



## Reports of the Credentials Committee

### Second report \*

#### Composition of the Conference

1. Since 3 June 2006, when the Credentials Committee adopted its first report (*Provisional Record* No. 5B), new credentials had been received from Gambia and Uzbekistan. Therefore, at present a total of 166 member States are represented at the International Labour Conference. These new delegations, exclusively governmental, are in addition to those mentioned in paragraph 11 of its first report. Regarding the accredited Members without the right to vote mentioned in paragraph 14 of its first report, Gambia should be added to the list; whereas, Congo had recovered the right to vote.
2. The Committee observes that of the five member States mentioned in paragraph 20 of its first report, only Lesotho had 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 Afghanistan, Bahamas, Dominican Republic, Paraguay and Timor-Leste, had not.
3. The Committee noted that the Conference had received two communications in relation to the delegation of Serbia and Montenegro accredited to the Conference on 31 May 2006. The first communication indicated that the Republic of Serbia continued the membership of the State Union of Serbia and Montenegro in the United Nations and specialized agencies following the adoption of the Declaration of Independence by the National Assembly of Montenegro on 3 June 2006. Consequently, the delegation of Serbia was included in the *Revised Provisional List of Delegations*. The second communication requested observer status for a delegation of the Republic of Montenegro, from 6 June until the end of the Conference. This request was granted by the Conference in accordance with article 2, paragraph 3(e), of the Standing Orders of the International Labour Conference and the delegation of Montenegro will be included among the observers in the *Final List of Delegations*.

\* Modifications made pursuant to *Provisional Record* No. 23, p. 16.

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4. As of this day there are 4,500 persons accredited to the Conference (as compared to 4,315 last year), of whom 3,828 are registered (as compared to 3,842 last year).<sup>1</sup> The attached list contains more details on the number of delegates and advisers registered for each Member.
  5. In addition, the Committee wishes to indicate that 159 ministers or vice-ministers have been accredited (as compared to 168 last year) to the Conference.

## Monitoring

6. The Committee was automatically seized by the monitoring process in relation to the report that the International Labour Conference at its 93rd Session (June 2005) requested from a Member pursuant to article 26bis, paragraph 7, of the *Interim Provisions of the Conference Standing Orders concerning the verification of credentials* adopted by the International Labour Conference at its 92nd Session (June 2004) (*Provisional Record* No. 16).

## Burundi

7. The International Labour Conference at its 93rd Session (June 2005) had decided to request the Government of Burundi to submit to the Conference at its 95th Session (June 2006), at the same time that it submits its credentials for the delegation of Burundi, a detailed report on the procedure utilized to nominate the Employers' and Workers' delegates and advisers. Specifically, the organizations that had been consulted on the matter, time and place of these consultations; and the names of the individuals nominated by the organizations during the consultations (*Provisional Record* No. 25). The demand had been made on the basis of a unanimous proposal of the Credentials Committee that the procedure for composing the delegation of Burundi should be the object of a follow-up (*Provisional Record* No. 4D). In this regard, the Committee had acted for the first time by virtue of article 26bis, paragraph 7, of the *Interim provisions of the Conference Standing Orders concerning the verification of credentials*. The Director-General of the International Labour Office had also sent the Government a letter on 26 April 2006 reminding it of the Conference's request for information. However, the Government had not sent the report when it submitted its credentials for the delegation of Burundi.
8. The Committee, to whom the secretariat had transmitted the above information, had decided to request the Government to furnish an explanation on this point. The clarifications requested were furnished orally by Mr. André Ndikumwami, adviser to the Minister of the Public Function, Labour and Social Security and Government delegate to the Conference, accompanied by Mr. Nestor Nkundwanabake, First Counsellor, Permanent Mission of Burundi (Geneva) and Government adviser to the Conference. Mr. Ndikumwami presented his Government's excuses to the Committee. The report, which the Committee received only just prior to its meeting with the Burundian delegation, had been prepared but had remained unsigned by the Minister due to his various missions abroad. The report explained the radical change in the situation of Burundi where social

<sup>1</sup> The Conference witnessed a strong increase in the past six years of accredited and registered persons, respectively 25 per cent and 22.8 per cent. In 2000 – 3,581 persons had been accredited and 3,115 had been registered. In 2001 – 3,663 persons had been accredited and 3,236 had been registered. In 2002 – 3,778 had been accredited and 3,306 had been registered. In 2003 – 4,046 persons had been accredited and 3,498 had been registered. In 2004 – 4,180 persons had been accredited and 3,696 persons had been registered.

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dialogue had been re-established and, as a consequence, the nomination of the Employers' and Workers' delegations had been by the most representative organizations.

9. In response to a request by the Committee, the Government furnished documentation indicating the date and place of the consultations that were held for the purpose of nominating the Employers' and Workers' delegations. The authenticity of the information was confirmed by the signature of the representatives of the *Association des employeurs du Burundi* (AEB) and the *Confédération des syndicats du Burundi* (COSYBU).
10. The Committee takes note with interest of the information communicated by the Government and trusts that all the concerned parties will continue to pursue and develop social dialogue in Burundi. While regretting that the Government had not transmitted the report within the time prescribed by the Conference, the Committee has decided not to recommend any monitoring for next year. The Committee notes with satisfaction the positive results of its initial utilization of its extended mandate.

## Objections

11. The Committee has received 11 objections this year. The objections relate to the credentials of delegates and their advisers who are already accredited to the Conference as reflected in the *Provisional List of Delegations* and the *Revised Provisional List of Delegations*. The Committee has completed the examination of all objections and are listed below in the French alphabetical order of the member States concerned.

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

12. The Committee had received an objection concerning the nomination of the Workers' delegation of Cameroon, submitted by the Secretary-General of the *Syndicat national unitaire des instituteurs et des professeurs des écoles normales* (SNUIPEN), which is a member of the *Confédération des Syndicats indépendants du Cameroun* (CSIC). The objecting organization alleged that in Cameroon the nomination is an arbitrary one by the Minister of Labour and Social Security. Specifically, it indicated that the Minister may introduce within the Workers' delegation individuals that are at the core of the dissidence within SNUIPEN and the CSIC, namely Messieurs Jean-Pierre Ateba and Essomba. Amongst other things, this dissidence is said to be encouraged by the Government that had ignored a judicial decision ordering the suspension of resolutions adopted by the dissident congress of the CSIC organized by Messieurs Ateba and Essomba. The objecting organization opposed the nomination of dissidents to the delegation of Cameroon.
13. In a written communication addressed to the Committee in response to its request, the Minister of Labour and Social Security explained that the delegation is constituted by its governmental hierarchy and is based on propositions received from the various trade unions and employers of which it is simply informed. Notably, the Minister indicated that in view of the ever-increasing number of trade union confederations, the Government had attempted to ensure that the national delegation to the International Labour Conference would follow a system of rotation.
14. Regarding trade union representativity, the Minister added that as a result of the workers' representatives' elections that were held from February through April 2005, the *Confédération syndicale des travailleurs du Cameroun* (CSTC) came out on top and was followed (in decreasing order) by: the *Union des syndicats libres du Cameroun* (USLC), the *Confédération générale des travailleurs-Liberté* (CGT-Liberté), the *Union générale des travailleurs du Cameroun* (UGTC) and the CSIC. A new organization, the

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*Confédération des syndicats autonomes du Cameroun* (CSAC) constitutes an important grouping of the agricultural, communication and energy sectors. Measures are also under way with regard to the *Centrale du secteur public* (CSP). It is also indicated that a decision concerning representativity should be issued in due course and that the social partners already enjoy freedom with regard to their trade union activities, without inference of the Government, and in conformity with the provisions of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

15. The Committee regrets that the Government did not furnish all the information requested – specifically pertaining to the numerical importance of the representative organizations and the consultation procedure followed for the nomination – but notes that the composition of the Workers’ delegation appears to reflect the diversity of the national representative organizations. The Committee also notes the judicial order suspending the resolutions adopted by the dissident congress of the CSIC. Nevertheless, it does not consider the representativeness of this organization to be in question, but the person that is entitled to represent it, Mr. Ateba, registered as adviser, while Mr. Essomba does not appear in the *Provisional List of Delegations*. It therefore appears that the present case turns on an internal conflict within the SNUIPAN and the CSIC. Consequently, it is not within the scope of the Committee’s mandate but rather that of the national judiciary authorities. In these circumstances, and in light of the information that it possesses, the Committee has decided not to retain the objection.

### **Objection concerning the nomination of the Workers’ delegation of Djibouti**

16. The Committee had received an objection concerning the Workers’ delegation of Djibouti, submitted by Messieurs Adan Mohamed Abdou, Secretary-General of the *Union djiboutienne du travail* (UDT), and Kamil Diranel Hared, Secretary-General of the *Union générale des travailleurs djiboutiens* (UGTD). The authors of the objection allege that despite the undertakings made before the Committee in 2005, the Government continued to nominate Workers’ delegates that are in reality closely tied to it. The “so-called representatives” of the UGTD that are part of the delegation are, in truth, nothing more than individuals pledged to the public authorities and utilized as a trade union alibi by the Government.
17. The authors of the objection denounced once more the grave and flagrant violations of the principles of freedom of association in the country, namely: governmental interference in trade union activities; discriminatory and anti-trade union acts (harassment, constant repression of trade unionists since 1995, imprisonment of trade union leaders) that are before the Committee of Freedom of Association; the adoption of a labour code judged contrary to international labour standards – specifically, the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98); the arrest and expulsion of an ILO official; as well as the refusal of entry with force at the Djibouti airport of representatives from the International Confederation of Free Trade Unions (ICFTU) and the International Federation of Human Rights (IFHR). The authors of the objection alleged that a specifically identified individual had been nominated to be part of the delegation for the exclusive purpose of emigrating – incorrect information given the fact that the name of the individual was not included in the credentials submitted by the Government. The authors of the objection requested that the Committee strongly condemn the Government’s attitude by invalidating the credentials of the Workers’ delegate.
18. In a written communication addressed to the Committee in response to its request, the Government explained that only the UGTD could be considered representative. As the only confederation encompassing the majority of the first-level trade unions nationally, it

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recently organized its Seventh Congress so as to elect its board with the participation of an observer from the World Federation of Trade Unions (WFTU). According to the Government, the UGTD alone had nominated its representatives to the Conference, as a result of an invitation from the Government's Office of Labour and Liaison with the Social Partners. Regarding any eventual agreement for a system of rotation with a view to nominating delegations, the Government explained that it was not within its mandate to nominate anyone as delegate at a Conference and that only the UGTD could furnish information on this question. The Government reiterated its position according to which trade unionists belonging to the UDT do not represent anyone except themselves and consequently continue to mislead a number of organizations that are not appraised of the actual Djiboutian situation. In addition, one of these individuals possibly simultaneously exercises the functions of secretary-general of a political party and that of a secretary for a confederation, which is now prohibited by the new Labour Code (article 214). For more details, the Government attached a copy of its communication addressed to the Committee on Freedom of Association on 15 January 2006.

- 19.** The Committee deplores that after ten years, at each session of the Conference to which Djibouti has nominated a tripartite delegation, the Committee had received an objection concerning the composition of the Workers' delegation. These objections are all founded on allegations relating to acts of interference by the Government in the nomination of the delegation. For its part, the Government continued to question whether the authors of the objection had standing, without ever having submitted to the Committee reliable and verifiable documentation. More precisely, the Government had not furnished any information regarding the numerical importance of the UGTD nor concerning the consultations that took place for the purposes of nominating the members of the delegation whose credentials had been contested. Despite the undertakings made by Mr. Houmed Mohamed Dini, Minister of Employment and National Solidarity, at the 93rd Session of the Conference (June 2005) (*Provisional Record* No. 4D), the Committee deeply deplores the absence of any progress on the subject and the lack of cooperation by the governmental authorities. While the Minister stated that he was ready to receive the technical assistance of the Office, the Committee notes that an official of the International Labour Office had been arrested during an official mission in Djibouti. This is a serious matter which it firmly condemns. The Committee reiterates its deep concern in light of the practices that by their nature corroborate the allegations of interference and non-respect for the principles of freedom of association contained in the objection. If the Government solicits the assistance of the Office, the Committee trusts that the Government will take all necessary measures to assure the personal safety of the concerned officials.
- 20.** In light of the preceding and noting that the Committee on Freedom of Association has already been seized of certain aspects raised in this objection, the Committee unanimously considers that the procedure relating to the composition of the Workers' delegation of Djibouti to the Conference should be monitored. By virtue of article 26bis, paragraph 7, of the *Interim Provisions of the Conference Standing Orders concerning the verification of credentials*, the Committee proposes that the Conference request that the Government of Djibouti submit for the next session of the Conference, at the same time that it submits its credentials for the delegation of Djibouti, a detailed report substantiated with relevant documentation on the procedure utilized to nominate the Workers' delegates and advisers, specifically, the organizations that will have been consulted on the matter and according to which criteria, the date, time and place of these consultations; and the names of the individuals nominated by the organizations during these consultations. Finally, the Committee trusts the Government to assure itself that objective and transparent criteria are established so as to determine the most representative workers' organizations and that the procedure for the nomination of the Workers' delegation at the next session of the Conference will occur in full conformity with article 3, paragraph 5, of the ILO Constitution.

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

21. The Committee had received a communication from the National Secretary of the Fiji Trade Union Congress (FTUC) regarding the Workers' delegation of Fiji on 17 May 2006. It indicated that the FTUC, in response to a request by the Government, had conveyed on 12 April 2006 the names of its representative for the purpose of inclusion in the national delegation to the Conference. However, in a subsequent communication of 10 May 2006 the Ministry indicated that the composition of the Workers' delegation would be amended by changing the representative of the FTUC from delegate to adviser. In view that the credentials submitted by the Government on 26 May 2006 include the FTUC representative as the Workers' delegate, the Committee finds that the objection is moot.

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

22. The Committee had received an objection concerning the nomination of the Workers' delegation of Gabon, submitted by the secretary-general of the *Confédération gabonaise des syndicats libres* (CGSL). The author of the objection opposed the inclusion of the former secretary-general of the organization, Mr. Etienne Francis Mayombo, in the Workers' delegation. In view that the credentials submitted by the Government on 30 May and 6 June 2006 do not include the name of Mr. Mayombo, the Committee finds that the objection is moot.

### **Objections concerning the nomination of the Workers' delegate of Guinea**

23. The Committee had received two objections concerning the nomination of the Workers' delegate of Guinea, submitted separately by the *Confédération nationale des travailleurs de Guinée* (CNTG) and the *Union syndicale des travailleurs de Guinée* (USTG). The objections were supported by the International Confederation of Free Trade Unions (ICFTU), the World Confederation of Labour (WCL) and the Organization of African Trade Union Unity (OATUU). The objecting organizations considered that the unilateral decision by the Government in nominating the secretary-general of the *Confédération guinéenne des syndicats libres de Guinée* (CGSL) to represent the workers at the present session of the Conference, impeded the social dialogue in the country and constituted a flagrant violation of Conventions ratified by Guinea.
24. According to the objecting organizations, the secretary-general – of the “so-called” confederation that does not have headquarters or programmes – had never carried out trade union activities, had no democratic legitimacy and had neither negotiated nor signed agreements or collective bargaining agreements. The confederation in question does not have first-level trade unions or vertical structures (professional federations, national trade unions) or horizontal ones (local or regional trade unions). It is not a member of bipartite or tripartite bodies, such as the economic and social council, the administrative council of the social security office or the professional training office. The organization in question is not affiliated to any Pan-African or international trade union organization.
25. The objecting organizations explained that this practice of unilateral nominations of a non-representative trade union closely tied to the Government transpired after the end of the five-day general strike prompted by the CNTG and USTG (27 February until 3 March 2006). Similar to this nomination, the secretary-general of another non-representative organization was nominated to the 94th Session (Maritime) International Labour Conference (February 2006), as well as to the social committee of the African Union held

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in Cairo, April 2006. Both non-representative organizations were signatories of a declaration against the strike. These actions are in contradiction with the tripartite protocol agreement signed in March 2006 that resulted from the general strike prompted by the inter-confederation, CNTG-USTG. This agreement attested to the representativeness of both organizations. The objecting organizations also stated that, on the occasion of the celebrations of 1 May, they gave the Government a manifest in which they sought that their proven representativeness be taken into account within the context of the Guinean workers' nominations to African and international conferences.

26. Attached to the objection was information considered to be necessary by the objecting organizations for the Committee with regard to representativeness, for example: the number of congresses held, their vertical and horizontal structures, their representativeness within the bipartite and tripartite bodies in the country, the list of African and international organizations to which they are affiliated, and their participation in ILO organs.
27. In a written communication addressed to the Committee in response to its request, the Minister of Employment and Public Function indicated that to date eight workers' organizations are recognized in Guinea, specifically: the *Confédération générale des travailleurs de Guinée* (CNTG); the *Union générale des travailleurs de Guinée* (UGTG); the *Organisation nationale des syndicats libres de Guinée* (ONSLG); the *Union syndicale des travailleurs de Guinée* (USTG); the *Confédération guinéenne des syndicats libres de Guinée* (CGSL); the *Syndicat indépendant des forces ouvrières de Guinée* (SIFOG); the *Union démocratique des travailleurs de Guinée* (UDTG) and the *Confédération générale des travailleurs de Guinée* (CGTG). For several years, the Government had been seeking financial support so as to organize trade union elections with a view to establishing their degree of representativeness. In the interim, the Government had addressed a request to all of the confederations seeking their nominations for representatives at the present session of the Conference and that they had responded positively. In view that the national confederations had for some time objected to the quasi-permanent nomination of the CNTG representative and sought a system of rotation amongst themselves, the Government decided to nominate Ms. Bangoura of the CGSL. This decision was motivated by financial reasons and over the concern for equity.
28. The Committee notes with regret that the Government failed to furnish sufficiently specific and reliable information regarding the numerical importance of the organizations to which it referred, as well as the procedure undertaken for the consultations nominating the Workers' delegate. It also did not respond to the allegations concerning the existence of the organization to which the Workers' delegate belongs. Even if, in the absence of verifiable information, it cannot render definitive conclusions, the Committee remains concerned regarding the questions raised in the objections, supported by the ICFTU, the WCL and the OATUU. The Committee recalls to the Government that the Workers' delegation should be nominated, on the one hand, in agreement with the most representative organizations on the basis of pre-established, objective and verifiable criteria; and, on the other hand, in a manner that does not raise doubts regarding the capacity of organizations to act in complete independence from a government. The Committee, therefore, urges the Government to expeditiously endow itself with a system of evaluating representativeness so that it can meet its constitutional obligations in virtue of article 3, paragraph 5, of the ILO Constitution. In this regard, the Government may solicit technical assistance from the Office. The Committee trusts that the procedure for the nomination of the Workers' delegation at the next session of the Conference will occur in full conformity with article 3, paragraph 5, of the ILO Constitution. It also trusts that the procedure for nominations will occur with a spirit of cooperation amongst all the concerned parties.

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## **Objections concerning the nomination of the Workers' delegation of the Islamic Republic of Iran**

- 29.** The Committee received an objection submitted by Mr. Mohammad Hamzeh, Head of International Relations and Executive Board member of the Workers' House of the Islamic Republic of Iran challenging the nomination of the Workers' delegation of the Islamic Republic of Iran. The objection was endorsed by the president of the General Federation of Yemen Workers' Trade Unions. A second objection was submitted by the Vice-President of the Syndicate of Workers of the United Bus Company of Tehran and the Suburbs, Mr. Ebrahim Madadi. The Committee also received two communications on the same subject transmitted by Mr. J. A. Saliminan, a member of the Workers' House. According to the authors of the first objection, the Government bypassed the Workers' House in nominating the delegation even though it is the most representative workers' organization for close to three decades. In fact, there had been no consultative process in nominating the Workers' delegation. Moreover, the minister included in the Workers' delegation employees from its own ministry that constituted a violation of article 3 of the ILO Constitution and the principles of freedom of association. In this regard, it was considered that the lack of consultations was due to divergences between the Workers' House and the minister arising from the Workers' House's request to modify a law in order to improve the conditions of life of Iranian workers. Furthermore, the Workers' House alleged that many violations of workers' fundamental rights are based on the non-respect of international labour standards by the Islamic Labour Councils. Consequently, the invalidation of the credentials of the Workers' delegation was sought.
- 30.** In a written communication addressed to the Committee in response to its request, the Government indicated that the objections were unfounded. The Islamic Labour Councils is provided for in the Labour Code and form, through labour and provincial federations, the Confederation of Islamic Labour Councils. It is the latter that designated representatives to international meetings, particularly the ILO. As the mandate of the "Board of Directors of the Confederation" expired in September 2005, the Government reminded the Confederation to hold its elections within three months. In reaction the Workers' House, which had a monopoly of representing the Iranian workers for 27 years but had lost in recent years many of its affiliated associations, decided to hold elections at its premises in Isfahan. Such a decision was rejected by the other workers' organizations that feared the possibility of the elections being rigged by the Workers' House. Consequently, a complaint regarding these elections resulted in an Administrative Tribunal's decision to annul the election results.
- 31.** In the absence of any confederation, an election was held on 17 April 2006 with the participation of 605 out of 1,100 (55 per cent) provincial federation Islamic Labour Councils – namely, Tehran, Khoutestan and Mazandaran. The federation Islamic Labour Councils of Shahr-e-Ray, Islamshahr, Karaj, Varamin, Pakdasht, Savojbolagh, Shahrriar, Robatkarim, Jadeh Ghadim, Jadeh Makhsoos, Tehran Axis and Central Axis, as well as the provincial Islamic Labour Councils of Mazandaran and Khouzestan, were also consulted on 5 May 2006 at the Centre for Coordination of Islamic Labour Councils of Tehran concerning the nomination of the Workers' delegate to the Conference. Finally, the Government indicated that the Director of the ILO's International Labour Standards Department was present in April 2006 during the elections involving the Islamic Labour Councils of Tehran and met with various workers' organizations.
- 32.** Clarifications that were requested by the Committee were provided orally by Mr. Amir Hossein Shahmir, Representative of the Ministry of Labour and Social Affairs and Government delegate to the Conference. He was accompanied by Messrs. Hossein Nategh Noori, adviser to the Minister and director-general for International Affairs and Rashid Bayat Mokhtari of the Permanent Mission in Geneva. It was clarified that according to the



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Labour Code, currently under revision with ILO assistance, the Government had the duty to ensure that the Board of Directors' elections were held every two years. The Workers' House unilaterally carried out elections at its premises despite protests from other workers' organizations and the Government's specific request. Consequently, the Administrative Tribunal, an independent judicial body, invalidated the results of the elections. At the request of the workers' organizations, new elections were held at the Ministry of Labour without any government interference. Although the Workers' House had represented the workers for almost three decades at the international level, particularly at the ILO, its representativeness had considerably declined over the years and many Workers' House members are now members of the provincial federations of Islamic Labour Councils. Nevertheless, the Workers' House had been orally invited to participate in consultations regarding the nomination of the Workers' delegate to the Conference, but it had categorically rejected the invitation.

- 33.** Concerning the representativity of the workers' organizations in the Islamic Republic of Iran, the Tehran Federation of Islamic Labour Councils is by far the largest with more than 570 affiliates. Although it would appear that no independent statistical data on the representativeness was available, the Workers' House could not provide the number of registered members, whereas other workers' organizations had at least 560,000 registered members. Unlike other trade union organizations, the Workers' House was not registered with the Ministry of Labour, but with the Ministry of Interior as a political party. Although he would be entitled to do so under the Labour Code where the elections were not held or were invalidated, the Minister of Labour did not designate a Workers' delegate to the Conference. Rather he referred the case to the Supreme Labour Council, a tripartite body, which deals with all labour relations issues. Finally, with respect to a specific question concerning the genuine status of certain representatives, the Government explained that Mr. Abdolahad Aligholian, a Workers' adviser was indeed not a workers' organization representative, but was included in the delegation so as to provide translation and secretarial work since most of its members could not speak any of the official languages of the Conference. As to Ms. Jalali who represented workers at earlier Conferences, although she owned a non-profit recruitment agency, she was a workers' representative at a number of councils in the Islamic Republic of Iran, such as the Supreme Labour Council, a Council of Social Security and a worker adviser to the Mayor of Tehran.
- 34.** The Committee, although welcoming the Government's readiness in providing it with necessary information, observes that despite this additional information certain issues remain unclear and it continues to be concerned about several issues; such as, the genuine status of Mr. Aligholian and Ms. Jalali.
- 35.** The Committee considers that due to the absence of any independent statistical data on workers' organizations there was no reliable basis available to the Government for assessing their representativeness. It stresses that the system of evaluating the representativeness of each organization, so as to include them in the consultation process to nominate the Workers' delegate to the Conference should be based on objective and verifiable criteria. In the absence of this information, the Committee cannot ascertain whether the Government consulted the most representative organizations. It, therefore, recalls to the Government that it is essential to dispose of the necessary statistical data in order for it to ensure the representative character of Workers' delegates at future sessions of the Conference. It trusts that the Government will undertake this task without delay.
- 36.** It also remains unclear to the Committee the manner in which consultations had been carried out in order to nominate the Workers' delegate at the present session of the Conference. Noting that the Government referred mainly to the process of elections within the Confederation, a pre-consultation phase, and that the Workers' House, a long-time workers' representative had not been involved in this process, the Committee has

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considerable doubts that the consultations were held in line with the provisions of the ILO Constitution. The Committee wishes to recall that article 3, paragraph 5, of the ILO Constitution imposes on governments in countries where there are two or more representative workers' organizations an obligation to actively seek an agreement between them for the purpose of nominating the Workers' delegation. This obligation is not fulfilled where a government extends a mere invitation to the largest organization in terms of membership, nor can organizations of comparable importance claim for themselves the right to appoint the Workers' delegate without even attempting to reach an agreement with the other workers' organizations. The Committee urges the Government to clarify the process of consultation aimed at arriving at a nomination of the Workers' delegation to the Conference. The Committee hopes that the Government will ensure the establishment of objective and transparent criteria for determining the most representative organizations and that the process of nominating the Workers' delegation at future sessions of the Conference will be engaged in a spirit of cooperation by all the parties involved.

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

37. The Committee had received an objection concerning the nomination of the Workers' delegation of Paraguay, submitted by Mr. Pedro Parra Gaona, member of the ILO Governing Body, member of the National Executive Council and Deputy Secretary-General of the *Central Nacional de Trabajadores* (CNT). On behalf of the Coordinating Body of the confederations of Paraguay – comprised of the CNT, the *Central Unitaria de Trabajadores* (CUT-A), the *Central Unitaria de Trabajadores* (CUT), the *Confederación Paraguaya de Trabajadores* (CPT) and the *Central General de Trabajadores* (CGT), the author of the objection stated that the nomination of the Workers' delegation of Paraguay was not sufficiently democratic as it disregarded the requests of the five Paraguayan confederations mentioned above from fully participating at the present session of the Conference. The Workers' delegate, Mr. Bernardo Rojas, whose designation was agreed upon by the confederations and who was nominated by the Government decided not to come to the Conference as a sign of solidarity with the position of the five confederations. In addition, the Workers' adviser nominated by the Government, Mr. Reinaldo Barreto Medina, from *Central Sindical de Trabajadores del Paraguay* (CESITP), is not representative of the workers as he did not align himself with the position taken by the trade unions regarding the workers' requests. On 1 June 2006, the confederations informed the Minister of Justice and Labour of their position. Consequently, any representation of the workers of Paraguay at the Conference was considered to be illegitimate.
38. In a written communication addressed to the Committee in response to its request, Mr. Derlis Cespedes Aguilera, Minister of Justice and Labour and Government delegate at the Conference, rejected the objection in its entirety. It was explained that there were seven registered representative organizations in the country and that their numerical representativity was proportionally the same (that is to say that each organization represented around 14.28 per cent of the total number of workers in the formal economy). In addition to those five confederations that belong to the Coordinating Body, there is also the CESITP and the *Confederación de Funcionarios y Empleadores Estatales* (CONFEE).
39. As the Coordinating Body is the most representative workers' organization, the Government invited on 12 May 2006 all five of its confederations to designate by consensus the Workers' delegate to the present session of the Conference. The Coordinating Body designated Mr. Bernardo Rojas from CUT-A as delegate along with four advisers from the remaining confederations. In a subsequent meeting held on 18 May 2006 between the minister and the presidents of the five confederations, the confederations reiterated their interest in having all their respective representatives included in the delegation. They were informed that the ministry did not have sufficient funds to finance

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the participation of five representatives; that the parity between the representation of employers and workers at the Conference had to be maintained; and that article 3, paragraph 1, of the ILO Constitution provides only for the minimum obligation of sending a four-member delegation. Thus, the Government advised Mr. Rojas in writing on 29 May 2006 that he had been nominated as the Workers' delegate to the Conference and that his travel and subsistence expenses would be covered by the Government.

40. On 1 June 2006 the presidents of the five confederations flatly rejected, in writing, the composition of the entire Workers' delegation as it would not permit their confederations to participate in a unified manner at the present session of the Conference. On 2 June 2006, the Government notified them in writing that it deeply regretted their decision but maintained the nomination of Mr. Rojas, as they themselves had designated him as the Workers' delegate. The Government also clarified that Mr. Medina was named as an adviser to the Workers' delegate in response to the CESITP's request, since his participation would have been financed through various non-government donations and he had participated in the Conference since 1997.
41. The Committee observes that the Government submitted its credentials on 30 May 2006 without any indication of the functions or organizations that the members of the Workers' delegation hold. The Government had failed to provide this information subsequently despite the Committee's specific request (*Provisional Record* No. 5B).
42. With regard to the Workers' delegate, Mr. Rojas, the Committee observes that his name was indeed proposed by the five organizations but that he decided not to come to Geneva as a sign of solidarity with the other workers' organizations that could not be represented at the Conference. However, the information at the Committee's disposal indicates that despite the fact that his decision was known to the Government, Mr. Castiblanco Chontal from the Permanent Mission in Geneva had collected Mr. Rojas' badge thereby giving the impression that Mr. Rojas had actually registered at the Conference. The Committee expresses its dissatisfaction with this act as it affects the quorum of the Conference.
43. Concerning the adviser to the Workers' delegate belonging to CESITP, the Committee observes this organization was not even invited to participate in the consultation process aimed at the nomination of the Workers' delegation to the Conference. The Government, however, accepted to include one of its representatives outside the consultation process and with the express understanding that the travel and subsistence expenses of Mr. Medina would be covered by CESITP. Therefore, the nomination of the adviser is not the result of an agreement with the most representative organization as is foreseen by article 3, paragraph 5, of the ILO Constitution. The Committee therefore invites the Government to ensure that the procedure for the nomination of the Workers' delegation at the next session of the Conference will occur in full conformity with article 3, paragraph 5, of the ILO Constitution.

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

44. The Committee had received an objection concerning the nomination of the Workers' delegate of Rwanda, submitted by Mr. Dominique Bicamumpaka, President of the *Congrès du Travail et de la Fraternité* (COTRAF-Rwanda). The author of the objection alleged that the nomination of the Workers' delegate, a representative of the *Centrale des Syndicats des travailleurs de Rwanda* (CESTRAR), had been made by the Ministry of Labour without the consent of the most representative workers' organizations. Indeed, the *Conseil national des Organisations syndicales libres* (COSYLI) and the COTRAF-Rwanda, registered with the Ministry of Labour as being representative workers' organizations, had agreed in March 2006 that the President of COTRAF-Rwanda would be the Workers' delegate to the

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Conference. Moreover, the CESTRAR expressed its agreement regarding this arrangement in a letter dated 12 April 2006 by addressing to the Ministry of Labour three names of CESTRAR representatives that should be nominated as advisers to the Workers' delegate. Notwithstanding, the Government unilaterally nominated the Workers' delegate and their adviser from the CESTRAR. Consequently, the author of the objection requested the invalidation of the credentials of the Workers' delegate of Rwanda.

45. In a written communication addressed to the Committee in response to its request, the Government indicated that there existed four confederations in Rwanda: the CESTRAR (three out of its 13 trade unions having legal personality); the COSYLI (eight trade unions that do not have legal personality and are not registered); the COTRAF (six trade unions that do not have legal personality and are not registered); and the *Association des Syndicats Chrétiens* (ASC-UMURIMO) (eight trade unions that do not have legal personality and are not registered). Concerning the consultations, the Government addressed a letter to the confederations in March 2006 requesting them to consult each other in accordance with the normal practice. In this regard, the Government inferred that there may exist a verbal agreement amongst the confederations establishing a system of rotation for representing workers to the Conference. A meeting took place in May 2006 between the Secretary of State and representatives of the six confederations and as per the Government the conclusions were satisfactory. In view of the decision regarding the modalities for electing workers' representatives, the ministry intends to enable the elections so as to better determine the representativeness of the trade unions and, thus, resolve the related issues. Finally, the Government considered that the author of the objection, Mr. Dominique Bicamumpaka, does not have standing on behalf of COTRAF, as according to the information that appears in the *Official Journal of the Republic of Rwanda* of 22 December 2003 the legal representatives of COTRAF are Ms. Mukankubito and Mr. Habimana Edmond.
46. With regard to the Government's allegations that the author of the objection does not have standing on behalf of COTRAF, the Committee questions the relevance of information that is over two years old. Furthermore, the fact that the presidents of COSYLI and ASC-UMURIMO had agreed to co-sign with the author of the objection an attestation (*Note de Constat*) regarding the nomination of the Workers' delegate appears to confirm the legitimacy of his standing.
47. The Committee observes that the attestation, signed by the presidents of the COTRAF, COSYLI and the ASC-UMURIMO, although not indicating the addressee, reiterated the earlier proposal made in the name of three of the four most representative workers' organizations. It is apparent that the Government had disregarded this proposal. The Committee recalls that the nomination of the Workers' delegate and advisers to the Conference should, in accordance with article 3, paragraph 5, of the ILO Constitution, be the result of an agreement between the most representative organizations. The existence of the alleged system of rotation does not appear to be confirmed by the fact that for the second consecutive year, the Workers' delegate to the Conference comes from the same workers' organization, i.e., the CESTRAR. In this light, the Committee considers that the Government should have taken into consideration the proposal contained in the letter of 12 April 2006, which expressed the choice of the majority of the most representative organizations regarding the nomination of the Workers' delegate.
48. Consequently, the Committee expresses its doubts as to whether the nomination of the Workers' delegate of Rwanda had been made in accordance article 3, paragraph 5, of the ILO Constitution. However, given that this is the first objection concerning the nomination of the Workers' delegation and, taking into account that no member of the Workers' delegation had registered at the present session of the Conference, the Committee has decided not to propose any further action on the objection trusting that the Government

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will take the necessary steps to clarify the consultation process and ensure that the nomination of the Workers' delegation at future sessions of the Conference is in accordance with article 3, paragraph 5, of the ILO Constitution.

### **Objection concerning the nomination of the Employers' delegation of Swaziland**

49. The Committee had received an objection concerning the Employers' delegation of Swaziland, submitted by the Employers' group of the Conference. A meeting had been held between the most representative employers' organization, the Federation of Swaziland Employers and Chambers of Commerce (FSE-CC), and the Government to discuss the Employers' delegation at the Conference. At the meeting, the FSE-CC designated its chief executive officer as delegate and its president as adviser. However, the Government nominated not only the FSE-CC representatives in the abovementioned capacities, but also a representative of the Federation of the Swaziland Business Community (FESBC), as an additional adviser. The Employers' group recalled that in 2005, an objection had been filed with the Committee regarding representativeness and the consultation process. It also reiterated its 2005 allegations that the FESBC was neither a member of any recognized employers' organization nor one with whom the FSE-CC was in communication. Consequently, the Employers' group objected to the inclusion of the FESBC representative in the Employers' delegation of Swaziland.
50. In a written communication addressed to the Committee in response to its request, the Government expressed that the FESBC and the FSE-CC are two employers' federations registered under the Industrial Relations Act, 2000, as amended. Recalling the objection that was filed in 2005, which turned on the nomination of an FESBC representative as Employers' adviser without consulting the FSE-CC, the Government explained that the undertaking made by the Commissioner of Labour to spearhead a debate had indeed taken place after the conclusion of the Conference. Specifically, the Government engaged the two employers' organizations with a view to resolving the issues at hand, but due to their entrenched positions resolution thus far had not been successful.
51. The Government, while acknowledging the FSE-CC as the most representative employers' organization, elucidated that the FSE-CC was comprised of more than 400 members of the large formal business sector while the FESBC had more than 100 indigenous entrepreneurs of small and medium enterprises. It added that in a meeting with the Government in May 2006, senior representatives from both organizations had been consulted for the purposes of nominating the Employers' delegation. While no agreement on rotation had been considered, thus far, the arrangement was to pay for four organizations (two for the Employers' delegation and two for the Workers' delegation).
52. Considering that the small and medium enterprises are a growing phenomenon, in the view of the Government, it decided that it was therefore essential to avail them of an opportunity to participate in the development of instruments that may affect them. Bearing this in mind, it esteemed that so long as the right of the FSE-CC to participate was not violated it would be unfair to ignore the existence of the FESBC, especially as they represent a unique sector of the nation's economy. On this basis, the Government requested that the Committee reject the objection.
53. Recalling the conclusions formulated by the Credentials Committee at the 93rd Session of the Conference (June 2005) – wherein the representativeness of the FSE-CC was not in dispute, but rather the lack of consultations with it for the purpose of nominating the Employers' delegation at the Conference (*Provisional Record* No. 4C) – the Committee considers that the nomination of the Employers' delegation at the present session of the Conference was not done in agreement with the most representative organization, but

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rather a unilateral decision taken by the Government to ensure participation for a growing sector of the nation's economy. The Committee recalls that the conditions for the nomination of non-government delegates and advisers to the Conference are established in article 3, paragraph 5, of the ILO Constitution. The Committee trusts that the Government will strive to obtain the agreement of the most representative organizations in nominating the Employers' delegation at future sessions of the Conference and will be engaged in a spirit of cooperation by all the parties involved. The Committee draws the attention to a complaint that has been filed with it concerning the non-payment of travel and subsistence expenses of an Employers' adviser of Swaziland by the Government (see paragraphs 71-73).

### ***Objection concerning the nomination of the Employers' delegation of the Bolivarian Republic of Venezuela***

54. The Committee had received an objection concerning the nomination of the Employers' delegation of the Bolivarian Republic of Venezuela, submitted by the Employers' group of the Conference. The Employers' group alleged that three of the eight advisers that were nominated to participate in the Employers' delegation at the present session of the Conference are from employers' organizations which cannot be considered as being representative under the provisions of the ILO Constitution. Namely, the *Federación de Artesanos, Micros, Pequeños y Medianos Industriales* (FEDEINDUSTRIA), *Empresarios por Venezuela* (EMPREVEN) and the *Confederación de Agricultores y Ganaderos de Venezuela* (CONFAGAN). The Employers' group reiterated its prior denunciations that these organizations are not independent and are subject to interference from the public authorities, which is in contradiction to the principles of freedom of association. The Employers' group recalled that in 2004 and 2005, the Committee had ascertained that FEDECAMARAS was, by far, the most representative employers' organization in the country and that the Government's action in appointing representatives from the aforementioned organizations was tantamount to "punishing" FEDECAMARAS. The Employers' group seeks that the Committee request, once again, that the Government desist from appointing representatives from government-sponsored and non-representative employers' organizations which is in detriment to FEDECAMARAS and to recall that the Government's interventions are incompatible with article 3, paragraph 5, of the ILO Constitution and compromise the independence of the groups at the Conference.
55. In a written communication addressed to the Committee in response to its request, the Government considered that the objection lacked any foundation. As in the preceding year, it indicated that the representatives of employers' associations freely held multiple meetings that were voluntary, without coercion, threat or pressure so that they could designate their representatives to the Conference. It was affirmed that the system of participatory democracy, provided for by the national Constitution, had broken a system of monopolistic control.
56. The Government emphasized that in a meeting held on 21 April 2006, convoked to determine the nomination of the Employers' delegation to the Sixteenth American Regional Meeting of the ILO (Brasilia, 2-5 May 2006), FEDECAMARAS accepted the participation of the other three employers' organizations. Concerning the present session of the Conference, the Government joined a copy of the convocation – addressed to the four organizations concerned – to a meeting so that they could jointly arrive at an agreement regarding the composition of the Employers' delegation. This meeting was held on 12 May 2006, but only the EMPREVEN participated. It appears that FEDECAMARAS changed tactics by not engaging in dialogue with the other employers. Subsequently, the FEDECAMARAS, FEDEINDUSTRIA, CONFAGAN and EMPREVEN communicated in writing the names of their respective representatives to be included in the national delegation. The Government rejected the allegations that the three organizations concerned

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lack freedom and independence and it stated that FEDECAMARAS was hiding behind the allegations to draw attention away from its own discriminatory policies and search for exclusivity. It recalled that EMPREVEN, CONFAGAN and FEINDUSTRIA are included in the delegation due to the importance of micro-, small and medium enterprises that exist in the country and in order to enable them to participate in technical committees of the Conference. Indeed, the national legal system encourages the promotion and financing of small and medium industries and the development of a microfinance system. In addition, these organizations enjoy the ILO's recognition as they have been providing information to the direct contacts and technical assistance missions of the ILO.

57. The Committee observes that at no moment has there been a question as to whether FEDECAMARAS continues to be, by far, the most representative employers' organization. It considers that the Government's action in inviting the different organizations and giving them equal weight for the purposes of composing the Employers' delegation constitutes a discriminatory act and is incompatible with the provisions of article 3, paragraph 5, of the ILO Constitution. In addition, the Committee takes note that only one employers' organization was present at the meeting of 12 May 2006 and therefore the meeting was unsuccessful. It can therefore be inferred that the Government nominated the Employers' delegation in a unilateral manner without making any further efforts on arriving at an agreement with the most representative organization.
58. Regarding the importance that the Government appears to continue to give to micro-, small and medium enterprises, thereby favouring less representative employers' organizations (EMPREVEN, CONFAGAN and FEDEINDUSTRIA) for the purposes of composing the Employers' delegation to the Conference, the Committee observes that the Government's actions are governed by different criteria from those provided for by the ILO Constitution. It emphasizes that the choice is not between a system of monopolistic control and participatory democracy – that allows the participation of all existing organizations regardless of their representativity – but the obligation to apply the criteria that are established in article 3, paragraph 5, of the ILO Constitution. Specifically, that the nomination of the non-governmental delegates and advisers be in agreement with the most representative organizations. The Committee trusts that the Government will ensure that the nomination of the non-governmental delegations at future sessions of the Conference will be in full compliance with article 3, paragraph 5, of the ILO Constitution.

### ***Objection concerning the nomination of the Workers' delegation of the Bolivarian Republic of Venezuela***

59. The Committee had received an objection concerning the nomination of the Workers' delegation of the Bolivarian Republic of Venezuela, submitted by the *Confederación de los Trabajadores de Venezuela* (CTV). The objecting organization alleged that for the fourth consecutive year the nomination of the Workers' delegation was made in flagrant violation of the ILO Constitution and of the criteria reiterated by the Committee on this subject at the three preceding sessions of the Conference. The CTV states, to avoid this situation from the outset and following prior recommendations of the Committee, that it had suggested to the Government – without prejudice to its rights as the most representative organization – that a consensual system of rotation be explored by the confederations and that it be without government interference. Notwithstanding, the Government disregarded this possibility and, once again, opted to use the subterfuge of an inter-confederal pact so as to unilaterally nominate a representative from a minority organization, *Central Unitaria de Trabajadores de Venezuela* (CUTV), as the Workers' delegate. Consequently, the CTV requests the invalidation of the credentials of the Workers' delegate.
60. In a written communication addressed to the Committee at its request, the Government indicated that the CTV accepted to apply a system of rotation for the purposes of

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composing the Workers' delegation of the Sixteenth American Regional Meeting of the ILO (Brasilia, 2-5 May 2006), as well as for the present session of the Conference. The Government also adds that at a meeting convoked by the Ministry of Labour on 11 May 2006, Ms. Carmen Omaira Arismendi, who had a mandate from the CTV secretary-general, signed an agreement approving the nomination of the Workers' delegation to the Conference. The Government cannot avoid noting that there was an apparent contradiction between the internal position taken by the CTV and the one taken vis-à-vis the ILO to the extent that Ms. Arismendi agreed that the Workers' delegate would be a CUTV representative. The Government emphasized that it did not impose any agreement, since it encouraged the meeting amongst the workers' representatives so that they could freely and autonomously determine the composition of the delegation. The Government also added that the CTV is not the single most representative organization and, in this regard, refers to the Committee of Experts on the Application of Conventions and Recommendations Report III (Part 1A) that indicated that it is "difficult to compare, as between the CTV and the UNT, the percentage of organizations with the percentage of collective agreements (more than 99 per cent), and it is difficult to draw conclusions because there appear to be contradictory data". Finally, the Government reiterated that the resolution of 17 June 2004 provided that for the most representative organization to be determined a referendum is needed, which had not yet occurred.

61. In the Committee's view, the situation does not appear to have changed vis-à-vis previous years regarding the representativeness of the consulted organizations. With regard to the decreased representativeness of the CTV, the information that had been provided by the Government appeared to be neither up-to-date nor reliable. Further, it does not appear to answer the questions raised in the Committee's 2005 conclusions (*Provisional Record* No. 4D), inasmuch as the Government should have made a serious effort to arrive at an agreement with the different organizations on the basis of reliable criteria that would permit it to determine their representativeness in an objective manner and, if necessary, avail itself of technical assistance by the ILO for this purpose.
62. Nevertheless, this year the Committee observes that unlike previous years, the paradoxical situation has occurred. Despite the scarce representativeness of the CUTV alleged by the CTV, a representative of the latter unequivocally subscribed on 11 May 2006 an agreement that all the consulted confederations had approved the nomination of the Workers' delegation at the present session of the Conference, in particular the representative of the CUTV as Workers' delegate. Therefore, the Committee considers that the objection should be rejected.

## Complaints

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

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

64. The Committee had received a complaint concerning the Workers' delegate of Afghanistan, submitted by the International Confederation of Free Trade Unions (ICFTU). The complaint alleged that the Government did not pay the expenses of the Workers' delegate, Mr. Muhammed Liaqat Adill.
65. In a written communication addressed to the Committee in response to its request, Mr. Mohammad Ghouse Bashiri, Deputy Minister of Martyrs, Disabled and Social Affairs



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and Government delegate to the Conference, explained that although the Government had been aware of its obligations under article 13, paragraph 2(a), of the ILO Constitution, it had decided not to pay the travel and subsistence expenses of non-government delegates at the present session of the Conference. This decision is motivated by the financial constraints caused by a long period of military occupation and social unrest.

66. The Committee acknowledges the difficult situation which Afghanistan has been facing over the past years and could understand the financial burden that the participation of a full tripartite delegation to the Conference implied. It, however, noted that seven accredited governmental representatives had all registered and that apart from the three representatives of the Permanent Mission, the other four had come from Afghanistan. This cast serious doubts as to the Government's incapacity to cover, at the least, the full expenses of the Workers' delegate. This decision is incompatible with the Government's obligation under article 13, paragraph 2(a), of the ILO Constitution to at least cover the expenses of a complete tripartite delegation so as to permit its members to participate in the Conference until the end of its work. The situation is aggravated in that the internal financial situation of Afghanistan has an even greater impact on the workers and their possibility to cover their own expenses. The Committee, therefore, trusts that the Government will meet its duty to cover the travel and subsistence expenses of the Worker's delegate for the entire duration of the present session of the Conference and trusts that, in the future, the Government will comply with its constitutional obligations in this respect.

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

67. The Committee had received a complaint submitted by the International Confederation of Free Trade Unions (ICFTU), alleging the non-payment of expenses of the Workers' delegate of Georgia to the Conference, Mr. Petriashvili Irakli.
68. Although the Government was invited to comment on the complaint, the Committee regrets that it has neither received any reply nor any information as to the reason for the absence of replies. Therefore, the Committee could imply that the allegations are accurate. To the extent that the complaint concerns the travel and subsistence expenses of the Workers' delegate, the Committee considers that a violation of the obligations contained in article 13, paragraph 2(a), of the ILO Constitution has been committed and it trusts that the Government will cover the travel and subsistence expenses of the Workers' delegate. It also trusts that in the future the Government will comply with its constitutional obligations in this respect.

***Complaint concerning the non-payment of the travel and subsistence expenses of the Employers' delegate of the Democratic Republic of the Congo***

69. The Committee had received a complaint concerning the Employers' delegation of the Democratic Republic of the Congo, submitted by the Employers' group of the Conference. It stated that the Government refused to pay the travel and subsistence expenses for the Employers' delegate, Mr. Atibu Saleh Mwekee of the *Fédération des entreprises du Congo* (FEC), on the grounds that there were no available funds to finance. Conversely, two Government advisers were paid with public funds and therefore they could participate at the Conference – unlike Mr. Mwekee, despite his name having been included in the *Provisional List of Delegations*. The secretary of the Employers' group had even conveyed a direct request to the Government's Permanent Representative in Geneva that such

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payment be made prior to the commencement of the Conference. Finally, the Committee's attention was drawn to the fact that 16 individuals had been included in the governmental delegation and 18 had been included in the Workers' delegation. The Employers' group requested that the Government provide a clear explanation regarding its failure to pay the travel and subsistence expenses of the Employers' delegate and regarding the imbalance in the national delegation to the Conference. The Employers' group requested that such payments occur as soon as possible and that the Government comply in future with its obligations as stipulated under article 13 of the ILO Constitution.

70. The Government was invited to comment on the complaint and the Committee regrets that it has neither received any reply nor any information as to the reason for the absence of replies. Therefore, the Committee could imply that the allegations are accurate. To the extent that the complaint concerns the travel and subsistence expenses of the Employers' delegate, the Committee considers that a violation of the obligations contained in article 13, paragraph 2(a), of the ILO Constitution had been committed and it trusts that the Government will cover the travel and subsistence expenses of the Employers' delegate. It also expects that in the future the Government will comply with its constitutional obligations in this respect.

***Complaint concerning the partial payment of the travel and subsistence expenses of the Employers' delegation of Swaziland***

71. In addition to an objection, the Committee had also received a complaint concerning the Employers' delegation of Swaziland, submitted by the Employers' group of the Conference. The complaint stated that the Government had, once again, failed to meet the travel and subsistence expenses for the participation in the Conference of one of the Employers' advisers, Mr. Zakes Nkosi, president of the Federation of Swaziland Employers and Chamber of Commerce (FSE-CC). In 2005, the Government had undertaken to meet the normal cost for sending the president of the FSE-CC, as Employers' adviser to the Conference. However, no such payment was ever made. The Employers' group expressed its deep concern over the failure of the Government to fulfil an undertaking made to the Committee last year and requested that it fulfil its responsibility; provide a clear explanation of its repeated failure to meet the travel and subsistence expenses; ensure that such payments occur as soon as possible; and, in the future, comply with its constitutional obligations as stipulated under article 13 of the ILO Constitution.

72. In a written communication addressed to the Committee in response to its request, the Government clarified that the Employers' delegation was comprised of three individuals; two representatives of the FSE-CC, as delegate and adviser; and a representative of the Federation of the Swaziland Business Community (FESBC), as adviser. It explained that both the FESBC and the FSE-CC are recognized federations of employers registered under the Industrial Relations Act, 2000, as amended. The Government, solely due to resource constraints, paid the travel and subsistence expenses of a representative from each of the FSE-CC and FESBC. For this reason, the additional FSE-CC representative, Mr. Nksosi, had not received travel and subsistence expenses. It emphasized that the same arrangement had been applied to the Workers' delegation, which was comprised of the delegate and an adviser. Concerning the allegation that it had not fulfilled its 2005 undertaking to pay the travel and subsistence expenses of Mr. Nksosi, the Government emphasized that it had not reneged on its promise. Rather, and as the FSE-CC was aware, Cabinet approval had to be obtained first since the expenses had not been budgeted. The Cabinet approval had been given on Tuesday, 27 May 2006 under CCM.ET 203/06. The Government assured that if funds were available to send a larger delegation to the Conference, it would gladly do so because it believes that this is to the advantage of Swaziland.

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73. The Committee regretted to observe that it has to deal with almost the same complaint as at the 93rd Session of the Conference (*Provisional Record* No. 4C). This year again, the Government not only nominated an adviser to the Employers' delegation without the agreement of the most representative Employers' organization, but also paid his expenses. At the same time, the Government used the payment of the expenses of this adviser as an excuse to refuse the payment of expenses of the Employers' adviser who was nominated in agreement with the most representative organization. The Committee finds, once again, that the position taken by the Government continues to favour the minority employers' organization not only with regard to the nomination process, but also in relation to paying their travel and subsistence expenses. The Committee recalls that article 13, paragraph 2(a), of the ILO Constitution obligates all Members to pay the travel and subsistence expenses for their delegates and advisers to the Conference. The Government's decision to cover the travel and subsistence expenses of the FESBC had been detrimental to the FSE-CC, the most representative employers' organization. Consequently, to the extent that it demonstrated its ability to cover the expenses for more than the Employers' delegate, the Committee encourages the Government to find an acceptable arrangement with interested employers' organizations concerning the Employers' delegation at the present session of the Conference and urges the Government that for future sessions of the Conference it fully complies with its obligation under article 13, paragraph 2 (a), of the ILO Constitution.

***Complaint concerning the partial payment of the travel and subsistence expenses of the Employers' delegation of the Bolivarian Republic of Venezuela***

74. In addition to an objection, the Committee had also received a complaint submitted by the Employers' group of the Conference concerning the non-payment of the travel and subsistence expenses of part of the Employers' delegation of the Bolivarian Republic of Venezuela, namely, of the representatives of FEDECAMARAS. Besides not being justified by the present budgetary situation of the country, the amount provided to FEDECAMARAS by the Government, which totals US\$3,000, is by far insufficient and discriminatory as compared to the treatment received by FEDEINDUSTRIA, EMPREVEN and CONFAGAN. The Employers' group was deeply concerned by the continual failure of the Government to meet its constitutional obligations and requested a clear explanation regarding the non-payment of the travel and subsistence expenses of a part of the Employers' delegation, as well as the full payment of the expenses of FEDECAMARAS's participation as soon as possible.

75. In a written communication addressed to the Committee in response to its request, the Government explained that the US\$3,000 was for FEDECAMARAS, that the employers and the workers received the same treatment, and that it was better than the two preceding years due to the economic recovery of the nation. The Government recalled that it had paid the travel and subsistence expenses of the non-governmental delegates and advisers that attended the Sixteenth American Regional Meeting of the ILO (Brasilia, 2-5 May 2006), which demonstrated its undertaking to make budgetary efforts to maintain the participation, dialogue and agreement amongst the employers' organizations. Finally, the Government remarked that the complaint was received from the employers, but not from the workers when both groups had received the same treatment – equitable and non-discriminatory.

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76. The Committee observes at the outset that the fact that the workers had not complained is irrelevant given that the workers' organization that had filed an objection concerning the nomination of the Workers' delegate, the Confederación de los Trabajadores de Venezuela (CTV), had only one accredited adviser who had not even registered at the present session of the Conference. Therefore, reiterating once more its comments of preceding years with respect to the representativeness of the FEDECAMARAS (e.g., *Provisional Record* No. 4D, 2005), the Committee regrets to observe once again that the position taken by the Government continues to favour minority employers' organizations not only with regard to the nomination process, but also in relation to paying their travel and subsistence expenses. The Committee notes that the Employers' delegation consists of six representatives of FEDECAMARAS and one representative from each of the other organization. While article 13, paragraph 2(a), of the ILO Constitution obligates all Members to pay the travel and subsistence expenses for their delegates and advisers to the Conference, paying the expenses of the Employers' delegate cannot be viewed as a favour, the Government's decision to cover the corresponding expenses of CONFAGAN, EMPREVEN and FEDEINDUSTRIA had been detrimental to FEDECAMARAS, which is by far the most representative employers' organization. Consequently, the Committee urges the Government that for future sessions of the Conference it fully complies with its obligation under article 13, paragraph 2(a), of the ILO Constitution.

## Communications

77. The Committee also received the following two communications.

### ***Communication concerning the Workers' delegation of Albania***

78. The Committee had received from the International Confederation of Free Trade Unions (ICFTU), a communication regarding the Workers' delegation of Albania. The ICFTU stated that the most representative Albanian trade unions, namely the Confederation of the Trade Unions of Albania (KSSH) and the Union of the Independent Trade Unions of Albania (BSPSH), had agreed that the Workers' delegation would be comprised of a KSSH representative as delegate and a BSPSH representative as adviser. While the Government had respected the choice of the Workers' delegate, it had disregarded the workers' organizations' arrangement to send a representative of BSPSH as adviser. In this regard, the BSPSH had received a communication from the Ministry of Labour on 29 May 2006 that it would not be part of the Albanian delegation to the Conference and, moreover, would no longer be a member of the National Council of Labour. The latter information was compounded by allegations concerning interference with trade union activities. It requested that the Committee seek information on this matter from the Government.

79. In response to an invitation of the Committee to the Government to provide information, if it so wished, the Government took note of the communication and conceded that the BSPSH had been informed of its non-inclusion in the national delegation to the present session of the Conference and the National Council of Labour. However, it clarified that the Government had reversed its initial decision to invite the BSPSH to the Conference in light of a final ruling by the national Supreme Court concerning claims for acquisition of membership in the National Council of Labour, that were brought forward by the BSPSH president, Mr. Gëzim Kalaja. Concerning the allegations of interference with trade union activities, which the Government denied, it referred the Committee to a report of Albania on the implementation of the International Covenant on Civil and Political Rights, so as to explain the level of enjoyment of the right to form and join trade unions. The Government condemned the actions taken by the BSPSH to resolve this matter by submitting it to the Committee.

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80. The Committee observes that the nomination of the Workers' delegation had taken place in agreement with the most representative workers' organizations of the country. However, following a judicial decision the Government blocked the BSPSH's participation in the National Council of Labour and withdrew the invitation to the present session of the Conference. What remains unclear, however, is how the judicial decision relates to the BSPSH's participation at the Conference. Nonetheless, 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 Albania. Accordingly, the Committee considers that its competence did not extend to examining the substance of communications of this kind and, therefore, did not express an opinion on the subject.

### **Communication concerning the Workers' delegation of Turkey**

81. The Committee had received on 30 May 2006 a communication submitted by the Confederation of Progressive Trade Unions of Turkey (DISK), wherein the DISK advised that it had decided to not participate in the Turkish delegation at the present session of the Conference. The DISK explained that this decision was prompted by a series of measures that the Government had taken and which had resulted in the withdrawal of the DISK from several social dialogue mechanisms.
82. In response to an invitation of the Committee to the Government to provide information, if it so wished, the Government took note that the communication had been sent for information purposes. It regretted the decision of the DISK not to participate in the ongoing work of reforming the labour legislation, but affirmed that the most representative workers' organizations were included in the delegation of Turkey to the Conference.
83. The Committee takes note of information communicated to it and considers that the subject of the communication does not call for any action on its part.

### **General comments**

84. At the 93rd Session of the Conference (June 2005) (*Provisional Record* No. 4D) the Credentials Committee recalled that it would neither consider nor reflect in its reports the communications sent by electronic mail to the International Labour Office or the secretariat of the Conference, to the extent that these communications do not contain any signatures and, therefore, their authenticity cannot be verified. The Committee reaffirms this decision.
85. The Committee wishes to recall that for an objection or complaint to eventually be considered well founded, it should be from the outset detailed, substantiated and accompanied by relevant documents.

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- 86.** The Credentials Committee adopts this report unanimously. It submits it to the Conference in order that the Conference may take note of it and adopt the proposal contained in paragraph 20.

Geneva, 12 June 2006.

*(Signed)* Jules Medenou Oni,  
Chairperson.

Lidija Horvatić.

Ulf Edström.



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