC, since it had considered that the KTUC was not very active or well organized. In this regard, the Committee recalled that arbitrary choice of Workers' delegates by Governments proposed by organizations of greatly varying sizes, without even having attempted to consult the most representative organization constitutes a violation of the provisions of article 3, paragraph 5, of the Constitution. In the present case, the Committee concluded that the Government had indeed failed to comply with its constitutional obligation. However, the Committee would not propose invalidation this year in view of the fact that Kiribati was a new member of the ILO and that it had committed itself to review its selection process the following year with the assistance of the ILO if it so wished.

#### *Objection to the nomination of the Workers' delegate of Mali*

34. An objection has been submitted by the *Confédération Syndicale des Travailleurs du Mali* (CSTM) to the Committee concerning the nomination of the Workers' delegation of Mali. The objecting organization contended that it had been unjustly excluded by the Government from the Mali delegation to the Conference B as it had been from other international fora, such as the Committee on Labour and Social Affairs of the Organisation of African Unity B even though it was one of the most representative trade unions in the country. In 1999 and 2000, the CSTM had participated in the Conference along with the *Union nationale des travailleurs du Mali* (UNTM), the only principal trade union represented this year. The exclusion of the objecting organization coincided with the submission by the latter of observations on a Government report on the application of International Labour Conventions. Since that time, the Government had avoided total contact with the organization, even refusing to participate in a radio broadcast and a demonstration organized by the CSTM. As evidence of its representative character, the CSTM cited its experience, the broad scope and nature of its activities and its capacity to mobilize.

35. In a written communication submitted on behalf of the Minister of Employment and Vocational Training to the Committee at its request, a representative of the Government delegation pointed out that the objection had been lodged on 24 May 2001, which was even before the Government discussed the question of the participation in the Conference with the objecting organization. He explained that, exceptionally, it had been difficult for the Government to endorse the participation of the CSTM in the Conference due to budgetary constraints which had obliged the Government to reduce the size of the delegation to this session of the Conference. Moreover, in view of the continuing disputes between the UNTM and the CSTM, the Government had chosen to nominate re-

presentatives of the UNTM, it appearing that this organization was not only the more representative of the two, but also the more experienced (having been established in 1963) in terms of the scope and nature of its activities. On the other hand, the CSTM was only set up in 1998, and was almost absent in the public sector. Without adequate information pertaining to the CSTM's membership, it was difficult to formulate a precise idea of its representative character. The Government's decision not to nominate representatives from the CSTM was therefore not motivated by the factors cited in that organization's objection. The Government had never failed to consult regularly with the CSTM regarding all questions relevant to the conditions of workers.

36. The Committee noted that the CSTM, consulted less than two weeks prior to the opening of the Conference, did not claim to be the most representative workers' organization of the country and that it had not provided any details on its membership or any other information attesting its representative character. It noted that the Government did not hold such information either, although it had decided to include representatives from the CSTM in the delegation of Mali to the 87th and 88th sessions of the Conference. In these circumstances, the Committee decided not to uphold the objection. It considered however that it was the Government's responsibility to take all necessary measures in order to have reliable information enabling it to base its assessment of the representative character of the workers' organizations on concrete and objective criteria. In the absence of such information on the representative character of the organizations, the Government had a duty to consult with all the workers' organizations which were likely to be among the most representative of the country in good faith and in good time.

#### *Objection concerning the nomination of the Workers' delegate of Myanmar*

37. The Credentials Committee had before it an objection concerning the nomination of the Workers' delegate of Myanmar submitted by the International Confederation of Free Trade Unions (ICFTU). The objecting organization contended that the appointment of the Workers' delegate of Myanmar had not been made in accordance with article 3, paragraph 1, of the ILO Constitution. According to the provisional list of delegations, the Workers' delegate was the chairman of the Myanmar Nurses Association (MNA), the same delegate of the previous year. However, the Credentials Committee of the 88th Session of the Conference had stated that the Workers' delegate could be considered as a representative of only a small proportion of the workpeople of Myanmar and that "Only one association had been consulted and the government had not attempted to widen its consultations to other sectors in the country so as to ensure that the person appointed was a true representative of the workers of Myanmar". It appeared that the Government of Myanmar had deliberately ignored the recommendations of the Committee by appointing the same person and again had failed to comply with its obligation under article 3 of the Constitution. Since no improvement had been made with regard to the previous year's nomination process, the ICFTU urged the Credentials Committee to propose

the invalidation of the credentials of the Workers' delegate of Myanmar.

38. In a written communication addressed to the Commission at its request, Mr. Soe Nyunt, Director-General, Department of Labour and Government delegate to the Conference, stated that the Workers' delegate to the Conference had been appointed in agreement with an independent professional organization of workers, the MNA, which comprises 170 association branches throughout the country and membership of 15,000 nurses, midwives and lady health visitors. The Government had invited the MNA in April 2001 to nominate a person to represent the workers of Myanmar. The MNA held a special meeting to this end on 9 May 2001 as a result of which the President of the Association was elected as a worker delegate, having regard in particular to her experience and knowledge of the items on the Conference agenda. The Government then merely acted upon MNA's free nomination. The nomination of the Workers' delegate to the Conference had been made in agreement with an independent workers' organization.

39. Clarifications requested by the Committee were provided orally by Mr. Soe Nyunt, accompanied by Mr. Tun Shin, Director General, Attorney-General's Office, and Mr. Tun Ohn of the Permanent Mission, Geneva. Mr. Nyunt confirmed that MNA was the only independent non-governmental organization in the country. Although other organizations existed in the country, none of them had been considered in selecting the Workers' delegate since they were directed by former leaders of the old political system. In addition, these organizations did not have members with the qualifications required to discuss the topics appearing on the agenda of the Conference. Mr. Nyunt indicated that knowledge of the fundamental problems of the country, and especially the poverty and concerns of the farmers, had been the principal criteria governing the selection of the Workers' delegate. The Workers' delegate had considerable expertise in the area of social security and due to her wide practical experience, she was conversant with the problems relating to health and safety in the agricultural sector, which comprised 16 million farmers out of a workforce of 20 million. The Government representative stressed that the Workers' delegate had been elected by the workers and in this connection, he explained that the MNA elected the members of its Central Executive Committee during biennial general meetings and that the latter held monthly meetings. The Central Executive Committee had unanimously elected Mrs. Eileen Barbaro to participate in the 89th Conference.

40. The Committee unanimously decided that the only conclusion to the objection should be the invalidation of the Credentials of the Workers' delegate. Indeed, despite the Committee's clear conclusion the previous year, the Government had again appointed the same person as Workers' delegate and had confirmed that it had followed exactly the same procedure. The fact that according to the Government, the appointment had been based on the experience of the Workers' delegate which was relevant to the items on the Conference's agenda (an argument already put forward last year) could not, in accordance with the Committee's constant practice, serve as a valid criterion even in countries where freedom of association

was recognized. Where, as in the case of Myanmar, trade unions were not allowed, the obligation of the Government pending the recognition of free trade unions was to ensure, under article 3, paragraph 1, of the Constitution, that the person appointed was at least a true worker, freely chosen by the workers and as representative as possible of all the workers in the country. The Government had failed yet again to seek a nomination made in consultation with the largest possible number of workers in the country, as it had limited consultations to a non-governmental organization, the MNA. Even if the MNA, comprising some 15,000 members, could be seen as a genuine workers' organization, it could by no means be deemed to be representative of the 20,000,000 workers in the country. The Committee noted on the one hand that during their meeting with the Government representatives, the latter had stated that the nomination of the Workers' delegate had been made in conformity with the ILO Constitution. On the other hand, in a letter from the Government addressed to the Committee shortly after that meeting, the Government had conceded that assistance was needed from the ILO to help the Government overcome the shortcomings in the nomination process. The Committee acknowledged this request with reservation and expressed regret that the Government had not sought such assistance earlier, particularly in view of the Committee's conclusions in recent years. However, having regard to the Government's attitude in past years and to the communication it had sent this year concerning the composition of the delegation of the ICFTU to the Conference (see paragraphs 74-75 below), the Committee considered that the problem arose not only from a total lack of good will to improve the situation, but altogether from a complete lack of comprehension of the principles and obligations arising from membership in the Organization. As regards the will of the Government to improve the situation, only the Government could decide. Nonetheless, the ILO had certainly a role to play in clarifying the precise meaning of obligations arising from the Constitution, in accordance with the Government's request. Assuming that the Government would without delay seek the ILO's assistance so that the nomination of the Workers' delegate would as soon as possible be made in accordance with article 3, paragraph 5, of the Constitution, the Committee decided to refrain again this year from proposing invalidation.

#### *Objection concerning the nomination of the Workers' delegate of Qatar*

41. An objection has been submitted by the International Confederation of Free Trade Unions (ICFTU) to the Committee concerning the nomination of the Workers' delegate of Qatar. The objecting organization contended that the appointment of the Workers' delegate had not been made in accordance with article 3, paragraphs 1 and 5, of the ILO Constitution. According to the Provisional List of delegations, the Workers' delegate, whose official designation was not provided, was employed by the Qatar General Petroleum Corporation. While acknowledging that there were no trade unions in the country, the objecting organization alleged that the nominated Workers' delegate appeared to be a member of middle management who had neither been appointed by a representative workers' organization to

represent the workers of his country nor elected as an office-bearer of any such organization. Noting the link between freedom of association and the fundamental principle of tripartism enshrined in article 3 of the Constitution, the objecting organization requested that the credentials of the Workers' delegate of Qatar be rejected.

42. In a written communication to the Committee made at its request, Mr. Falah bin Jasim bin Jabor Al-Thani, Minister of Civil Affairs and Housing and Head of the delegation of Qatar to the Conference, stated that the Workers' delegate had been chosen by the General Workers' Committee at the Qatar Petroleum Corporation, freely and without interference from the Government or the enterprise management. The Government had requested that body to appoint the Workers' delegate as it was the sole body representing workers in the country at present. The communication further specified that the General Workers' Committee represented workers of all sectors within the Corporation and that the person designated by that Committee was a worker within the meaning of the Labour Law of Qatar. The Government had then limited itself to endorsing the body's unanimous choice of the Workers' delegate.

43. Clarifications requested by the Committee were provided orally by Mr. Abdulla bin Nasser Al-Khalifa, Director of the Department of Labour of the Ministry of Civil Affairs and Housing and Government delegate to the Conference, accompanied by Mr. Ali Ahmad Saleh Al-Khulaifi, International Relations Researcher and Adviser and substitute delegate to the Conference. Mr. Al-Khalifa explained that the General Workers' Committee had, at the request of the Government, selected from among its members who were all workers, the persons named to represent the workers of the country at international meetings, including the International Labour Conference and the Arab Labour Conference. This Committee covered the petroleum, gas and steel sectors of the country. Each enterprise within these sectors, with the exception of the very small enterprises, had a workers' committee, and all the committees were affiliated to the General Workers' Committee. These were the most important sectors in Qatar and most of the workers were therefore represented at the General Workers' Committee. Workers' committees did not exist in the other sectors. In addition, although the workers could exercise certain rights within the workers' committees, they did not have the right to create committees themselves. Mr. Al-Khalifa was unable to provide the Committee with precise figures on the workers covered by the General Workers' Committee or the proportion of the country's workforce which it represented. Regarding the Workers' delegate to the present session of the Conference, he stipulated that this person was a skilled technician and that he belonged to the committee of an enterprise in the country's capital. Representatives nominated to attend international meetings could be drawn from different regions of the country. Finally, the Government indicated that significant reforms were envisaged. Universal suffrage, including female suffrage, had been introduced at the municipal level, and other initiatives were expected to follow in the political and social spheres.

44. The Committee noted that there were no trade unions in the country and that article 3, paragraph 5, of

the Constitution was therefore not yet applicable. The nomination of the Workers' delegation should be examined by reference to article 3, paragraph 1, of the Constitution. This provision imposed the obligation to nominate delegates representing respectively the employers and the workpeople of each of the Members." It followed that the Workers' representatives nominated by the Government should satisfy three conditions: they should be true workers; they should have been chosen freely by workers; and they should be as representative as possible of the workers in the country concerned. The Committee observed that based only on the information provided by the Government, the Workers' delegate of Qatar seemed to satisfy the first two requirements. However, as regards his capacity to represent the workers of his country, the Committee noted that the General Workers' Committee which had nominated him appeared to be representative of the largest sectors of the country's economic activities, but that other sectors seemed not to be covered. Although the Committee had not received satisfactory guarantees that the nomination of the delegate had been made in full compliance with article 3, paragraph 1, of the ILO's Constitution, it took note of the Government's intention to effect changes and expressed the hope that such changes would include as a matter of priority, the widening of consultation among the workers, pending the recognition of free trade unions. The Committee decided to take no further action in relation to the objection.

*Objection concerning the nomination of a Workers' adviser of the Democratic Republic of Congo*

45. An objection signed by the President and Vice-President of the *Coopération des Syndicats des Entreprises publiques et privées* (COOSEPP) has been submitted to the Committee concerning the nomination of a Workers' adviser of the Democratic Republic of Congo. According to the authors of the objection, who claimed that COOSEPP was one of the six most representative organizations in the country, stated that the Government had imposed Mr. Musas Zand as the representative of COOSEPP within the Workers' delegation, even though his appointment within COOSEPP had been revoked by the congress of his own trade union (SYNATREG) in January 2000, on the grounds of misappropriation of funds. Following the revocation of Mr. Zand's appointment, Mr. Kasumuka was elected as the new President. Although the Government had been duly notified of Mr. Kasumuka Iwas' appointment, it unilaterally decided to impose Mr. Zand as the Workers' adviser representing COOSEPP.

46. In a written communication submitted at the Committee's request, Mr. Tshisuaka Kabanda, Secretary General of Labour and Government delegate to the Conference, stated that the Workers' and Employers' delegates and advisers had been nominated in accordance with the most representative workers' and employers' organizations in the country. In May 2001, the leadership of the most representative trade unions had been invited to two meetings by the Minister of Labour and Social Security in order to nominate the delegates to the Conference. Among these organizations was COOSEPP. As regards this organization, it appeared that the central conflict stemmed from an internal power struggle arising from the misinterpretation of the statutory provisions of the organization.

A meeting had been organized by the Minister in an attempt to reconcile the parties, during which the authors of the objection had presented documents which appeared to have been falsified. Consequently, the Minister had been unable to resolve this matter. However, in order to avoid contentious legal proceedings, the Government was willing to pursue initiatives to reconcile the parties.

47. The Committee noted that the Workers' delegation comprised one delegate and eight advisers from eight different trade union centres. The Committee observed that the representative character of the delegation was not being challenged, but only the representative capacity of the person nominated to represent one of the confederations, COOSEPP, arising from an internal conflict among the executive organs of this organization. In the absence of sufficient information on the position of the Government in this conflict, the Committee concluded that the questions raised by the objection related essentially to the internal affairs of COOSEPP and were within the competence of the relevant national authorities, including the judiciary, and were therefore not within the jurisdiction of the Committee. Consequently, the Committee decided not to uphold the objection.

*Objection concerning the nomination of the Workers' delegate of Chad*

48. An objection was submitted to the Committee by the Secretary General of the *Union des syndicats du Tchad* (UST) concerning the nomination of the Workers' delegate of Chad. The author of the objection maintained that his name, which had initially been included in the credentials of Chad as a Workers' delegate, had subsequently been removed and replaced by the representative of another trade union centre, the *Confédération libre des travailleurs du Tchad* (CLTT), which is not representative within the meaning of article 3, paragraph 5, of the Constitution of the ILO. Indeed, under a ministerial agreement still in force, the UST had been recognized as the representative workers' organization in 2000 and had accordingly been allocated 80 per cent of the seats in all tripartite bodies. The removal of the author of the objection from the delegation of Chad coincided with his illegal arrest on 30th May on the grounds that he was alleged to have associated with opposition political parties which intended to organize an information meeting after the elections held on 20th May 2001.

49. In a written communication submitted at the Committee's request, Mr. Yoma Golom Routouang, Minister of Public Service, Labour, Promotion of Employment and Modernisation and Head of the delegation, indicated that the proceedings initiated by the author of the objection had been made in his personal capacity, since he had no authority to act in the name of the UST without the agreement of the members of his executive. The nomination of the Workers' delegate had been left, as in the past, to the discretion of the social partners. This year, unable to arrive at a ministerial decision on the nomination of the most representative workers for the year 2001, the Government had chosen the CLTT in order to ensure rotation among the trade unions. In addition, the UST had overstepped the bounds of trade union activity in associating itself with political activities, contrary to existing legislation which limited the spheres of action

of trade union organizations to economic and social matters. Finally, the Government confirmed that the author of the objection had been arrested following the publication of the provisional results of the recent presidential election on the grounds that he had associated with an initiative of the six political parties defeated in the elections, which incited the population to engage in civil disobedience, as attested by a press release signed by another UST representative. Consequently, it was up to the author of the objection to contest his arrest before the judiciary if he felt that it was illegal.

50. The Committee noted that in the credentials issued by the Government on 18 May 2001, the author of the objection had been nominated as the Workers' delegate in the capacity of Secretary-General of the UST, the same capacity in which he had submitted the objection. It noted in addition, that in the credentials issued on 31 May 2001, the Government had nominated a representative of CLTT as Workers' delegate. Finally, the Committee observed that the author of the objection had been nominated the Workers' delegate to the Conference for a number of years. This being the case, and in the absence of information on a rotational system agreed to by the trade unions of the country themselves, or of statistics for 2001 on the representativeness of the trade unions, the UST seemed to have remained the most representative workers' organization in the country. In the circumstances, and in view of the fact that the Government had omitted to provide details of the sudden change in the credentials, it appeared that the nomination of the Workers' delegate to the Conference had been dictated by criteria incompatible with the provisions of article 3, paragraph 5, of the ILO Constitution which would justify the invalidation of the credentials of the Workers' delegate to the Conference. However, the Committee decided not to propose such a course of action, trusting that the Government would abstain in the future from any interference and would base the nomination of delegates on objective criteria in conformity with the Constitution.

*Objection concerning the nomination of the Employers' delegate of Thailand*

51. An objection has been submitted to the Committee by the Employers' Group of the Conference, wherein it was contended that representatives of the Employers' Confederation of Thailand (ECOT) had been included in the Employers' delegation to the International Labour Conference for over a decade and that ECOT had been consistently recognized and unquestioned as the most representative organization of employers. Nothing had occurred within the previous year to justify the Government's arbitrary decision. According to the information provided by the Employers' Group, ECOT's membership clearly outnumbered that of the Employers' Confederation of Thai Trade and Industry (ECON Thai). However, in 2001, the Government had appointed as members of the Employers' delegation representatives from ECON Thai, without including any representative from ECOT. This decision had been challenged in the Administrative Court of Thailand which confirmed ECOT's status as the most representative organization of employers in the country in a judgement of 1 June. The Ministry's initial decision had been based on a finding that while ECON Thai had 30 associate

members consisting of 247 employers with 73,900 workers, ECOT was an employers' confederation with 36 associate members consisting of only 113 employers with a total of 12,326 workers. The Ministry did not recognize the fact that ECOT had 894 individual affiliated members while ECON Thai had 95. These affiliated members bring the number of workers represented by ECOT to 251,724, against 136,324 for ECON Thai. The Court ruled that the representative character of the employers' organizations should be based on the size of their employer membership, irrespective of the overall number of workers employed by the respective employers. Since the Ministry had excluded ECOT's individual affiliated Members from the total count of the membership, its selection of ECON Thai as Employers' delegate to the Conference was illegal. In the course of a meeting held immediately after the Court's ruling and attended by several employers' organizations, the Minister of Labour requested the nomination of the Employers' delegation to the Conference by a mere vote by show of hands. The Minister declared that the Court's verdict should not be regarded as final, since an appeal would be lodged. In view of the fact that representativeness, deemed by the Court to be a relevant criterion, was disregarded by the Government in the nomination process, ECOT refrained from participating in the vote and maintained that the nomination of the Employers' delegation to the Conference without ECOT's agreement was in clear violation of article 3, paragraph 5, of the ILO Constitution.

52. In a written communication submitted at the Committee's request, the Government stated that the nomination of the Employers' delegation had been based on article 3, paragraph 5, of the ILO Constitution and the Thai Labour Relations Act. Since ECOT rejected the Ministry's proposal of rotational representation at a meeting of ten employers' organizations on 3 April 2001, a second meeting was convened on 20 April, during which the organizations in attendance requested that the Ministry nominate the members of the Employers' delegation. The Ministry stressed that in the action initiated by ECOT, the Court did not name any organization which should attend the 89th ILC, as contended by ECOT. In addition, the Court had noted that membership should be based not only on Thai legislation and the ILO Constitution, but also on the regulations of each employer organization. In this regard, the Ministry's initial selection of ECON Thai had been based on Article 8 of ECON Thai's membership regulations, which defined two types of membership - regular members which included associations or employers' confederations, and associate members who were private employers. Applying this definition, ECON Thai's membership was 125. On the other hand, ECOT's regulations did not recognize individual affiliated members as part of the membership. Thus, by applying ECOT's regulations, ECOT's claim that "the Court confirmed ECOT's most representative status" seemed to be baseless. Moreover, the Ministry argued that the "most representative" status should not be determined solely by the number of memberships, but also included key elements such as the contribution made to the country and society in general. Whereas ECON Thai had member enterprises of 247, ECOT had 113; ECON Thai's total export value was 272,205 million Baht, while ECOT's was nil; ECON Thai's level of invest-

ment was 87,321 million Baht, and ECOT's was merely 96.7 million Baht. Upon consideration of all the respective contributions of ECOT and ECON Thai, the views of employers and the fact that the majority members of ECON Thai were executives of the Thai Chamber of Commerce and Industry, this group had been nominated in April. Nonetheless, since it regarded the Court's verdict of 1 June as final, the Ministry invalidated all of its prior decisions and restarted the selection process by convening a meeting of eight employers' organizations of which seven voted in favour of ECON Thai. In recognition of the majority vote, the Ministry nominated ECON Thai.

53. Clarifications requested by the Committee were provided orally by Mr. Jiratorn Poonyarith, Deputy Director-General, Department of Labour Protection and Welfare, Ministry of Labour and Social Welfare, accompanied by Ms. Supatra Payakaniti, Senior Expert on International Labour Affairs, Office of the Permanent Secretary, Mr. Supat Gukun, Director of the Policy and Planning Division, Office of the Permanent Secretary and representatives of the Permanent Mission to Geneva. Mr. Poonyarith provided oral confirmation of the statements made in the Government's written communication to the Committee. In response to the Committee's request to clarify the reason for the change in the system of selection of the Employers' delegation, Mr. Poonyarith explained that the Government had felt that rotational representation would be a fairer system, in view of the fact that the number of registered employers' organizations had recently increased from one to ten, and as a consequence the Government had been requested by employers' organizations to review the process of selecting the Employers' delegation. He reiterated that the proposal of rotational representation had been abandoned as a result of ECOT's objections and that the Government wished to avoid interfering in the internal affairs of the employers' organizations. Mr. Poonyarith restated the Government's desire to consider the contribution of each organization to the country and to society in general, and added that this criterion was in compliance with the Committee's case law. He emphasized the fact that employers' organizations were free to create their own rules, and were merely required to register such rules, to comply with them and to register any changes to them. Mr. Poonyarith reasserted that ECOT's regulations did not allow it to register affiliated members, and that the Ministry of Labour had therefore been unable to verify or consider these unregistered members in determining the representativeness of ECOT, although the Ministry did not challenge ECOT's claim to have 894 individual affiliated members. Mr. Poonyarith stressed that the Government had wished to comply with the ILO Constitution as applied by the Credentials Committee as well as the decision of the local court, and had therefore nominated the Employers' delegation selected by the majority of the organizations.

54. The Committee noted that most of the information provided by both parties relied essentially on figures concerning either the number of members or the economic and social importance of both employers' organizations (ECOT and ECON Thai) in the country. Following the practice of the Committee, these criteria were essential for determining the most representative organizations of the country. In this re-

gard, in order to justify its choice, the Government argued that only the members recognized according to the regulations of each organization should be taken into account. On this issue, the national court seemed to have ruled in favour of ECOT. However, the Government considered that other objective criteria should be used, such as the size of the workforce or the contribution to the national economy. While the Committee did not have all the necessary information to reach a conclusion on this question, it considered, according to the information provided by both organizations, that their representativeness was not at stake.

55. As the Permanent Court of International Justice stated in its Advisory Opinion No.1, when there exist several most representative organizations in a country, all of them should be taken into consideration by the Government during the selection process, the objective of the Government being to do its utmost to reach an agreement which could be considered as the best for the purpose of ensuring the representation of the employers or the workers of the country. This objection should thus be analysed in relation to this requirement. On this point, the Committee observed that the Government had first proposed a system of rotation amongst the ten employers' organizations of the country, a system which ECOT rejected because the Government itself recognised that there were only two representative organizations in the country. The Government thus proceeded to a first nomination on the basis of criteria, which led it to conclude that ECON Thai was the most representative. However, these criteria had been challenged in the Court, which partially rejected them. The Government then cancelled its first nomination and immediately reconvened another meeting with the employers' organizations in order to have a new nomination. During this meeting, the Government, in order to avoid interference, based itself on criteria of representativeness agreed upon by the majority of the organizations present, but again without ECOT's agreement.

56. The Committee considered that the Government was right to cancel its first nomination and to convene a new meeting, but it notes that on two occasions, the nomination had been based on controversial criteria, instead of on a genuine effort to obtain the agreement of the most representative organizations, as provided by article 3, paragraph 5, of the Constitution. Since the Government failed in its obligation to reach an agreement, the Committee expressed the wish that in the future it would do everything possible to ensure that the nomination of the Employers' delegation to the Conference was done in strict compliance with the Constitutional provisions.

*Objection concerning the nomination of the Workers' delegate of Yugoslavia*

57. The Credentials Committee had before it an objection concerning the nomination of the Workers' delegate of Yugoslavia lodged by the International Confederation of Free Trade Unions (ICFTU). According to the objecting organization, the appointment of the Workers' delegate had not been made in accordance with article 3, paragraph 5, of the ILO Constitution on two grounds. First, as far as membership of the various trade unions in the country was

concerned, based on the membership figures declared by All Serb National Trade Union Centres, the Workers' delegate appointed to the Conference came from the least representative organization, whereas no representative had been appointed from UGS Nezavisnost whose verifiable records showed its representative character in Serbia. Second, recalling its communication relating to the Yugoslav delegation to the Sixth European Regional Meeting submitted on 12 December 2000, the objecting organization noted that the ministerial regulation providing for directors of enterprises to approve the registration of any new trade union was still in force. More restrictions concerning registration of new trade unions had been introduced, which further impeded freedom of association.

58. In a written communication addressed to the Committee at its request, Mr. Dragan Milovanovic, Minister for Labour and Employment and Head of the delegation to the Conference, stated that there was only one trade union organization registered at the Federal level, the Confederation of the Association of Independent Trade Unions of Yugoslavia. At the State level, there were various workers' organizations in the Republic of Serbia, the Confederation of Trade Unions of Serbia, the UGS Nezavisnost and the Association of Free and Independent Trade Unions, regarded as the most representative, and one organization in Montenegro, the Confederation of Independent Trade Unions of Montenegro. No criteria existed at present to determine their respective importance, but the Government was in the process of preparing a Bill prescribing criteria to determine the representative character of trade unions in the country. For this reason, all these organizations had been requested by the Government, on 9 May 2001, to discuss the composition of the Workers' delegation to the Conference. A meeting attended by representatives from all the workers' organizations except from UGS Nezavisnost, was held on 17 May 2001. No agreement could be reached during that meeting and the organizations, except UGS Nezavisnost, sent to the Ministry of Labour the names of their proposed representatives to the Conference. On the basis of these proposals, in particular those of the Confederation of Trade Unions of Serbia and the Confederation of Independent Trade Unions of Montenegro, which are both affiliated to the Confederation of the Association of Independent Trade Unions of Yugoslavia, the Government decided to appoint as Workers' advisers, representatives from the Serbian and Montenegrin affiliated organizations and a representative from the Association of Free and Independent Trade Unions of Serbia as Workers' delegate.

59. In response to a Committee's request for additional information, Mr. Dragan Milovanovic, provided evidence of the nominations made by the Confederation of the Association of Independent Trade Unions of Yugoslavia, for itself and on behalf of the Confederation of Independent Trade Unions of Montenegro, by the Confederation of Trade Unions of Serbia and by the Association of Free and Independent Trade Unions of Serbia.

60. The Committee noted on the one hand that the objecting organization claimed to have verifiable data on the membership of Serb trade unions and, on the other hand, that the Government acknowledged that

no objective criteria existed yet in the country. The Committee noted, however, that according to the information provided by the media, UGS Nezavisnost claimed to have 600,000 members. The Committee further noted that of the five accredited members of the Workers' delegation of Yugoslavia, three had been directly proposed by the Confederation of the Association of Independent Trade Unions of Yugoslavia, and the two other by the Confederation of Trade Unions of Serbia and by the Association of Free and Independent Trade Unions of Serbia. It was not clear either, whether the adviser mentioned in the Revised List of delegations to represent the Confederation of Independent Trade Unions of Montenegro had been nominated to represent that Confederation or in his capacity as member of the Council of the Confederation of the Association of Free and Independent Trade Unions. Regarding the Government's assertion that the non inclusion of UGS Nezavisnost in the Workers' delegation was due to its refusal to participate in the consultations, the objecting organization had provided no information. The Committee considered that due to the lack of reliable information, it could not enter into the substance of the objection. However, it wished to recall that the Credentials Committee of the 6<sup>th</sup> European Regional Meeting held in December 2000 had already advised the Government that it ought to base the nomination of the Workers' delegation on objective criteria or, in the absence of such data, to strive to organize consultations involving all the organizations.

#### COMPLAINTS

61. The Committee had before it the following eight complaints.

##### *Complaint concerning the non-payment of travel and subsistence expenses of the Workers' delegate of Belarus*

62. A complaint has been submitted to the Committee concerning the non-payment of travel and subsistence expenses of the Workers' delegate of Belarus, Mr. Vladimir Goncharic, submitted on his behalf by the International Confederation of Free Trade Unions (ICFTU). According to the complainant, the Government had claimed that unexpected expenses connected with its defence of case No. 2090 before the Committee on Freedom of Association of the Governing Body of the ILO, justified its inability to cover the travel and subsistence expenses of the Workers' delegate. Such a reason could not justify a failure to comply with article 13, paragraph 2(a), of the Constitution of the ILO which imposed on all Governments an obligation to pay the expenses related to the participation of its tripartite delegation to the Conference.

63. In a written communication addressed to the Committee at its request, Mr. E.P. Kolos, Deputy Minister of Labour and Head of the delegation to the Conference, stated that the Government had always covered the travel and subsistence expenses of the Employers' and Workers' delegates and that their advisers' expenses were borne by the organizations which they represented. However, due to insufficient foreign currency resources, the Government had been unable this year to cover the expenses of the two non-governmental delegates. The employers' and

workers' organizations nominated to participate in the Conference had accordingly been informed in a letter of 8 May 2001, and requested to seek their own sources of finance. In that letter, appended to the Government's communication to the Committee, the financial difficulties were said to stem from unforeseen expenses related to the holding of consultations in the Committee on Freedom of Association and participation in the work of the 280th session of the Governing Body of the ILO in connection with case No. 2090". In deciding to invite the employers' and workers' organizations to finance their own participation in the Conference, the Government had relied on the assumption that if they were prepared to cover the expenses of two advisers each, it would suffice for them to reduce the number of advisers so that they could at least cover the expenses of their respective delegate. On a procedural point, the Government wondered whether the complaint submitted by the ICFTU was receivable under article 26, paragraph 10(b) of the Standing orders of the Conference, since pursuant to that provision complaints can only be admitted for consideration if lodged by an accredited delegate or adviser. To the extent that the complaint had not been submitted by the Workers' delegate of Belarus himself and that he had not even registered at the Conference, the Government requested the Committee to consider the receivability of the complaint.

64. Concerning the receivability of the objection, the Committee noted that the Workers' delegate of Belarus had been duly accredited. It further noted that although the complaint had not been submitted by the delegate himself, it was evident from the correspondence appended to the ICFTU's letter to the Committee that the complaint had been lodged on his behalf. Concerning the substance of the complaint, the Committee recalled that article 13, paragraph 2(a), of the Constitution imposes on all governments the obligation to pay the expenses of their tripartite delegations to the Conference. When the Conference decided in 1997 to confer upon the Credentials Committee competence to examine complaints alleging non-compliance with that constitutional obligation, the Conference had taken into account the different financial conditions of member States and had accordingly decided to limit the Committee's jurisdiction to complaints alleging either of the following two grounds: failure to abide by the minimum obligation to cover the expenses of a full tripartite delegation, or failure to respect a reasonable balance as between the number of delegates and advisers within each group whose expenses were borne by the Government. The present complaint is obviously justified at least on the first ground. The obligation to pay the expenses of at least two non-government delegates is absolute, allowing for no exceptions (especially not for the reasons given by the Government), all the more so when according to the information provided by the Government, the latter had found sufficient resources for three government representatives, other than those based in the Permanent Mission in Geneva, to come not only to the Conference but also to attend various meetings of the Governing Body and its Committee on Freedom of Association. Had the Government's main concern been to respect its obligation under article 13, paragraph 2(a), it could have relied on its permanent representatives in Geneva to reduce the

number of its representatives coming from the capital so that the expenses of one Employers' and one Workers' delegate could have been covered by the Government's limited foreign currency accounts. In these circumstances, the Committee considered that the Government had failed to perform its constitutional obligations. Noting, however, that only four Government delegates had registered at the Conference, including two from the Permanent Mission in Geneva, and that no member of the Workers' or Employers' delegations had registered as part of the Belarus delegation, the Committee considered that an injunction to correct the matter would at this late stage serve no purpose. The Committee hoped nevertheless that the Government would fully comply with at least its obligation to ensure the effective presence of a full tripartite delegation at the Conference the following year.

*Complaint concerning the non-payment of travel and subsistence expenses of two members of the Workers' delegation of Gabon*

65. A complaint was submitted to the Committee concerning the non-payment of travel and subsistence expenses of Messrs. L. Mebiame Evoung and C.B. Ntoughe submitted by the latter. The complainants have been accredited to the Conference within the Workers' delegation to occupy an adviser's post which might fall vacant (article 2, paragraph 3(i)) and as "Other persons attending the Conference", respectively. According to the complaint, the Government has failed to comply with the obligation under article 13, paragraph 2, of the Constitution to pay the travel and subsistence expenses of the delegates and advisers and of other representatives of the tripartite delegation attending the meetings of the Conference. By requiring the organization which the complainants represent to cover their own expenses, the Government has sought to discriminate against them, as it has covered the expenses of the representatives of other trade union organizations appointed within the delegation.

66. The mandate of the Committee regarding complaints, as determined in article 26, paragraph 9, of the Conference Standing Orders is limited to the consideration of complaints alleging either the non-payment of the travelling and subsistence expenses of one or more of the titular delegates, or "A serious and manifest imbalance as between the number of Employer or Worker advisers whose expenses have been covered in the delegation concerned and the number of advisers appointed for the Government delegates". Since the allegations in the complaint correspond to none of the cases foreseen in the Standing Orders provision, the Committee is not competent to consider the complaint. In addition, the complaint would in any event appear to be irreceivable under article 26, paragraph 10(b), of the Standing Orders, which requires that a complaint be submitted by an accredited delegate or adviser.

*Complaints concerning the non-payment of travel and subsistence expenses of the Employers' delegations of Albania, Lesotho, Uganda, Venezuela, Yemen and Yugoslavia*

67. The Committee received complaints under article 26, paragraph 9 of the Standing Orders of the

Conference submitted by the Employers' Group of the International Labour Conference at the request of the Employers' delegates and advisers of Albania, Lesotho, Uganda, Venezuela, Yemen and Yugoslavia. In the case of Albania and Uganda, the complaints alleged partial payment of the Employers' delegates' expenses to the Conference. In the case of Lesotho, the complaint was to the effect that there was a serious imbalance between the Government delegation and those of the Employers and Workers in that the Government delegation was quite large but no advisers had been appointed to the Employers' and Workers' delegations. As regards Venezuela, the complaint alleged that the Government had promised to reimburse the travel expenses of the delegate after the Conference, but that no subsistence expenses would be paid for the Employers' delegate and no expenses for the Employers' advisers. Concerning Yemen, it was alleged that the Employers' delegate had been unable to come to the Conference due to the Government's failure to cover his travel and subsistence expenses. With respect to Yugoslavia, it was alleged that the Employers' delegate and advisers had received no payment of their expenses.

68. Although all these complaints were sent on the seventh day following the opening of the Conference, they could not be admitted for consideration under article 26, paragraph 10(a), of the Standing Orders of the Conference in view of the time when they were received. They could accordingly not be examined by the Committee, except that submitted on behalf of the Employers' delegate of Yugoslavia, since a separate communication by the Employers' delegate had been received in good time by the Committee. That communication is dealt with in paragraphs 79-81 below.

69. Having regard to the troubling increase, reflected in paragraph 2 of the present report, in the number of governments which had not provided information on the payment of the expenses of their delegations (which included the six governments mentioned in the complaint submitted by the Employers' Group), and in the number of those which had declared that they had not covered all or part of their delegations' expenses, the Committee wished to remind all the Governments concerned that irrespective of the submission of complaints, Governments had an obligation to cover all the travel and subsistence expenses of at least the Employers' and Workers' delegate and, in the case of larger delegations, to ensure a fair and reasonable balance in the number of advisers appointed in the Government, Employers' and Workers' delegations, whose participation expenses were covered by the Government.

*COMMUNICATIONS*

70. The Credentials Committee received the four following communications.

*Communication concerning the nomination of the Workers' delegate of Saudi Arabia*

71. The Committee had before it a communication from the International Confederation of Free Trade Unions (ICFTU) concerning the nomination of the Workers' delegate of Saudi Arabia, whose function, as stated in the List of delegations, appeared to cor-

respond to a position in the middle management of a company. Noting the Credentials Committee's conclusions reached last year on an objection concerning the nomination of the Workers' delegate of Saudi Arabia, the ICFTU requested the Committee to examine whether there had been any improvements in the consultation process which the Government had committed itself to put in place with a view to ensuring that, in the absence of workers' organizations in the country within the meaning of article 3, paragraph 5, of the Constitution, the person appointed as Workers' delegate was at least as representative as possible of the workers of the country.

72. Having been made aware of the ICFTU communication, Mr. Ahmad Bin Abdelrahman Al-Mansour, Deputy Minister for Labour Affairs and Government delegate to the Conference, informed the Committee in writing that since the last session of the Conference, the Government had requested assistance from the International Labour Office to seek possible ways in which to ensure that the nomination of the Workers' delegation to the Conference was made in conformity with the requirements laid down in the Constitution of the ILO. As a result, the Government had this year paid particular attention to widen the consultations to all large companies in the country, briefing those companies about the role of the ILO, tripartism and the independence of the groups. The Government had also ensured that the nomination be made after direct consultation with the workers, with total independence from the management. In addition, the Council of Ministers had recently approved a set of rules governing the establishment of workers' committees at the enterprise level as a tool for independent workers' representation. Such committees should become operational in the near future.

73. The Committee noted that the ICFTU's communication was neither formulated as an objection nor was it directed against the credentials of the Workers' delegate of Saudi Arabia. It further noted that according to the information provided by the Government of Saudi Arabia, the latter had taken steps towards a nomination procedure of the Workers' delegate which, in the absence of representative workers' organizations in the country, was compatible with the requirement under article 3, paragraph 1, of the Constitution. Finally, the Committee recalled the seriousness of the questions raised by the objection submitted the previous year. Nevertheless in reliance upon the assurances provided by the Government, the Committee considered that the communications called for no action on its part.

*Communication concerning the composition of the delegation of the International Confederation of Free Trade Unions*

74. The Committee received a communication concerning the inclusion of Mr. Maung-Maung, the Secretary-General of the Federation of Trade Unions of Myanmar in the delegation of the International Confederation of Free Trade Unions, submitted by the Government delegate of Myanmar. The communication, which was stated to be an objection to the credentials of Mr. Maung-Maung, claimed that Mr. Maung-Maung had no *locus standi* as a representative of the workers nor as a representative of the

Federation of Trade Unions which he allegedly represented. The Government therefore challenged Mr. Maung-Maung's admission to the Conference and his capacity to address the Worker's Group, in line with article 3, paragraphs 1 and 5, of the ILO Constitution.

75. Under article 5, paragraph 2, and article 26, paragraph 3, of the Conference Standing Orders, objections may only relate to nominations of the delegates or advisers of the tripartite delegation of member States which are alleged not to have been made in accordance with the provisions of article 3 of the ILO Constitution. The Constitution and the Standing Orders provided for no procedure to challenge the nomination of other participants to the Conference, such as representatives from non-governmental international organizations with which standing arrangements for their participation in the Conference had been made under article 2, paragraph 3(j), of the Standing Orders of the Conference. The Committee had accordingly no competence to act upon the communication from the Government delegate of Myanmar. However, to the extent that the communication reflected a total lack of comprehension concerning the role and functioning of the Conference Groups, the Committee deemed it appropriate to recall that Section I of the Conference Standing Orders provided for the total autonomy of the Groups which had the right to control their respective procedure, including the right of admission to and participation in their meetings.

*Communication concerning the non-payment of travel and subsistence expenses of the Workers' delegate of Swaziland to the 88<sup>th</sup> Session of the Conference*

76. The Committee had before it a communication from the Workers' delegate of Swaziland, Mr. Jan. J. Sithole, concerning the non-payment of his travel and subsistence expenses to the last session of the Conference. Mr. Sithole recalled the Government's commitment made last year before the Credentials Committee itself. However, and despite several reminders, the Government had still paid none of the expenses incurred by Mr. Sithole to participate in the 88<sup>th</sup> Session of the Conference.

77. The Government, which had been invited to make observations before the matter was considered by the Committee, explained in a written communication from Mr. J.M. Mndzebele, Government delegate to the Conference, that the expenses for the participation of Mr. Sithole to last year's Conference were in fact at the disposal of Mr. Sithole at the Principal Secretary's office in the Ministry of Enterprise and Employment. Payment of those expenses would be effected upon Mr. Sithole's signature of a receipt.

78. While there seemed to be some contradictions as to the reason why Mr. Sithole's expenses for last year had not yet been reimbursed, the Committee considered, on the basis of the Government's assurances, that the matter called for no further action on its part.

*Communication concerning the Employers' delegation of Yugoslavia*

79. The Committee received a communication from the President of the Yugoslav Union of Employers (YUE) and Employers' delegate to the Conference, alleging that the Government had obstructed

the participation of the members of the Employers' delegation in the Conference by informing them only on 31 May 2001 that the Government would not pay for their travel and subsistence expenses. With such short notice, the members of the delegation could not make their own arrangements in time (travel reservations, visas, etc.) in order to be able to prepare themselves for the Conference and attend it from the beginning.

80. Having been made aware of the communication, Mr. Dragan Milovanovic, Minister for Labour and Employment and Head of the delegation of Yugoslavia to the Conference, informed the Committee in writing that the Government had indeed been unable to find the necessary resources to finance the expenses of a full tripartite delegation to the Conference. Due to the lack of resources, the Federal Government had been represented at the Conference only by its permanent representatives in Geneva. The representatives of the Employers and Workers had been informed in this respect and had been requested to bear their own participation expenses. The Government could not agree that it had failed to provide all other necessary assistance, as it had sent credentials for the nominees of the Employers and Workers and it had arranged for their visas and hotel reservations in Geneva. The Government also rejected the allegation of obstruction as it had undertaken immediate reforms to establish a tripartite council at the federal level and to promote social dialogue. The Government hoped that the national financial condition would allow it to meet its financial obligations in the future under the ILO Constitution.

81. The Committee noted that the YUE seemed to have accepted to cover the participation expenses of its representatives to the Conference and that the main purpose of the communication, which itself was not formulated as a complaint under article 26, paragraph 9, of the Conference Standing Orders, was to protest against the untimely manner in which the Government had issued credentials and had informed the social partners of its inability to cover their expenses. The Committee therefore considered that the communication of the YUE could not be treated as a complaint. It wished, however, to recall that there was a minimum obligation (of which the Government seemed to be well aware) to cover the travel and subsistence expenses of at least a full tripartite delegation, and to stress the need for governments to issue credentials in good time in order to enable non-governmental delegations to prepare themselves for the Conference and make their own arrangements for their effective participation during the entire Conference, in particular when their participation expenses were not fully covered by the Government.

82. This report was adopted by the Credentials Committee unanimously. It is submitted to the Conference in order that the Conference may take note of it.

Geneva, 19 June 2001.

*(Signed)* Mr. Jules Medenou Oni,  
*Chairperson*

Ms. Lucia Sasso Mazzufferi

Mr. Ulf Edström

