



Reports of the Credentials Committee

Second report

Composition of the Conference

1. Since 3 June 2005, when the Credentials Committee adopted its first report (*Provisional Record* No. 4B), new credentials had been received from Equatorial Guinea and The former Yugoslav Republic of Macedonia. Therefore, at present a total of 168 member States are represented at the Conference. There are two more incomplete delegations in addition to those mentioned in paragraph 13 of its first report, Afghanistan and The former Yugoslav Republic of Macedonia; both have a Workers' delegate but no Employers' delegate. Regarding the accredited Members without the right to vote mentioned in paragraph 16 of its first report, three, Armenia, Cape Verde and the Republic of Moldova, have recovered the right to vote.
2. The Committee observes that of the seven member States mentioned in paragraph 22 of its first report, Bahamas, Lesotho, Timor-Leste and Togo have replied to its request to complete the information regarding the organizations and the functions of each of the members of the Employers' and Workers' delegations, whereas Jordan, Kazakhstan and Mauritius have not.

Objections

3. The Committee has received 19 objections this year. The objections relate both to the credentials of delegates and their advisers who are already accredited to the Conference as reflected in the *Provisional List of Delegations* and to the failure to deposit credentials of an Employers' or Workers' delegate. The latter category of objections is based on the interim provisions of the Conference Standing Orders concerning verification of credentials adopted by the International Labour Conference at its 92nd Session (June 2004) (*Provisional Record* No. 16). The Committee has completed the examination of the following six, which are listed below in French alphabetical order of the member States concerned.

Objection concerning the nomination of the Workers' delegation of the Bahamas

4. The Committee had received an objection from the President, Mr. Ferguson, and the Secretary-General, Mr. Morris, of the Commonwealth of the Bahamas Trade Union Congress (CBTUC) challenging the Workers' delegation of the Bahamas. According to the authors of the objection, the Government had bypassed the CBTUC in nominating the

Workers' delegation. The CBTUC was a representative organization in comparable size to the one from which the Workers' delegate to this year's Conference had been nominated. It regrouped some 32 organized unions from all economic sectors and represented some 10,000 workers of the 23,000 organized workers nationwide. On the basis of its representativeness, the CBTUC explained that from 1996 until 2004 it had an agreement with the Government wherein the Workers' delegate and adviser had been rotated between itself and the National Congress of Trade Unions (NCTU), so that both the CBTUC and the NCTU could participate at the annual sessions of the Conference. The CBTUC's representative had been nominated as the Workers' delegate to the 92nd Session (June 2004) of the Conference, whereas the NCTU's representative had been nominated as the Workers' delegate to this year's Conference. The CBTUC objected that there had been no consultative process in designating the Workers' delegation to this year's session of the Conference which is in contradiction to the Constitution of the International Labour Organization. Moreover, there was only one workers' representative nominated by the Government, which was inconsistent with the workers' organizations' internal arrangement with the Government.

5. The Committee received an unsolicited communication dated 2 June 2005 from Mr. Robert Farquharson, President of the Bahamas Communications and Public Officers Union. Mr. Farquharson, who is also the General Secretary of the NCTU, explained that the Government had declared the NCTU to be the umbrella organization most representative of the workers in the Bahamas following submission of information by the representative workers' organizations, namely the CBTUC and the NCTU, to the Minister of Labour and Immigration. In early 2005, the Minister informed the NCTU of this decision and invited it to submit the name of a representative so that the individual could be nominated as the Workers' delegate to the Conference. The NCTU also advised that six of the affiliates listed by the CBTUC in the attachment to its objection were in reality its members and in this regard submitted a list of its affiliates.
6. In a written communication received in reply to the Committee's request, Mr. Vincent A. Peet, Minister of Labour and Immigration, who was heading the Government delegation, noted that the CBTUC had not brought the matter to his attention but rather had filed an objection. The Government had recognized the NCTU as the most representative workers' organization in the country when regard was taken into account for the overwhelming number of workers represented by the NCTU and the diversity of the sectors involved. Although the Government had recognized both the CBTUC and the NCTU as the representative workers' organizations for several years and nominated representatives from both organizations to the Workers' delegation to the Conference, it considered this to be a heavy expense on the taxpayers of the country for this year.
7. The Government conceded that it had endorsed a "gentlemen's agreement" whereby the NCTU and CBTUC were invited each year to name a Workers' delegate and an adviser to the Conference, each taking annual turns as Workers' delegate or adviser. However, in light of the objections raised in preceding years, the Government had proceeded to examine the representativeness of the workers' organizations involved and relying on the information in its possession had decided that the NCTU was the most representative workers' organization in the country, based both on the size of its membership and its diverse affiliates. The Government also questioned the list of affiliates annexed to the objection and deemed it to be erroneous and misleading: at least two were not affiliated with the CBTUC, but rather with the NCTU; one affiliate was defunct; another two were employers' associations, one being in the informal economy; and one was an association of retired persons. Lastly, it annexed both a communication of 21 February 2005 addressed to the CBTUC requesting whether it would support the nomination of a representative from the NCTU as Workers' delegate to the Conference and, also, a list of trade unions. The Government, therefore, considered the objection to be unfounded.

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8. The Committee notes the Government's position to set aside the application of the system of rotation that had been agreed upon by the two organizations and which the Government had endorsed, since the NCTU has been declared by it to be the most representative workers' organization. The Committee recalls its conclusion reached at the 87th Session (June 1999) of the Conference when it considered that the Government should have up-to-date statistical information both with regard to membership and affiliation (*Provisional Record* No. 21, paragraph 8). The Government submits a list of trade unions for 2005 and, based on the information submitted to the Committee, it appears that the Workers' delegate is representative of the workers of the Bahamas. The Committee, however, questions whether the Government undertook consultations with both representative workers' organizations regarding its decision to discontinue the application of the system of rotation due to economic reasons. On this point, the Committee hopes that the Government will clarify its consultation and nomination procedure prior to next year's Conference so that a common agreement can be reached amongst the interested parties. The objecting organization does not seek the invalidation of the Workers' delegate and, therefore, no further action is called on the Committee's part.

Objection concerning the failure to deposit credentials of a Workers' delegate of Belize

9. The Committee had before it an objection submitted by the International Confederation of Free Trade Unions (ICFTU), which stated that the Government of Belize had failed to nominate a Workers' delegate to the Conference. In view of the new mandate under the interim provisions of the Conference Standing Orders concerning verification of credentials, the Committee now had the possibility of examining objections where a government failed to deposit credentials of either a Workers' or Employers' delegate. The *Provisional List of Delegations* indicated that Belize was exclusively a governmental delegation. However, the objecting organization indicated that it had one affiliate, the National Union Congress of Belize, which could have legitimately taken part in a tripartite delegation. An explanation from the Government was requested for this year, hoping that a full tripartite delegation would be accredited at future sessions of the Conference.
10. In a written communication addressed to the Committee in reply to its request, Ms. Alicia Hunt, Chargée d'Affaires, of the Permanent Mission of Belize in Geneva and Government delegate at the Conference explained that all travel expenditures relating to ministers and government officials had been suspended as part of budgetary restrictions. The Government believed that the Permanent Mission could fully represent it and the people of Belize at the Conference and that as soon as the budgetary restrictions were lifted, Belize would send tripartite delegations.
11. The Committee notes that since 2001 Belize has not been represented at the Conference by a tripartite delegation. Since then the delegation has consisted of only two representatives from the Permanent Mission of Belize in Geneva. The Committee expresses its deep concern that Belize is represented exclusively by a governmental delegation. It emphasizes that whereas a government has the ability to assure its representation through a diplomatic mission, the same cannot be said for employers' or workers' organizations. The Committee reminds member States of their obligations under article 3, paragraph 1, of the ILO Constitution to nominate complete delegations to the Conference. Respect for the principles of tripartism requires a balanced representation of employers and workers so as to permit their effective participation at meetings. Without the participation of government, employers' and workers' representatives the International Labour Conference cannot function properly or attain its objectives.

Objection concerning the nomination of a Workers' adviser of El Salvador

12. The Committee had received an objection concerning the nomination of a Workers' adviser of El Salvador, submitted by the *Comisión Intersindical de El Salvador*. The objecting organization had received on 22 March 2005 a written communication from the Vice-President of the workers' section of the Superior Council of Labour (CST) requesting it to nominate three representatives to the Workers' delegation to the Conference. Mr. René Pérez Castillo, who at the time was an interim coordinator for the *Comisión Intersindical de El Salvador*, also received a copy of this request. In response to this request, the six trade unions of the country proposed a member from the *Central Autónoma de Trabajadores Salvadoreños* (CATS), the *Coordinadora Sindical de Trabajadores Salvadoreños* (CSTS), and the *Central de Trabajadores Democráticos* (CTD), all three trade unions affiliates of the objecting organization. Disregarding the proposal, Mr. René Pérez was nominated as an adviser even though his name was not included in the proposal put forth by the *Comisión Intersindical de El Salvador*. He was charged with only transmitting the names to the Superior Council of Labour. The objecting organization considered that the nomination was the result of a manoeuvre by the Government in question, which was indifferent to the grave and continued transgression of the principles of freedom of association. The objecting organization recalled that, in this regard, El Salvador had not ratified Conventions Nos. 87 and 98, which were principal instruments relating to freedom of association and collective bargaining.
13. The objecting organization emphasized that Mr. Pérez did not represent the workers of the *Comisión Intersindical de El Salvador*, as he had betrayed its decisions and principles. This was demonstrated by the fact that the *Comisión Intersindical de El Salvador* had submitted an objection and was considering filing a case before the competent tribunal against Mr. Pérez for illicit acts committed against the organization. As a consequence, the objecting organization sought the invalidation of the credentials of Mr. Pérez, adviser, for the fraudulent manner in which his nomination had taken place.
14. In a written communication addressed to the Committee at its request, Mr. José Roberto Espinal Escobar, Minister of Labour and Social Prevention who was heading the Government delegation, affirmed that the Government had limited itself to respecting the nomination effectuated by the workers' section of the Superior Council of Labour. The Government had received a communication on 3 May 2005 from the workers' section of the Superior Council of Labour, signed by its Vice-President, Mr. José Huiza Cisneros. The Vice-President had forwarded a list dated 8 April 2005 that was signed by Mr. Pérez on behalf of the *Comisión Intersindical de El Salvador*, which included his own name as one of the four representatives of the workers of El Salvador to the Conference. In a communication dated 12 May 2005, the Ministry of Labour and Social Prevention officially informed the *Comisión Intersindical de El Salvador* of its nomination. The Government annexed various documents with respect to the selection and official communications with the interested parties.
15. The Committee observes that the nomination of the Workers' delegate had taken place in agreement with the most representative workers' organizations of the country, since it was the *Comisión Intersindical de El Salvador* that had submitted the name of Mr. Pérez on 8 April 2005 to the Government. The Government had accepted the nomination received by the Superior Council of Labour. It, therefore, appears that this case is due to a conflict internal to the objecting organization. The Committee considers that on the basis of the information submitted to it that the Government has acted in conformity with article 3, paragraph 5, of the ILO Constitution. Consequently, the Committee decided not to retain the objection.

Objection concerning the nomination of the Workers' delegate of Lesotho

16. The Committee had before it an objection concerning the nomination of the Workers' delegate of Lesotho, submitted by Mr. Daniel Maraisane, Secretary-General of the Lesotho Clothing and Allied Workers' Union. It contended that the Workers' delegate, Mr. Macaefa Billy, did not represent the textile and garment industry workers of Lesotho, since he was a Member of the Parliament elected in 2002 and as a representative of the Lesotho Workers' Party. As a Member of Parliament, he was paid by the Government and his registration as General-Secretary of the Factory Workers' Union was part of the government strategy aimed at weakening the trade union movement in Lesotho. The objection also alleged that consultations regarding the nomination of Mr. Billy had not been held. Consequently, an invalidation of his credentials was requested.
17. In a written communication addressed to the Committee in response to its request, Mr. L. Mandoro, Principal Secretary of the Ministry of Employment and Labour, stated that the Congress of Lesotho Trade Union (COLETU) to which the Factory Workers' Union represented by Mr. Billy was affiliated, was the most representative workers' organization. The second largest federation is the Lesotho Congress of Trade Unions (LESODU), to which the objecting organization was an affiliate. LESODU, however, did not object to the nomination of Mr. Billy. The Government further considered that the functions of a Member of Parliament were not incompatible with trade union representation, either under national law or under the ILO Constitution.
18. The Committee does not share the view that a representative of a workers' organization cannot be at the same time a Member of Parliament. Furthermore, it has not been contested that COLETU, from which the Workers' delegate has been nominated, is the most representative organization within the meaning of article 3, paragraph 5, of the ILO Constitution. In absence of any other indication, the Committee has decided not to retain the objection.

Objection concerning the nomination of the Employers' delegate of Serbia and Montenegro

19. The Committee had before it an objection submitted by Mr. Dragutin Zagorac, President of the Serbian and Montenegrin Employers' Association (SMEA), challenging the nomination of the Employers' delegate, Mr. Rato Ninkovic, President of the Serbian Employers' Association (accredited by the Government as a representative of the Employers' Union of Serbia). The objecting organization submitted that not only was there a provisional court order prohibiting the Employers' delegate from using the seal and name of the organization he claimed to represent, but that the nomination of the Employers' delegate was in direct contradiction of an agreement that was made during a preparatory meeting for the 93rd Session (June 2005) of the Conference that was held on 19 April 2005, wherein Messrs. Zagorac, Mitrovic and Josipovic were selected to represent the employers at this year's Conference. The meeting was tripartite and attended by representatives of the Ministry of Foreign Affairs of the Union of Serbia and Montenegro, the Serbian Ministry of Labour, Employment and Social Politics, the SMEA, the Serbian Independent Unions' Association, the Montenegrin Independent Unions' Association, the Serbian and Montenegrin Independent Unions' Association and the Association of Free and Independent Unions (ASNS). The agreement was subsequently changed unilaterally by the Minister of Labour of Serbia and this action constituted interference with the principles of freedom of association and the independence of the employers' organizations.
20. The author of the objection further elaborated that the SMEA was the sole legitimate representative employers' organization from Serbia and Montenegro, having been

established in 1994 and being comprised of 115,000 members, of both collectives and individuals. The SMEA was also the head of the Serbian Employers' Association, the Montenegrin Employers' Association and the Kosovo Employers' Association. In contrast, the organization from which the Employers' delegate was nominated, the Serbian Employers' Association, was one of the employers' organizations acting at the Republic level of Serbia which had not proven its representativeness, but was in fact closely tied with the Minister of Labour of Serbia. The objecting organization represented the Union of Serbia and Montenegro at both the national and international level. On this basis, the author of the objection contended that the SMEA was the most representative employers' organization for the Union of Serbia and Montenegro and sought the invalidation of the credentials of the Employers' delegate.

- 21.** The Committee received on 2 June 2005 an unsolicited communication from Mr. Zarko Milisavljevic, Vice-President of the Serbian Employers' Association. He advised that the Union of Serbia and Montenegro did not have a Ministry of Labour at that level, but rather the Ministry of Foreign Affairs acted as a contact point between the two Republics' Labour Ministries. The objecting organization was merely a coordinating body, as it was comprised of employers' organizations from each Republic and its Management Board was constituted of ten members, five from each respective employers' organizations. Furthermore, the author of the objection had been dismissed from his function of President of the SMEA and its genuine leader was now Mr. Mitrovic who had been elected on 17 May 2005 and nominated as Employers' adviser and substitute delegate. The Serbian Employers' Association was the only representative employers' organization in Serbia, since it had been duly registered, had demonstrated its representativeness and was responsible for collective bargaining within this Republic. On the basis of the foregoing, the Serbian Employers' Association submitted that its President, Mr. Ninkovic, was the genuine employers' representative correctly nominated to act as the Employers' delegate of Serbia and Montenegro to the Conference and, as a consequence, that the objection should be rejected.
- 22.** In another unsolicited communication received by the Committee on 2 June 2005 from the Secretariat of the SMEA, certain statistical data were provided. Specifically, it furnished the number of some of the collectives which comprised its 117,353 members or 641,739 employees: 375,000 members from the General Association of Entrepreneurs of Belgrade; 50,000 members from the Association of Bakers and Pastry Makers of Serbia; 10,000 members from the Association of Private Petrol Stations of Serbia; and 17,000 from the General Association of Entrepreneurs of Nis. It represented approximately 25 per cent of the employed people in Serbia and Montenegro. It added that its affiliate, the Serbian Employers' Association, had no authority to act on its own at the international level, as the SMEA was a full member of the International Organisation of Employers (IOE). The SMEA argued that employers from Serbia and Montenegro could not be represented by any organization other than by it, especially in light of the provisional order that prohibited the Serbian Employers' Association from using its seal, stamp and name.
- 23.** In a written communication received in reply to the Committee's request, Mr. Dejan Sahovic, Ambassador and Permanent Representative of Serbia and Montenegro in Geneva and Government delegate to the Conference, indicated that the objection submitted by Mr. Zagorac was unfounded for the twofold reason: that the SMEA was constituted of the Serbian Employers' Association and the Employers' Association of Montenegro; and that the author of the objection had no authority to submit the objection following the replacement of the Serbian Employers' Association's representatives from the SMEA Management Board and the consequent dismissal of Mr. Zagorac as President of the SMEA. On 17 May 2005 the Governing Board of the SMEA amended its statute and elected new management, Mr. Mitrovic from the Employers' Association of Montenegro.

Mr. Zagorac was later excluded by the Serbian Employers' Association following certain conduct that was incompatible with its statutes.

- 24.** Regarding the question of the name and seal that had been raised by the author of the objection and the subsequent communications, the Government argued that it was of no relevance for the nomination of the Employers' delegation to the Conference. What was relevant was whether the employers' organization from which the delegate had been nominated was representative. Notwithstanding, it stated that the use of the name and seal by the author of the objection was an abuse. Further, the Serbian Employers' Association had been registered by the Ministry of Labour, Employment and Social Affairs of the Republic of Serbia and had been recognized as a representative employers' organization. In contrast, the SMEA was included in an NGO's register with the Ministry for Human and Minority Rights of Serbia and Montenegro and this registration did not prove its representative character as an employers' organization. The Government stated that labour legislation and tripartite social dialogue did not exist on the level of the Union, but only within each of its Republics. The Serbian Employers' Association had provided evidence on the number of its members and, prior to its registration, its representativeness was examined by the Committee for the Establishment of Representation of Trade Unions and Employers' Associations in Serbia.
- 25.** In a third unsolicited communication received on 7 June 2005, the Committee was advised that the SMEA had resolved on 17 May 2005 that henceforth it would be known as the Employers' Union of Serbia and Montenegro (EUSM). This communication was signed by its President, Mr. Mitrovic.
- 26.** The Committee notes that the objection does not involve the issue of the most representative employers' organization within Serbia and Montenegro, but rather the issue of who is entitled to participate in the consultation process and to represent the employers of Serbia and Montenegro. In regard to the latter, the Committee remarks that the particular constitutional structure of Serbia and Montenegro has implications on the registration, consultation and nomination procedures of the employers' organizations of Serbia and Montenegro, as well as who is competent to represent the employers at the international level.
- 27.** While these issues do not fall directly within its mandate, the Committee recalls that the full application of article 3, paragraph 5, of the ILO Constitution entails the respect for the principles of freedom of association. In the present case, the Government has nominated representatives from the employers' organizations of each respective Republic to the Employers' delegation of Serbia and Montenegro. What is at stake is their legitimacy to represent all employers of Serbia and Montenegro. From the information submitted to the Committee, it appears that there remain several unresolved legal issues on this point, one of them being the issue of the use of the seal and name.
- 28.** The Committee observes that the author of the objection was the Employers' delegate to last year's session of the Conference while the person he is now contesting, Mr. Ninkovic, was the Employers' adviser. As the objection does not indicate any substantial change in the internal structures of the employers' organizations in Serbia and Montenegro that would lead to the conclusion that there has been a change in the representative character of the employers' organizations, the Committee concludes that the questions raised in the objection are essentially internal. What remains unclear is the consultation process that took place and was the subject of a tripartite meeting on 19 April 2005, as well as the matter of representation at the international level by an employers' organization. The Committee expresses its hope that all interested parties will endeavour to resolve their differences before the next session of the Conference.

Objection concerning the nomination of an Employers' adviser of Swaziland

- 29.** The Committee had before it an objection submitted by the Employers' group of the Conference concerning one of the Employers' advisers of Swaziland. The Employers' group submitted that the principles and procedures stipulated in article 3, paragraph 5, of the ILO Constitution had not been respected by the Government concerned, since it had failed to undertake official consultations with the most representative employers' organization in the country, specifically the Federation of Swaziland Employers and Chamber of Commerce (FSE&CC), prior to the nomination of the Employers' adviser and substitute delegate, Ms. Thulsile Dlamini, Secretary-General of the Federation of Swaziland Business Community. The Federation of Swaziland Employers (FSE) is part of the FSE&CC, registered in 1946, with 475 members consisting of companies and associations employing 70 per cent of employees in the formal sector. The Federation of Swaziland Business Community was formed in 2003 and at the end of 2004 had approximately 40 affiliates. However, it was neither a member of any recognized employers' organization nor had it engaged in dialogue with the FSE. The Employers' group, therefore, esteemed that the nomination of Ms. Dlamini was an imposition by the Government of a sponsored organization and that such action constituted an infringement of the right of the most representative employers' organization in the country to nominate appropriate representatives to the Conference.
- 30.** Though the employers of Swaziland are represented at the Conference by the FSE, as both its Chief Executive Officer, Ms. Treasure T. Maphanga, and its President, Mr. Zakes Nkosi, had been accredited to the Conference as the Employers' delegate and substitute delegate and adviser, respectively, the Government was requested to furnish an explanation regarding this violation of procedures and to remember its constitutional obligations when carrying out nominations in the future.
- 31.** In a written communication received in reply to the Committee's request, the Commissioner of Labour, Mr. J.L. Nkhambule, and Government delegate to the Conference advised that the Minister of Enterprise and Employment intended on: discussing and finalizing the consultation process for the appointment of delegates with a view to formalizing it with the tripartite partners after the Conference; and, that the two employers' federations would continue with their bilateral discussions with a view to their finalizing their agreement/understanding. He further informed the Committee that consultations had taken place during the Conference and that a further understanding had been reached with all the parties concerned on the way forward.
- 32.** The Committee notes that the representativeness of the employers' organization is not in dispute. What has been called into question is the lack of consultations with the representative employers' organization for the purpose of nominating the Employers' delegation to the Conference. Although the Committee welcomes the Government's immediate steps to consult the representative employers' organizations during the Conference and to formalize the consultation process for the appointment of future delegations to the Conference, the Committee recalls that article 3, paragraph 5, of the ILO Constitution requires governments to undertake official consultations with the most representative employers' and workers' organizations in the country prior to nominating the tripartite delegation to the Conference. It trusts that the Government will ensure that the consultation process is carried out for the purpose of future nominations to the Conference.

Complaints

33. The Committee had also received and dealt with the following two complaints, which are listed below in French alphabetical order of the member States concerned.

Complaint concerning the non-payment of travel expenses of a member of the Employers' delegation of Peru

34. On 3 June 2005, the Committee received a complaint submitted by the Employers' group of the Conference concerning the non-payment of travel expenses of a member of the Employers' delegation of Peru. It considered that the Government had not met its obligations under article 13, paragraph 2(a), of the ILO Constitution, since the Government was paying only the subsistence expenses of the Employers' delegate, Mr. Jaime Zavala Costa. The *Confederación Nacional de Instituciones Empresariales Privadas* (CONFIEP) of which the Employers' delegate was a member had requested that the travel expenses of the Employers' adviser and substitute delegate, Mr. Julio César Barrenechea, be paid instead. This request was ignored by the Government. The Government was called upon to provide a clear explanation in response to its failure to pay the travel expenses of the adviser concerned, to fulfil its obligation by paying the travel expenses of at least one of the two members of the delegation referred to above and, in the future, to comply with its obligations as stipulated under article 13, paragraph 2(a), of the ILO Constitution.
35. In a written communication addressed to the Committee in response to its request, Mr. Roberto Servat Pereira de Sousa, Vice-Minister of Labour and Government delegate, advised that the partial payment to Mr. Jaime Zavala Costa was due to the precarious socio-economic and financial situation of the country. He added that Mr. Zavala Costa had received ten days of per diem which was equivalent to the amount that had been received by the rest of the delegation. It expresses its availability to examine whatever method or specific recommendation that could assist Peru to overcome this problematic question.
36. If the reasons invoked by the Government are understandable, the Committee notes the discrepancy of information furnished to it by both parties. The Government does not dispute the information contained in the complaint with regard to the failure to pay the travel expenses, however, the Committee notes that the Government had indicated in the Form for Credentials of Delegations that it had covered the travel expenses. Furthermore, the Committee considers that the payment of only ten days of subsistence expenses does not permit the delegation to follow the work of the Conference from beginning to end. This is incompatible with the obligations foreseen under article 13, paragraph 2(a), of the ILO Constitution, which requires that expenses be covered for a tripartite delegation in conditions that would permit the members to participate in the work of the Conference until its conclusion. The Committee has reiterated this in the past and it, therefore, calls on the Government to meet its constitutional obligations.

Complaint concerning the non-payment of the travel and subsistence expenses of an Employers' adviser of Swaziland

37. On 1 June 2005, the Committee received a complaint submitted by the Employers' group of the Conference on behalf of one of the Employers' advisers and substitute delegates of Swaziland. The complaint stated that the Government had undertaken to meet the travel and subsistence expenses for the participation in the Conference of one of the Employers' advisers and substitute delegates, Ms. Thulsile Dlamini, Secretary-General of the Federation of Swaziland Business Community, whereas it had not for the other, Mr. Zakes

Nkosi, President of the Federation of Swaziland Employers (FSE). This impedes the latter from fully participating in the work of the Conference.

38. In a written communication received in reply to the Committee's request, Mr. J.L. Nkhambule, Commissioner of Labour and Government delegate to the Conference advised that the Government would meet the normal cost for sending Mr. Nkosi, President of the FSE, as Employers' adviser and substitute delegate of Swaziland to the Conference.
39. The Committee notes that, in so far as the Government has agreed to cover the necessary expenses to enable the Employers' adviser and substitute delegate to be present until the last day of the Conference, the complaint becomes moot and requires no further intervention by the Committee. The Committee trusts that the Government will honour its commitment prior to the end of this Session of the Conference.

Communication

40. The Committee also received the following communication.

Communication concerning the Workers' delegation of Serbia and Montenegro

41. The Committee had received from the International Confederation of Free Trade Unions (ICFTU), a communication regarding the credentials of the Serbia and Montenegro Workers' delegation. The ICFTU noted with appreciation that the Government of Serbia and Montenegro had appointed a Workers' delegate and two advisers to this year's session of the Conference representatives from the United Branch Trade Unions (Nezavisnost), thus recognizing the genuine representativeness of this organization. It was also welcomed that adequate representation had been accorded to the most representative workers' organization of Montenegro, the Association of Independent Trade Unions of Montenegro (CITUM), through the nominations of one adviser and substitute delegate, and one adviser. Clarification, however, was sought from the Government as to how the remainder of the Workers' delegation had been appointed, since there had been allegations concerning attempts to only consult small and non-representative trade union organizations for the purpose of nominating the Workers' delegation to this session of the Conference. An assurance that a clear understanding prevailed within Serbia and Montenegro regarding the rules governing the tripartite structure of delegations at the Conference in accordance with article 3 of the ILO Constitution was sought.
42. The Committee notes that the communication of the ICFTU had been drafted neither as an objection, nor was it aimed at challenging the credentials of the Workers' delegation of Serbia and Montenegro. The Committee notes the absence of any information or comment from the Government. In these circumstances, the Committee considers that this communication does not call as such for any action on its part, but it does recall that governments are obliged to consult the most representative workers' organizations that exist in the country.

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43. The Credentials Committee adopts this report unanimously. It submits it to the Conference in order that the Conference may take note of it.

Geneva, 10 June 2005.

(Signed) Mr. Jules Medenou Oni,
Chairperson.

Ms. Lucia Sasso Mazzufferi.

Mr. Ulf Edström.

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