



Reports on Credentials

Second report of the Credentials Committee

Composition of the Conference

1. Since 1 June 2007, when the Credentials Committee adopted its first report (*Provisional Record* No. 4B), new credentials have been received from Timor-Leste. Therefore, at present a total of 170 member States are represented at the International Labour Conference. Regarding the accredited Members without the right to vote mentioned in paragraph 14 of its first report, the Islamic Republic of Iran has recovered the right to vote.
2. The Committee observes that of the three member States mentioned in paragraph 21 of its first report, only Iraq 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 Equatorial Guinea and Sao Tome and Principe have not, which the Committee regrets.
3. As of this day there are 4,657 persons accredited to the Conference (as compared to 4,500 in 2006 and 4,315 in 2005), of whom 4,003 are registered (as compared to 3,828 in 2006 and 3,842 in 2005). The attached list contains more details on the number of delegates and advisers registered.
4. In addition, the Committee wishes to indicate that 168 ministers or vice-ministers have been accredited (as compared to 159 last year) to the Conference.

Monitoring

5. The Committee was automatically seized by the monitoring process in relation to the report that the Conference at its 95th Session (June 2006) requested from a Member pursuant to article 26bis, paragraph 7, of the *Interim Provisions of the Conference Standing Orders concerning the verification of credentials* (Report of the Standing Orders Committee, 92nd Session, June 2004, International Labour Conference, *Provisional Record* No. 16).

Djibouti

6. At its 95th Session (June 2006), the Conference decided to request the Government of Djibouti to submit at the 96th Session of the Conference, at the same time that it deposited its credentials for the delegation of Djibouti, a detailed report substantiated with relevant documentation on the procedure utilized to nominate the Workers' delegate and advisers, specifically, the organizations that had 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 (*Provisional Record* No. 23, 2006). This request was made on the basis of a proposal of the Credentials Committee (*Provisional Record* No. 5C, 2006), which unanimously considered 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 International Labour Office reminded the Government of this request by the Conference in a letter of 14 May 2007.
7. Despite a new reminder by the Committee, the Government did not present the report requested by the Conference. It only provided copies of two communications dated 10 April 2007, in which the Director of Labour and Relations with the Social Partners requested the President of the *Association des employeurs* and the Secretary-General of the *Union général des travailleurs djiboutiens* (UGTD), respectively, to designate their representatives to the current session of the Conference, and to communicate their names before 15 April 2007. In response, the *Association des employeurs* submitted on 12 April 2007 the name of the Employers' delegate, namely its President, Mr Ibrahim Hamadou Hassan. The UGTD on 2 May 2007 submitted the names of its representatives: Mr Abdo Sikieh Dirieh, Secretary-General, and Mr Said Mahamoud Sougueh, Secretary for Finance and Secretary for International Relations.
8. *The Committee notes that the Government has limited itself to providing it with copies of the communications exchanged between the Director of Labour, on the one hand, and the Association des employeurs and UGTD, on the other, regarding the nomination of their delegates to the Conference. The Committee notes that these communications cannot be considered a report in the sense of article 26bis, paragraph 7, of the Interim Provisions of the Conference Standing Orders. It deeply regrets the lack of cooperation of the government authorities, all the more since this year once again the nomination of the Workers' delegation to the Conference is the subject of an objection regarding the legitimacy of the Workers' representative to the Conference (see paragraphs 14–16, below). In the light of the foregoing and in view of the concern expressed by all the supervisory organs of the ILO on the serious infringements of freedom of association principles in Djibouti, the Committee proposes to the Conference, by virtue of the abovementioned provisions, to again request the Government of Djibouti to submit at the next session of the Conference, at the same time that it deposits its credentials for the delegation of Djibouti, a detailed report substantiated with relevant documentation on the procedure utilized to nominate the Workers' delegate and advisers, specifically the organizations consulted on the matter and according to which criteria, the date and place of these consultations; and the names of the individuals nominated by the organizations during these consultations. The Committee expects that with the assistance of the direct contacts mission just agreed to (Provisional Record No. 22), the Government will make the nomination of the tripartite delegation of Djibouti to future sessions of the Conference in conformity with the requirements of article 3, paragraph 5, of the ILO Constitution.*

Objections

9. The Committee has received 17 objections this year. These 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 Committee has completed the examination of all objections, which are listed below in the French alphabetical order of the member States concerned.

Objection concerning the nomination of the Workers' delegation of Cameroon

10. The Committee received an objection from Mr Gilbert Ndzana Olongo, Secretary-General of the *Confédération des syndicats indépendants du Cameroun* (CSIC) against the participation of Mr Mougoue Oumarou in the capacity of President of the CSIC in the Workers' delegation of Cameroon. It alleged that Mr Mougoue Oumarou had been duly relieved of the functions of President as confirmed by several court decisions. Mr Ndzana Olongo denounced in strong terms the interference of the Minister of Labour and Social Security in the designation of the Workers' delegation to the Conference, in defiance of the abovementioned court decisions and the principles of the ILO Conventions on freedom of association.
11. In a written communication addressed to the Committee at its request, the Minister of Labour and Social Security indicated that it was the leaders of the trade union centres themselves who designated the members that should be part of every tripartite delegation, and that the Government could only take note of the information communicated by these organizations, in conformity with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). In Cameroon there were six trade union centres, which in order of importance as determined on the basis of the results of the 2005 elections were: the *Confédération syndicale des travailleurs du Cameroun* (CSTC), the *Union des syndicats libres du Cameroun* (USLC), the *Confédération générale des travailleurs-Liberté* (CGT-Liberté), the *Union générale des travailleurs du Cameroun* (UGTC), the CSIC, and the recently created *Confédération des syndicats autonomes du Cameroun* (CSAC). However, the decree relating to trade union representativeness had thus far not been adopted. The Government considered that the conflict between Mr Ndzana Olongo and the CSIC was strictly internal, and stated that the related case was still pending before the courts. For the last two years, the Government had had no knowledge of any other bureau than that composed of Mr Mougoue Oumarou as President and Mr Ateba Jean-Pierre as Secretary-General, both nominated during the organization's congress of 11 March 2005.
12. In an unsolicited communication received on 2 June 2007, the representatives attending the Conference of the *Union des Confédérations syndicales du Cameroun* (UCSC) – which encompasses the CSTC, USLC, CGT-Liberté, CSAC and the CSIC – contested the allegations of Mr Ndzana Olongo and gave their support to Mr Mougoue Oumarou.
13. *The Committee considers that, once more, it is not the representativeness of the CSIC that is in question, but the capacity of the person representing it, in effect Mr Mougoue Oumarou, accredited as adviser. As it already underlined in a similar case during the 95th Session of the Conference (Provisional Record No. 5C, 2006), the Committee notes that it appears to be a question of an internal conflict within the CSIC, which is still pending before the national judicial authorities, and which does not fall within the scope of the Committee's mandate. Under these circumstances, and in light of the information that it possesses, the Committee decides not to retain the objection.*

Objection concerning the nomination of the Workers' delegation of Djibouti

14. The Committee received an objection concerning the nomination of the Workers' delegation of Djibouti, presented by the International Trade Union Confederation (ITUC). The objecting organization alleged that Mr Adan Mohamed Abdou, Secretary-General of the *Union djiboutienne du travail* (UDT) and Mr Kamil Diraneh Hared, Secretary-General of the *Union générale des travailleurs djiboutiens* (UGTD), were once again replaced in the delegation by persons that did not represent trade unions, in order to muzzle the trade union movement in Djibouti. It requested the invalidation of the credentials of the Workers' delegation.
15. In a written response addressed to the Committee at its request, the Government limited itself to the reply given on the same subject during the 95th Session of the Conference in 2006. It was surprised that the Committee persisted in questioning it on the method of nominating the Workers' delegates of Djibouti, whereas it had on several occasions addressed the subject by explaining that it had never interfered in the internal functioning of employers' and workers' organizations, and it stated that the UGTD was the most representative workers' organization.
16. *The Committee expresses its serious concern about the absence of any progress on this issue and the lack of cooperation by the government authorities. It deeply regrets the attitude of the Government, which clearly does not intend to address the problems that have repeatedly been brought to the Committee's attention, and that take place in a context of deteriorating violations of trade union rights in Djibouti. Under these circumstances, and in the absence of any new information available to it, the Committee recalls its conclusions of 2006 (Provisional Record No. 5C) and resorts to the monitoring measures proposed by virtue of article 26bis, paragraph 7, of the Interim Provisions of the Conference Standing Orders concerning the verification of credentials (see paragraphs 6–8, above).*

Objection concerning the participation of the delegation of Fiji in the present session of the Conference

17. The Committee received an objection from the Fiji Islands Council of Trade Unions (FICTU) concerning the participation of the Fiji delegation in the present session of the Conference. The FICTU noted that following the military coup on 5 December 2006 and the subsequent suspension of parliamentary democracy, the military Government had not shown any move towards the restoration of democracy, despite the time frame and conditions laid down by the international community. The FICTU, which has consistently lobbied for the restoration of democracy and respect for human rights, alleged that trade union leaders affiliated to the FICTU had been systematically removed from boards of various organs since December 2006. The participation of the Fiji delegation in the Conference, which included the President of the Fiji Trades Union Congress (FTUC) who had accepted a position on the Fiji National Provident Fund Board from the military regime, was tantamount to endorsing the overthrow of democracy and the denial of the freedoms of trade unions and workers.
18. In a written response addressed to the Committee at its request, the Government stated that over the years previous governments had accorded the FTUC the status of most representative workers' organization (with the exception of the years 1984–92). Accordingly, the current Interim Government only recognized the FTUC as the workers' organization entitled to propose its delegate to the 96th Session of the Conference, as

attested to by Cabinet Decision No. 190 of 8 May 2007. The FICTU had also emerged as a national body representing organized workers, even though it had thus far not been recognized as the most representative organization. However, the Government stated that according to its records the FTUC represented more organized workers (24,783 members) than the FICTU (18,143 members).

19. Even though the Government therefore was only obligated to consult the FTUC for the nomination of the Workers' delegate, it had in the interest of tripartite inclusiveness and conformity with the good faith dialogue required under the new Employment Relations Law that would become effective on 1 October 2007, encouraged the FTUC and the FICTU to resolve their differences. Hence, the FICTU was also invited by the Minister to participate as Workers' adviser in this year's delegation, but at its own cost due to severe constraints in the Government's budget. The Government stressed that in the previous three years it had financed the participation of the FICTU, and that the non-provision of funds this year was an exceptional measure. The Government also reported that it convened a meeting on 21 May 2007 with the FICTU to hear its grievances regarding the composition of the Workers' delegation and to advise it of the Government's position.
20. The Government noted that the issue of contention was between the FTUC and the FICTU, who amicably had to come to a rotation agreement. It further noted that it was committed to resolving this question as quickly as possible, and requested clear guidance and advice from the Committee on the best way forward.
21. *The Committee notes that both the FTUC and the FICTU were represented in the Conference in 2005 and 2006, with a representative of the FTUC as the titular delegate and an FICTU representative as adviser. It was therefore to be expected that the Government would consult with both organizations in the process of nominating the Workers' delegate. It has apparently not been done this time, as the decision of who would be invited to nominate the candidate for the Workers' delegate was made by the Interim Government without any criteria other than prudence not to change the previously determined status of most representative workers' organization. It is surprising that the Government did not include the FICTU in the consultation process, when, according to the figures provided by the Government, the FICTU has a considerable number of members, which is one of the most important criterion in determining the representativeness of workers' organizations. The Committee, however, notes that the objection concerns the general circumstances in which the whole delegation was nominated rather than the legitimacy of FTUC to represent the workers of Fiji. The Committee recalls that, in conformity with its constant practice, it normally does not admit general objections against governments whose credentials are not challenged in United Nations organs. It has therefore decided not to uphold the objection, but trusts that the Government will ensure that objective and transparent criteria are established so as to determine the most representative workers' organization 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. In this regard, the Government may solicit technical assistance from the Office.*

Objection concerning the failure to deposit credentials of an Employers' and a Workers' delegate by the Government of the Gambia

22. The Committee received an objection presented by the International Trade Union Confederation (ITUC) concerning the failure to deposit the credentials of an Employers' and a Workers' delegate by the Government of the Gambia. The delegation of the country was thus not fulfilling the requirements of article 3, paragraph 5, of the ILO Constitution. The ITUC stated that it had an affiliate in the Gambia, the Gambia Workers'

Confederation, which it believed should have been included in the delegation. The ITUC requested the Committee to ask the Government for explanations and to urge it to respect its constitutional obligations.

23. *The Committee regrets that the Government has not responded to its invitation to comment on the objection. The Committee notes that, since 2003, the Gambia has not been represented at the Conference by a tripartite delegation. The Committee expresses its deep concern that the Gambia is represented exclusively by a governmental delegation. The Committee reminds member States of their obligations under article 3, paragraph 1, of the ILO Constitution to nominate tripartite 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 Conference cannot function properly or attain its objectives.*

Objection concerning the failure to deposit credentials of an Employers' and a Workers' delegate by the Government of Haiti

24. The Committee received an objection presented by the International Trade Union Confederation (ITUC) concerning the failure to nominate an Employers' and a Workers' delegate by the Government of Haiti. The delegation of the country was thus not fulfilling the requirements of article 3, paragraph 5, of the ILO Constitution. The ITUC stated that it had an affiliate in Haiti, the *Confédération des Travailleurs Haïtiens*, which it believed should be included in the delegation. The ITUC requested the Committee to ask the Government for explanations and to urge it to respect its constitutional obligations.
25. *The Committee regrets that the Government has not responded to its invitation to comment on the objection, but notes with satisfaction that the Government has in the meantime accredited a fully tripartite delegation. The objection has therefore become moot. The Committee, however, reminds member States of their obligation under article 26, paragraph 1, of the Conference Standing Orders to deposit credentials of their delegates and advisers and of all other members of their delegation with the Office at least 15 days before the date fixed for the opening of the session of the Conference. Respect of the obligation to accredit a full tripartite delegation in a timely manner enables the verification of the credential by all parties concerned and therefore allows the Committee to effectively exercise its mandate under the ILO Constitution and the Conference Standing Orders.*

Objection concerning the nomination of the Employers' delegation of the Islamic Republic of Iran

26. The Committee received an objection from the Employers' group at the Conference, alleging that the Iran Confederation of Employers' Associations (ICEA) – long recognized as the most representative employers' organization in the Islamic Republic of Iran – was not consulted by the Government in the designation of the Employers' delegation of the Conference, despite a reminder sent to the Ministry of Labour and Social Affairs on 9 May 2007. Instead, the Government nominated an Employers' delegation from an unknown group, which is clearly not an employers' organization. The objection alleged that this forms part of a harassment campaign by the Ministry of Labour and Social Affairs against the ICEA, which was also the subject of a complaint submitted to the Committee on Freedom of Association on 24 May 2007 by the International Organisation of Employers (IOE). The Government designated Mr Abolfazl Ahmadkhanlou and several others from the same unknown group as the Employers' delegation. Even though

Mr Ahmadkhanlou is also a member of the ICEA, his nomination was made without the ICEA's knowledge and consent. The author of the objection therefore requested the Committee to invalidate the credentials of the Employers' delegation and nominate instead two persons proposed by the ICEA. It also requested the Committee to urge the Government to stop its harassment of employers' organizations and interference in their activities, in particular as concerns the ICEA.

- 27.** In a written communication addressed to the Committee at its request, the Government noted first that the objection was not receivable on the grounds that it had been submitted by the IOE which closed all doors for further discussions. The Government stated that the ICEA is, according to the Labour Law, the only recognized employers' organization in the Islamic Republic of Iran. In spite of the fact that the Government, in consultation with the ICEA, nominated Mr Otaredian, Head of Board of Directors of the previous ICEA structure, constantly since 1999 as the titular Employers' delegate, there had always been other employers' associations in the Islamic Republic of Iran. They did not object to his nomination to maintain the unity in the ICEA as the only recognized employers' organization. The Government stated that it had an obligation under national law to warn the ICEA of the violations of its constitution and since the elections were not held as required by the constitution, it dissolved the ICEA. The Government reacted positively to a proposal of a great number of employers to hold elections of the ICEA, while keeping the same registration number.
- 28.** Concerning the process of consultation, the Government stressed that it even approached the non-registered ICEA in order to verify its representativeness. Since the newly established ICEA encompassed 900 member organizations representing 80 per cent of employers in the country and that the "previous" ICEA had only 105 members, the Government decided to nominate the Employers' representatives exclusively from the newly established ICEA.
- 29.** Clarifications requested by the Committee were provided orally by Mr Amir Hossein Shahmir, Labour Counsellor of the Permanent Mission in Geneva and Government delegate, accompanied by Mr Hossein Nategh Nouri, Adviser to the Minister and Director-General for International Affairs, and Government adviser and substitute delegate, and Mr Abdollah Asadi Afshar, Expert of the Ministry of Labour and member of the Government delegation. It was noted that the new ICEA had been repeatedly rebuffed by the IOE, which was not understandable as the newly established employers' organization was seven times bigger. The Government explained the procedure that preceded the dissolution of the ICEA, putting emphasis on the ICEA's failure to hold timely elections, since the elections held in November 2006 were fraught with irregularities and therefore invalidated by the Labour Ministry. The Government was aware that pursuant to the verdict of 17 January 2007 of the Court of Administrative Justice, the ICEA could not be dissolved by a government decision and that therefore the new Confederation could not be registered. It was admitted that the case was still pending before the court, but since the Government could not imagine a ruling that would give the ICEA more time to hold elections, it had been justified to go ahead with the registration of the new Confederation, under the same registration number.
- 30.** In oral clarifications provided to the Committee at its request by Mr Mohamed Otaredian, Head of Board of Directors of the previous ICEA structure, and Ms Shohreh Tasdighi, Counsellor of the same organization, it was disputed that the constituency of the new Iranian Confederation of Employers (ICE) structure encompassed 900 member organizations, this being actually the entire number of employers' organizations registered throughout the country. Rather, by its own admission, the new ICE counted no more than 60 members. It was asserted that the Government had shown no real interest in a dialogue with the ICEA. It was a misrepresentation to argue that the old and new organizations

were the same organization, aimed at sowing confusion. The elections by the ICEA had been held on time, and the Government's assertion that they were irregular was wrong. All the other allegations by the Government in its written submission were also unfounded. In the final analysis, the Court of Administrative Justice had ruled in favour of the old ICEA structure and the Government had to abide by the Court's decision.

31. *The Committee notes that there has been an argument about the receivability of the objection. The Committee, however, notes that this argument has no justification under the Conference Standing Orders and therefore considers the objection receivable.*
32. *The Committee observes that there are still many contested facts regarding the objection. These facts being subject to national judicial proceedings, the Committee hopes that they can be clarified by the competent courts of justice. The Committee, however, expresses its serious concern that the Government proceeded with the registration of the new organization of employers while the legal proceedings contesting the dissolution of the old organization were still pending. The Committee finds it particularly puzzling that the new organization was registered under the same number as the old one. Until the court of justice makes a final verdict regarding the dissolution of the ICEA, the action of the Government seems premature.*
33. *In general, the Committee finds that the supervisory role assigned to the Government by the national law should be examined in light of the international standards regarding the freedom of association developed by the ILO. As is the case with workers' organizations in the Islamic Republic of Iran, the power of the Government to supervise the internal elections to ensure respect for internal rules of these organizations has serious consequences for the autonomy and the very existence of employers' and workers' organizations. Until the final verdict of the court of justice, the old ICEA structure de jure exists. It also seems that it exists de facto given that the Government checked its representativeness and determined that it still represented at least 105 members. While allegedly fighting against a monopoly, the Government in fact created another monopoly. Excluding entirely organizational structures that had represented employers of the Islamic Republic of Iran for a number of years from the consultations to nominate the Employers' delegation to the 96th Session of the Conference does not correspond to the requirement that the most representative employers' organizations be in agreement with the nomination. The Government does not seem to have at its disposal any verifiable and objective criteria to determine the representativeness of the two groups representing employers.*
34. *The Committee considers that a source of the problem in the Islamic Republic of Iran could be the necessity for the Government to identify only one employers' organization as a partner for consultations. This resulted in an attempt to virtually erase the existence of the previous organization by replacing it with an organization having the same name and registration number. This approach does not correspond to the requirements of the ILO Constitution. The Committee wants to recall that the Permanent Court of International Justice, in its Advisory Opinion No. 1 of 16 August 1922, clarified that the use of plural for the representative organizations in article 3, paragraph 5, of the ILO Constitution was not a question of grammar error but reflected the idea that "if [...] in a particular country exist several industrial organizations representing the working classes, the Government must take all of them into consideration, when it is proceeding to the nomination of the Workers' delegate and his technical advisers". The same is true for the Employers' delegate. Therefore, the approach of the Government towards looking for an exclusive partner in the consultation process does not satisfy the criteria of article 3 of the ILO Constitution. The Committee, therefore, encourages the Government to avail itself of the technical assistance of the Office in relation to various questions involving freedom of association in the country, in order to create the necessary conditions to 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.

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

35. The Committee received two objections concerning the nomination of the Workers' delegation of the Islamic Republic of Iran. The first objection was received from Mr Parwiz Ahmed Panjaki, President of the Supreme Centre of Islamic Labour Councils (SCILC), alleging that the nomination of the Workers' delegation by the Government had been in defiance of a decision by the Administrative Court of Justice. Mr Panjaki referred to section 136 of the Labour Law, which provided that delegates to various organizations, including to the ILO, should be nominated by the SCILC. According to a decision by the Administrative Court of Justice of 21 August 2006, the SCILC was the organization responsible for nominating Workers' representatives and any actions by the Ministry of Labour in this respect were null and void. Despite a number of letters by Mr Panjaki to the Ministry nominating Workers' delegates to the Conference, the Ministry had proceeded to nominate other persons. Mr Panjaki expressed his surprise that last year, the Government invoked in its defence to an objection before the Committee the same decision by the Administrative Court of Justice that it had now ignored. He therefore challenged the credentials of the Iranian Workers' delegation, and submitted an alternative list of names as Workers' delegates to the Conference.
36. A second objection concerning the nomination of the Workers' delegation was presented by Mr Jabbar Ali Salimian, Chairman of the Coordination Centre of Islamic Labour Councils of Yazd Province, and member of the Workers' House of the Islamic Republic of Iran. It argued that the Ministry of Labour had not consulted the Workers' House in the nomination of the Workers' delegation to the Conference. Secondly, it referred to the aforementioned decision by the Administrative Court of Justice confirming the SCILC as the agency to nominate Workers' delegates. The objection argued that the Government had acted contrary to article 3, paragraph 5, of the ILO Constitution, and requested the Committee to invalidate the credentials of the Workers' delegation.
37. In additional written information submitted by Mr Salimian, he first explained the background of the Administrative Court of Justice decision. An earlier Court decision had nullified the 2005 SCILC General Assembly elections, following the refusal by the Ministry of Labour to register the results. The Ministry interpreted this as giving it the power to dissolve the SCILC, which it did after the Conference in 2006, even though dissolution of the SCILC could only be achieved by Court order or through an extraordinary meeting of the SCILC itself. The Ministry then circulated a new compulsory model constitution for Coordination Provincial Centres of Islamic Labour Councils, which further strengthened the Ministry's power over workers' organizations. Subsequently, the Ministry in February 2007 constituted a "new" SCILC, to which only those provincial centres that had adopted the new constitution could affiliate. This move was criticized by several news agencies and newspapers. It was noted that the present Workers' delegate and advisers all belonged to this new "SCILC". Meanwhile, in its final judgment, the Administrative Court of Justice reconfirmed the authenticity of the SCILC General Assembly and declared any decisions and acts by the Ministry relating to the SCILC null and void. A series of letters was attached to the additional information, illustrating the SCILC's efforts to restart cooperation with various partners, including the Ministry. Nevertheless, the Ministry ignored the nominations by the SCILC for the Workers' delegation.

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- 38.** In a written communication addressed to the Committee at its request, the Government stated that in light of the principle of participatory democracy, delegates were chosen from among existing organizations regardless of their representativeness, bearing in mind the criteria established by the ILO. The Government considered the objections irreceivable since Mr Panjaki retired some time ago and had therefore no legal position to act on behalf of any workers' organization. Likewise, Mr Salimian was no longer the chairman of the Coordination Centre of Islamic Labour Councils of Yazd Province and was a member of the Board of Directors of the Derakhshan-e-Yazd Co., thus acting as an employer. It was further noted that the Workers' House was a political party rather than a trade union since it was registered with the Ministry of Interior and not the Ministry of Labour. According to the internal rules of the SCILC, members of political parties could not be elected as its members. Furthermore, a staying order by the Administrative Court of Justice dated 28 May 2007 had suspended the earlier decision of 21 August 2006, pending further review, which could therefore not be relied upon by the objecting organizations.
- 39.** The Government agreed with the objecting organizations that the SCILC was the only body entitled to make nominations for the Workers' delegations to the Conference. This did not mean, however, that there was an automatic obligation to consult the Workers' House. This automatic consultation in the past had given rise to protests from various Islamic Labour Councils, who considered this practice discriminatory. As to the contested SCILC elections held in Isfahan in November 2005, the Government noted that these were only held after repeated requests from numerous Councils across the country. The venue of the elections in Isfahan was against the wishes of many Councils who had wanted them to take place in Tehran. The elections themselves were flawed in view of the non-eligibility of many candidates and the balloting procedures used, and after many protests the Government had had to invalidate the elections by not registering them. Following many requests from the Tehran Labour Council Federation and other provincial labour councils, the Government then agreed to elections for a new board of the SCILC, and subsequently SCILC's constitution was amended to make it more inclusive and democratic.
- 40.** The Government stated that it was mindful of last year's comments by the Committee, and was working towards establishing objective and transparent criteria for determining representativeness. In this spirit and to verify the figures indicating the comparative importance of trade unions, the Government also consulted with different workers' associations, including the Workers' House, which did not provide any data. In order to show its good intentions, the Government had nevertheless invited Mr Mahjoob, Secretary-General of the Workers' House, to attend the Conference, but he declined the invitation. Noting that the nomination of the Workers' delegation had been made in consultation with the new SCILC, which represented the largest number of workers, the Government considered that the nomination was done in an equitable way, which would give new workers' voices a chance, after an unyielding monopoly by the Workers' House in representing Iranian workers in the ILO for almost a quarter of a century.
- 41.** In oral clarifications provided to the Committee at its request, Mr Salimian provided a proof that he was the Chairman of the Coordination Centre of Islamic Labour Councils of Yazd Province, most recently re-elected on 27 February 2007. He maintained that the dissolution of the SCILC following the disputed Isfahan elections was done in an illegal manner. He drew attention to various news agencies in the Islamic Republic of Iran that had criticized the Government's action. He also questioned how it was possible that the verdict by the Administrative Court of Justice of 21 August 2006 – which was a final verdict – had now been reopened by the same Court.

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42. Clarifications requested by the Committee were provided orally by Mr Amir Hossein Shahmir, Labour Counsellor of the Permanent Mission in Geneva and Government delegate, accompanied by Mr Hossein Nategh Nouri, Adviser to the Minister and Director-General for International Affairs, and Government adviser and substitute delegate, and Mr Abdolah Asadi Afshar, Expert of the Ministry of Labour and member of the Government delegation. It was explained that the Workers' House had been for a long time the most representative workers' organization, and until three years back it had always been nominated to the Conference. There had however been complaints from other organizations about this monopoly, and many Islamic Labour Councils had broken away. In fact, all Workers' delegates were former members of the Workers' House. While for now there could be only one workers' confederation (SCILC), the Government was revising the law to allow for more confederations.
43. The Government provided the text of a verdict handed down by the Administrative Court of Justice the day before, 6 June 2007, which in final instance overruled its verdict reached on 21 August 2006 (already suspended by Court order of 28 May 2007). This latter verdict was not subject to further review, and the claims of the former SCILC structure were now definitely rejected. As to the question whether the verdict of 21 August 2006 had been final, it was explained that even a final verdict could be reviewed if new facts were brought to the attention of the Court, as had been the case in this instance. Even though the suspension order by the Court was not yet in existence on 17 May 2007, the date when the Government deposited the credentials of its delegation, it had nevertheless decided to nominate only delegates from the new SCILC structure, since it knew that the Court's decision was forthcoming. It was re-emphasized that the authors of the objection were retired individuals and by law had no capacity to represent workers. Moreover, the Workers' House, by virtue of being registered at the Ministry of the Interior, was a political party. The new Labour Law would require that all trade unions be registered with the Ministry of Labour, and not with other ministries.
44. As to representativeness, 26 federations of Islamic Labour Councils throughout the country were represented by the new SCILC structure, against only three by the old one. It was however admitted that a fundamental problem was the lack of information on numerical representativeness. The Government was working towards establishing clear criteria. Because of this lack of clarity, and because the Workers' House was a part of the history of the country's representation in the Conference, it had nevertheless been consulted by the Government, but its nominations had not been retained. While other workers' organizations outside the system of Islamic Labour Councils (e.g., the organization of bus drivers) could not nominate directly their own representatives for inclusion in the Workers' delegation, they could negotiate with the SCILC, which in turn was able to nominate their candidates.
45. *The Committee notes that the Government questioned the receivability of both objections based on the status of Mr Salimian and Mr Panjaki in their respective organizations. While Mr Salimian provided explanations that seem satisfactory to the Committee, the Committee considered that there was no need to examine the question of the status of Mr Panjaki. The Committee wishes to recall that the Conference Standing Orders do not require that the author of the objection be the representative of an organization. The Committee therefore considers the objection receivable.*
46. *The Committee notes that many of the facts surrounding this objection are similar to last year (Provisional Record No. 5C, 2006, paragraphs 29–36) and are disputed before the courts of law of the Islamic Republic of Iran. The Committee notes that the final judgement had been rendered just one day before the meeting of the Committee with the Government, so that this judgement, transmitted by the Government, could be taken into consideration in formulating the recommendations of the Committee.*

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47. *In general, the Committee finds that the supervisory role assigned to the Government by national law should be examined in light of the international standards regarding freedom of association developed by the ILO. As is the case with employers' organizations in the Islamic Republic of Iran, the power of the Government to supervise the internal elections to ensure respect for internal rules of these organizations has serious consequences for the autonomy and the very existence of employers' and workers' organizations.*
48. *The Committee considers that a source of the problem in the Islamic Republic of Iran could be the necessity for the Government to identify only one workers' organization as a partner for consultations. This approach does not correspond to the requirements of the ILO Constitution. The Committee wants to recall that the Permanent Court of International Justice, in its Advisory Opinion No. 1 of 16 August 1922, clarified that the use of plural for the representative organizations in article 3, paragraph 5, of the ILO Constitution was a question of grammar but reflected the idea that "if [...] in a particular country exist several industrial organizations representing the working classes, the Government must take all of them into consideration, when it is proceeding to the nomination of the Workers' delegate and his technical advisers". Therefore, the approach of the Government towards looking for an exclusive partner in the consultation process does not satisfy the criteria of article 3 of the ILO Constitution. The Committee, therefore, encourages the Government to avail itself of the technical assistance of the Office in relation to various questions involving freedom of association in the country, in order to create the necessary conditions to 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.*
49. *The Committee also wishes to recall its conclusions regarding the same case from the 95th Session of the Conference: "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 reminds 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." The Committee considers that the situation has not changed. The Committee encourages the Government to avail itself of the technical assistance of the Office in order to facilitate such a process.*
50. *As for the consultation process, the Government seems to be focused more on legal issues regarding elections than on who are the most representative workers' organizations in the Islamic Republic of Iran. The Workers' House seems to exist and still represents workers in the country. The correspondence between the Ministry of Labour and Social Affairs and the Workers' House gives credibility to such a conclusion. Therefore, by ignoring the Workers' House during the nomination process, the Government created a situation in which the Committee cannot but have considerable doubts that the consultations were held in line with the provisions of the ILO Constitution.*
51. *Once again, 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 involving all parties concerned.*

Objection concerning the nomination of the Workers' delegate of Myanmar

- 52.** The Committee received an objection of the International Trade Union Confederation (ITUC) concerning the nomination of Mr Khin Maung Oo, the Workers' delegate of Myanmar, designated in the *Provisional List of Delegations* as "Supervisor of the Myanmar Mayson Industrial Co Ltd, Hlaing Thayar Industrial Zone". The ITUC stated that a person holding this function clearly could not be a bona fide Workers' representative. As in the past, the Government had once again nominated a person who did not represent any freely constituted workers' organizations in the country. The Government had thus acted contrary to article 3, paragraph 5, of the ILO Constitution, and the Committee was urged to invalidate the credentials of the Workers' delegate of Myanmar.
- 53.** In a written communication addressed to the Committee at its request, the Government explained that Mr Khin Maung Oo was a genuine worker with the rank of supervisor in the Good Morning Confectionery of Myanmar Mayson Industrial Co Ltd, in Hlaing Thayar Industrial Zone, which was part of the Yangon Division. The selection of the Workers' delegate was made by the Basic Workers' Organizations from 11 industrial sectors, which elected 72 workers' representatives. Through subsequent selection, a shortlist of nine representatives was drawn up, whereupon Mr Khin Maung Oo was selected by a show of hands at a meeting held on 10 May 2007. This election was achieved through a genuine process, without any interference by the Government. The Government further stated that, after three years during which it had not nominated a Workers' delegate, the present nomination of a delegate illustrated its spirit of cooperation towards the ILO.
- 54.** Clarifications requested by the Committee were provided orally by Mr Shein Chit, Director-General of the Department of Labour and Government delegate, Mr Myint Hla, Director-General of the Ministry of Foreign Affairs and Government adviser and substitute delegate, accompanied by Ms Hlaing Khin Oo, Second Secretary of the Permanent Mission in Geneva and Government adviser. It was noted that for three years, the Government had not designated a Workers' delegate, and that the current nomination of Mr Khin Maung Oo was to be seen as a genuine effort by the Government. In the process of drafting the new Constitution of Myanmar, some basic principles were being articulated, including the freedom to create trade unions. As to the status of Basic Workers' Organizations, they had been formed spontaneously, after workers had expressed the desire to the Government to organize through the Industrial Zone Management Committees of the Yangon Region. The Government had approved their formation, as this fitted into its strategy to form a free trade union in Myanmar. Basic Workers' Organizations had been formed since October 2006 at the factory level, membership was voluntary and most workers had affiliated to them. They did not include representatives from management or the Government and were not established by law. They also had the right to strike. It was made clear that even though Basic Workers' Organizations did not for the moment have statutes, their formation was just an initial step towards the formation of a national trade union, the Myanmar Labour Organization, the statute of which was currently being drafted by the Department of Labour and which would in due course be sent for consultation to the workers across the country.
- 55.** It was further explained that while Basic Workers' Organizations were established at the factory level, they were divided into 11 different professional groups across the Yangon Region, which formed the basis for the election of the Workers' delegate as described in the Government's written submission. It was admitted that the Workers' delegate represented the approximately 140,000 workers in the Yangon Region out of a total of 180,000 workers in industrial zones nationally, but that no other categories of workers in

the country were consulted. Myanmar counted more than 27 million workers out of a 32 million working-age population: 64 per cent worked in agriculture, 22 per cent in services and 14 per cent in industry. It was stated that it was not practically possible to consult all these workers, and that the way in which the selection of the Workers' delegate was made was the most realistic option under the circumstances.

56. As to the selection of Mr Khin Maung Oo, once the invitation from the ILO for the Conference was received by the Government, the invitation to designate a Workers' delegate was sent through the Industrial Management Committees of the Region to the Basic Workers' Organizations. Once the election had taken place, the Government received back through the Industrial Management Committees the name of Mr Khin Maung Oo and the minutes of the 10 May 2007 meeting. No one from management or the Government had been present during the election. Mr Khin Maung Oo was a genuine worker, and the fact that he was a "supervisor" did not indicate that he was part of the management.
57. In oral clarifications provided to the Committee at its request, Mr Khin Maung Oo stated that the Basic Workers' Organization in his factory was established on 10 October 2006, during a meeting called by a management committee. In early 2007, he became second secretary of that organization. Most workers in his factory had affiliated, and no membership fees were required. He further indicated that no management representative was involved in the functioning of his Basic Workers' Organization.
58. *It should be recalled that from 1999 to 2003 the Committee considered objections concerning the Workers' delegate from Myanmar. In each of those sessions, although the Committee concluded that the nomination of the Workers' delegate was not made in accordance with the conditions required under the ILO Constitution, it refrained from proposing invalidation of the credentials for various reasons – the last time in light of the fact that the Government withdrew the credentials of the Workers' delegate, thus rendering the objection moot. During this five-year period, the Workers' delegate was allegedly representing the Workers' Welfare Associations, the Myanmar Nurses Association or the Myanmar Texcamp Industries, Ltd. The Committee found that these organizations were not representative of the workforce of Myanmar. From 2004 to 2006, the Government decided not to accredit a Workers' delegate, with the explanation that it was "a consequence of the calling into question of the Workers' delegate's credentials at the 91st Session of the ILC" (GB.298/15/4, March 2007).*
59. *This year, the Workers' delegate allegedly represents Myanmar Mayson Industrial Co. Ltd. in Hlaing Tharyar Industrial Zone and the Basic Workers' Organizations in the Yangon Division. Once again, it cannot be considered that this nomination was made in accordance with article 3, paragraph 5, of the ILO Constitution. Firstly, the Basic Workers' Organizations cannot be considered as organizations in the sense of the ILO Constitution since the Industrial Zone Management Committees were involved in their creation, and they do not have any written statutes, or clear methods of financing their activities. Nor do they have any clear criteria on membership, or established procedures for the election of their representatives. Another indication that these organizations do not have an established structure is that the credentials of Mr Khin Maung Oo specify only his position within the factory and not his function within the workers' organization he is allegedly representing. Secondly, these organizations cannot be representative of the workers of Myanmar: even if Mr Khin Maung Oo were genuinely elected as a representative of 140,000 workers in the industrial zones (and in this context the Committee notes that almost all representatives at the final electoral meeting were designated as supervisors), he would still be representing only 0.5 per cent of the 27.85 million total workforce of Myanmar. The Government did not use the three-year period to honour its commitment to undertake the steps necessary to follow the*

recommendations of the Committee towards bringing the nomination process into conformity with article 3, paragraph 5, of the ILO Constitution. Under those circumstances, and in light of the fact that the legal system does not permit the creation of free trade unions in Myanmar, the Committee unanimously considers that the credentials of the Workers' delegate of Myanmar warrant invalidation by the Conference in accordance with article 3, paragraph 9, of the ILO Constitution.

- 60.** *This conclusion is not a surprise as the Committee had already arrived at similar results in 2002 and 2003, when the Workers' delegate nominated by the Government was also representing workers in industrial zones. The Committee at that time concluded that a proposal of invalidation was warranted.*
- 61.** *The Committee, however, with considerable reluctance refrains from proposing this measure to the Conference this year. It was informed that Mr Khin Maung Oo had been excluded from the Workers' group at the Conference. The Committee therefore considers that the Government could be given a final chance to align the nomination of a Workers' delegate with the requirements of the ILO Constitution. The Committee strongly encourages the Government to avail itself of the advice that the Office can provide in relation to freedom of association and the nomination process, to permit the participation of Myanmar in the Conference in accordance with the ILO Constitution.*
- 62.** *In order to check the compliance of the Government with the requirements of the ILO Constitution, the Committee considers that at the 97th Session of the Conference it should be automatically seized of this matter without having to consider an objection. 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 Myanmar to the Conference should be monitored. By virtue of article 26bis, paragraph 7, of the Interim Provisions of the Conference Standing Orders, the Committee proposes that the Conference request the Government of Myanmar to submit for the next session of the Conference, at the same time that it submits its credentials for the delegation of Myanmar, a detailed report substantiated with relevant documentation on the procedure utilized to nominate the Workers' delegate and advisers, specifically the organizations consulted on the matter and according to which criteria the percentage of workforce that the organizations consulted represent, the date and place of these consultations, and the names of the individuals nominated by the organizations during these consultations and their positions held within those organizations.*
- 63.** *Finally, the Committee strongly urges 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. Otherwise, if the Government's actions fall short, the Committee may propose invalidation of the Workers' delegation of Myanmar in the early days of the Conference at its 97th Session.*

Objection concerning the nomination of the Employers' delegation of Romania

- 64.** *The Committee received an objection presented by the *Uniunea generala a industrialisor din Romania* (UGIR 1903) alleging that the composition of the Employers' delegation of Romania was not representative of the employers' organizations in the country. It attached to its objection statistics that purported to demonstrate that this delegation did not represent more than at most 25 per cent of national employers' organizations. The UGIR 1903 emphasized that before it submitted its objection, it tried to amicably resolve the problem of the composition of the Employers' delegation with the Government, but that no response from the Government had been obtained. It recalled that it was represented at*

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- the 95th Session of the Conference, and should therefore be represented at the current session, since nothing had changed concerning the representative nature of the employers' organizations. Accordingly, it requested the Committee to determine that, due to a deficiency in the representative nature of its composition, the Employers' delegation of Romania did not have the legitimacy required for participation in the Conference.
- 65.** In a written communication addressed to the Committee at its request, the Government mentioned all the organizations representing employers, and specified the organizations that had been consulted regarding the nomination of the delegation. It indicated that the consultations with employers' organization took place on 16 March 2007 at the Ministry of Labour, Family and Equal Opportunities. The Employers' delegation was designated by a majority vote of the members of the Alliance of Romanian Employers' Confederations (ACPR), which included seven of the 11 representative national employers' organizations. The Government considered that it had complied with the obligation under article 3, paragraph 5, of the ILO Constitution. Moreover, it had covered the costs of the Workers' and Employer's delegations. The Government stated that there were always the same organizations that agreed on the nomination of the Employers' delegation and that it was not involved in any way in this designation.
 - 66.** In response to a request by the Committee to indicate the numerical importance of each employers' organization and to furnish the minutes of the meeting of 16 March 2007, the Government stated that it had no access to information relating to the membership of these organizations. They had a tendency to overestimate their numerical importance. A draft law aiming to facilitate the verification of those numbers was currently under discussion in the Parliament. By decision of the Government, the representation for future sessions of the Conference would be ensured on a rotating basis. The participation at the present session had been decided by a vote of seven confederations member of the ACPR, which represented Romanian employers' organizations at the International Organisation of Employers (IOE), Business Europe and the European Association of Craft, Small and Medium-Sized Enterprises (UEAPME).
 - 67.** The minutes of the meeting of 16 March 2007 indicated that the ACPR presented a declaration stating that it was the only employer structure in the country that was a member of the IOE and Business Europe, and that following the accession of Romania to the European Union, representation of employers at the Conference should only be ensured through the member organizations of these bodies. The ACPR stipulated how the functions of the Employers' delegation should be distributed among its members. In the course of the meeting, the UGIR 1903 underlined the importance of taking into account the actual representativeness of organizations at the national level. About half of the employers' confederations had stayed out of the ACPR, and it was not acceptable that these organizations, in particular the UGIR 1903, would not have the right of representation.
 - 68.** *The Committee regrets that the Government was not able to furnish all the information requested, in particular pertaining to the numerical importance of the representative organizations. It, however, notes that the composition of the Employers' delegation appears to reflect the diversity of the national representative organizations as it includes representatives of seven out of 11 employers' organizations. The Committee further notes that the UGIR 1903 had been invited and participated in the consultation process. The nomination was carried out in agreement with the most representative employers' organizations through a procedure where the organizations independently chose their representatives to the Conference by a vote. Under these circumstances, the Committee considers that it had not been presented with evidence that would permit it to question the conformity of the nomination with the provisions of article 3, paragraph 5, of the ILO Constitution. Consequently, the Committee decides not to uphold the objection.*

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69. *Nevertheless, the Committee encourages the Government to continue its efforts, in consultation with all the organizations concerned, towards establishing a system of evaluating their representativeness. In this regard, the Government may wish to avail itself of the technical assistance of the Office.*

Objection concerning the nomination of the Workers' delegation of Rwanda

70. The Committee received an objection presented by the *Intersyndicale des travailleurs du Rwanda* (ITR) concerning the nomination of the Workers' delegate from among the ranks of the *Centrale des syndicats des travailleurs du Rwanda* (CESTRAR). The nomination of the delegate was traditionally made by consensus or majority vote among the organizations representing workers, taking into account the principle of rotation. This year the nomination of the Workers' delegate was made without the agreement of the trade union organizations, and with interference of the Ministry of Public Service and Labour (MIFOTRA). The fact that MIFOTRA, in a communication dated 25 May 2007, invoked the necessity of consensus in order to exclude the Workers' delegate nominated by the majority of trade union organizations and to nominate instead a representative of CESTRAR – while in 2005 MIFOTRA had accepted the rule of the majority vote in favour of this same Workers' delegate – demonstrated that the criteria applied by MIFOTRA aimed at favouring the representative of CESTRAR. The authors of the objection alleged further that CESTRAR did not enjoy the guaranteed independence required vis-à-vis employers.
71. *The Committee notes that the Government has not responded to its request for information regarding the objection, and has only provided to it a copy of the abovementioned communication of 25 May 2007 that records the absence of consensus referred to by the objecting organization. The Committee considers that this communication, which predates the objection, cannot be regarded as a reply to the Committee's request to the Government to provide its views on the substance of the objection and to supply precise information. In the absence of a reply, the Committee could decide to examine the matter and to give credence to the allegations of the objection organization. The Committee, however, considers that the objection does not contain sufficient elements to allow it to proceed with its examination.*

Objection concerning the failure to deposit credentials of an Employers' and a Workers' delegate by the Government of Saint Kitts and Nevis

72. The Committee received an objection presented by the International Trade Union Confederation (ITUC) concerning the failure to nominate an Employers' and a Workers' delegate by the Government of Saint Kitts and Nevis. The delegation of the country was thus not fulfilling the requirements of article 3, paragraph 5, of the ILO Constitution. The ITUC requested the Committee to ask the Government for explanations and to urge it to respect its constitutional obligations.
73. In a written communication addressed to the Committee at its request, the Government clarified that it had not been able to send an Employers' and a Workers' delegate this year due to serious financial constraints. It stated that it has made arrangements to send a full delegation to future sessions of the Conference.
74. *The Committee notes that, already in 2006, Saint Kitts and Nevis was represented at the Conference by a delegation composed exclusively of Government representatives. The Committee expresses its deep concern that the country is not represented by a delegation*

that includes Employers' and Workers' representatives. 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. While noting the explanation of the Government, and its intention to send a complete delegation for future sessions of the Conference, the Committee reminds member States of their obligations under article 3, paragraph 1, of the ILO Constitution to nominate tripartite 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 Conference cannot function properly or attain its objectives.

Objection concerning the failure to deposit credentials of a Workers' delegate by the Government of Saint Vincent and the Grenadines

75. The Committee received an objection presented by the International Trade Union Confederation (ITUC) concerning the failure to nominate a Workers' delegate by the Government of Saint Vincent and the Grenadines. The delegation of the country was not fulfilling the requirements of article 3, paragraph 5, of the Constitution, since it did not include a Workers' delegate. The ITUC stated that it had an affiliate in Saint Vincent and the Grenadines, the Commercial, Technical and Allied Workers' Union (CTAWU), which it believed should be included in the delegation. The ITUC requested the Committee to ask the Government for explanations and to urge it to respect its constitutional obligations.
76. *The Committee regrets that the Government has not responded to its invitation to comment on the objection, but notes with satisfaction that the Government has in the meantime accredited a fully tripartite delegation, and in particular the Secretary-General of CTAWU as the Workers' delegate. The objection has therefore become moot. The Committee, however, reminds member States of their obligations under article 26, paragraph 1, of the Conference Standing Orders to deposit credentials of their delegates and advisers and of all other members of the delegation of a member State with the Office at least 15 days before the date fixed for the opening of the session of the Conference. Respect of the obligation to accredit a full tripartite delegation in a timely manner enables the verification of the credential by all parties concerned and therefore allows the Committee to effectively exercise its mandate under the ILO Constitution and the Conference Standing Orders.*

Objection concerning the nomination of the Workers' delegation of Ukraine

77. The Committee received an objection presented jointly by the Confederation of Free Trade Unions of Ukraine (KVPU), the All-Ukrainian Union of Workers' Solidarity (VOST), the National Confederation of Trade Unions of Ukraine, and the National Forum of Trade Unions of Ukraine, concerning the nomination as Workers' delegate of Mr Oleksandr Yurkin, President of the Federation of Trade Unions of Ukraine (FPU). The authors of the objection alleged several initiatives by the Government to restrict freedom of association, designed to establish a trade union monopoly by the FPU. They referred in this respect also to a complaint made by the KVPU before the Committee on Freedom of Association. They stated that since 1991 the FPU had attended the Conference to the exclusion of all other workers' organizations. Negotiations that took place in 2006 under the auspices of the Minister for Labour, allegedly resulted in agreement that participation in the Conference should henceforth be rotated among all trade unions in Ukraine. However, during a meeting held on 26 April 2007 of the National Tripartite Socio-Economic Council (NTS-EC) – in which the FPU holds 16 of the 22 trade union seats – it

was decided to designate Mr Yurkin as the Workers' delegate to the current session of the Conference. This was a violation of the rotation agreement, and most trade unions did not agree to FPU designation to the Conference.

78. In a written communication addressed to the Committee in response to its request, Mr Mihail Papiev, Minister of Labour and Social Policy, stated that the Government did not interfere in the process of nominating candidates for the Workers' delegation. There were 14 all-Ukraine trade union federations and 105 all-Ukraine trade unions legally registered in the country. The most representative organization was FPU with 11,187,000 members, while the National Confederation of Trade Unions of Ukraine had 1,315,000 members, the National Forum of Trade Unions 409,390 members and KVPU 211,000 members. The organizations concerned held two rounds of consultations regarding the Workers' delegation (on 26 April and 11 May 2007) within the President's National Tripartite Social and Economic Council. As a result of the vote and the fact that Mr Volynets from KVPU and Mr Dzulyk from All-Ukraine Association of Worker's Solidarity withdrew their candidature for an adviser position, the trade unions concerned proposed a list that the Government accepted. There was no rotation agreement in Ukraine and no clear criteria for the nomination of representatives for social partner organizations had been established. The Government provided a copy of the minutes of the meeting of 11 May 2007.
79. *The Committee notes that the KVPU and the VOST were represented in the Workers' delegation in 2005 and 2006 and that their participation at advisers level at the present session of the Conference had been envisaged by the participants in both meetings of the President's National Tripartite Social and Economic Council. The Committee notes that the criteria that guided the organizations concerned in the meeting of 11 May 2007, namely the total membership of each organization, the sphere of their activity, the extent of their respective activities in defending workers' rights and interests, the participation in international trade union federations, seem to be sufficient to determine the most representative organizations of workers of Ukraine in an objective and transparent manner. Furthermore, the application of these criteria seems to arrive at a result that corresponds to the figures provided by the Government. The Committee has not been presented with any proof of the existence of the agreement on rotation of the titular delegate's position, which could have put the above criteria in a different perspective. Finally, the organizations in question were involved in the consultation process. Under those circumstances, and on the basis of the information submitted to it, the Committee considers that the objection cannot be upheld. The Committee, however, encourages the Government to further clarify, in consultation with all the organizations concerned, clear and transparent criteria regarding the membership of the President's National Tripartite Social and Economic Council, as this body represents an essential part of the consultation process.*

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

80. The Committee received an objection presented by the Employers' group of the Conference, concerning the nomination of the Employers' delegation of the Bolivarian Republic of Venezuela. The Employers' group states that the Employers' delegate, Ms Albis Muñoz, former President of FEDECAMARAS, had been prevented from leaving the country, as had been the case in respect of the 2006 American Regional Meeting of the ILO. The justification invoked by the authorities involved fiscal, administrative and judicial problems of the Employers' delegate, which were in fact instigated and brought to justice by the Government itself. The Employers' group recalled that this matter had been raised before the Committee on the Application of Standards of the Conference in 2005 and 2006, which had in 2006 "observed with regret that, contrary

to the request in its conclusions of the previous year, the Government had not lifted the restrictions to freedom of movement imposed on certain FEDECAMARAS leaders and reiterated its request in this regard”.

- 81.** The Employers’ group also objected to the inclusion in the capacity of adviser of the country’s Employers’ delegation to the Conference, representatives of the *Confederación de Empresarios Socialistas de Venezuela* (CONSEVEN), which did not fulfil the criteria of representativeness recognized by the ILO, namely independence and freedom from interference by the government. This was evidenced by the fact that its Vice-President was Mr Johnny Yáñez Rangel, Governor of the State of Cojedes, and that the counsellor of this organization was Mr José Gregorio Vielma Mora, Superintendent of the National Integrated Service of the Custom and Fiscal Administration. Moreover, CONSEVEN consisted of groups that did not merit the name of employers, in the same way as EMPREVEN which, according to a direct contacts mission of the ILO, consisted of micro-enterprises that were not employers, mainly dedicated to administering microcredits financed by the Government and by national and international public institutions, that did not negotiate collective agreements and was thus not an organization of employers. Accordingly, FEDECAMARAS was the only autonomous and independent organization representative of employers for participation in the Conference.
- 82.** In a written communication addressed to the Committee at its request, the Government considered that the objection contained inconsistencies and false assertions that were incompatible with the proposed technical arguments. The Employers’ representation was composed of FEDECAMARAS, FEDEINDUSTRIA, CONFAGAN and EMPREVEN (the last two now affiliated to the CONSEVEN). The Government stressed that the objection lacked all foundation because the meetings to designate the Employers’ delegation had been conducted in a free and voluntary manner. The Government accredited the representation of FEDECAMARAS in accordance with the request of 8 May 2007 and in keeping with the decisions of the meetings held on 26 and 30 January 2007. During the first meeting, the Ministry of Labour had requested to take into account the existence of various and plural actors, including those that represent micro-, small and medium-sized enterprises. FEDECAMARAS declared that as the most representative organization, it would not yield the position of delegate, and it agreed that the advisers would be members from its organization, and that CONFAGAN, EMPREVEN and FEDEINDUSTRIAS could also appoint advisers. These latter three maintained that it was necessary to democratize the process of nominating the delegation and proposed that FEDEINDUSTRIA would fill the position of delegate. During the meeting of 30 January 2007, only these last three organizations were represented, and they deplored the unexplained absence of FEDECAMARAS. This was not the first time that this organization did not show up for a meeting without excuse. The three organizations agreed that FEDEINDUSTRIA would head the Employers’ delegation to the Conference. According to a communication of FEDECAMARAS dated 8 May 2007, this organization asked for the accreditation of Ms Albis Muñoz as delegate, and Mr Bingen de Arbeloa as substitute delegate. On 10 and 18 May 2007, the Government received nominations from CONSEVEN and FEDEINDUSTRIA. The nominated persons were included in the delegation as advisers, in view of the principle of equality and non-discrimination. On 16 May 2007, the credentials of the country’s delegation were transmitted to the Office, in which the position of titular delegate was effectively attributed to Ms Albis Muñoz. The Government also ensured that the expenses of the entire Employers’ delegation were covered. However, Ms Albis Muñoz was also the subject of a judicial procedure to determine her participation in the coup d’état of 11 April 2002, and the sabotage of the oil sector in 2002–03. FEDECAMARAS requested that the travel expenses assigned to her be allocated to another person, as she was deprived of her liberty by judicial order, which attests to the fact that FEDECAMARAS was aware of the situation.

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- 83.** Clarifications requested by the Committee were provided orally by Mr Rafael Chacón, Vice-Minister of Labour and Government delegate; Ms Clara Ferreira, Director-General of the Office of the Ministry of Labour and Social Security and Government adviser; Mr José Gregorio Villarroel, Director-General of Labour Relations and Government adviser and substitute delegate; Ms Drany Pamphil, of the Bureau of International Relations and ILO Liaison Office of the Ministry of Labour and Government delegate; and Mr Oscar Carvallo, Ambassador of the Bolivarian Republic of Venezuela in Geneva. It was explained that the Government had accredited Ms Muñoz at the request of FEDECAMARAS, and that it had paid her travel and subsistence expenses. Yet, whether or not she could leave the country depended on the court that was examining the case of the role of Ms Muñoz in the coup d'état of 2002 and the sabotage of the oil sector in 2002–03, and the Government could not influence the system of separation of powers in the country.
- 84.** As concerns the Employers' delegation, the Government observed that the objection did not come from FEDECAMARAS. Although FEDECAMARAS was absent from the meeting of 30 January 2007, the Government accepted its nomination and paid travel and subsistence expenses for its representatives. Regarding the presence of CONSEVEN, it was explained that the designation had been made at the request of the employers' organizations and in accordance with the national constitutional principles to end the monopoly and discrimination. The Government considered that the protest stemmed more from political motivations than from real problems in the nomination.
- 85.** *The Committee notes that at the meeting of 26 January 2007, FEDECAMARAS proposed its representatives for the major part of the Employers' delegation and agreed that others could nominate advisers, while three other organizations, namely CONFAGAN, FEDEINDUSTRIA and EMPREVEN, proposed that the Employers' delegate be from FEDEINDUSTRIA. This second proposal was confirmed on 30 January 2007 by the three organizations, but was not followed by the Government.*
- 86.** *The Employers' delegation reflects the participation of CONSEVEN, an organization created on 9 May 2007, i.e. seven days before the credentials were presented to the Office. This organization includes not only CONFAGAN and EMPREVEN but also other organizations such as Cámara Bolivariana de la Construcción (C.B.C.), Federación Venezolana de Entes Productivos (FEDEVEP), and Cámara Venezolana de Industriales de la Piedra y los Minerales no Metálicos. CONSEVEN claims to represent 500,000 employers in the country. There is, however, no evidence that the Government verified either those figures or the representative character of CONSEVEN. In any case, there is no evidence in the documents presented to the Committee that the addition of advisers coming from CONSEVEN resulted from the consultation process involving FEDECAMARAS. This would have been important to determine whether CONSEVEN, as a new organization involving more than two previously existing organizations regarding which the ILO's direct contacts mission expressed some doubts in the past, is an organization of employers. This is all the more relevant, since the Government did not dispute that Mr Johnny Yáñez Rangel and Mr José Gregorio Vielma Mora, who are leaders of CONSEVEN, are government officials. The Committee therefore concludes that the Employers' delegation, although reflecting correctly the importance of FEDECAMARAS as the most representative organization, contains advisers whose nomination was not done in consultation with FEDECAMARAS. The Committee wants to emphasize, as it did in relation to the objection regarding the Workers' delegation (paragraphs 90–101, below), that the principle of participatory democracy, as described by the Government, does not correspond to the consultation criteria required under the ILO Constitution. The participation of various organizations regardless of their representativeness or their genuine character as employers' organizations in the nomination of non-governmental delegates to the Conference is not in accordance with*

article 3, paragraph 5, of the ILO Constitution. The Government has to establish, in consultation with the organizations concerned, objective and verifiable criteria to determine their representativeness. The Committee recommends that the Government avail itself of the technical assistance that the Office may offer in that respect.

87. As for the situation of Ms Muñoz, the Committee notes the argument of separation of powers, but observes that the Government has not shown any efforts to ensure the effective participation of Ms Muñoz at the Conference. It is true that it was FEDECAMARAS that insisted on her nomination. But, being a part of an official delegation of a member State to the annual meeting of the main body of the International Labour Organization, and being given such an important function in that delegation to act as the titular Employers' delegate, should have been sufficient a guarantee for the Government to offer to the judicial authorities in order to permit Ms Muñoz's presence in Geneva. This situation is neither new for the Government nor for FEDECAMARAS, and the mechanism of obtaining authorization to leave the country was indicated by the Government during the American Regional Meeting (see Report of the Credentials Committee, 16th American Regional Meeting, Brasilia, 2006, paragraph 26).
88. As in the context of the objection regarding the Workers' delegation (see paragraph 99, below), the Committee concludes from the information in its possession that the role of the Government goes beyond the role of facilitation, as the Government itself defined it. The Government decided who would be invited to the consultation meetings without indicating any criteria for its choice of the invitees. It organized the consultative meetings in its premises in the presence of government officials who also signed the minutes of the meeting. The Government made nominations in light of divergent positions expressed by the organizations concerned. By playing such an important role, the Government substantially influenced the consultation process.
89. The Committee therefore recalls that the nomination of the Employers' delegation should be made in agreement with the most representative employers' organizations, on the basis of pre-established, objective and verifiable criteria. The Committee emphasized that consultations should be undertaken in such a manner so as to respect their genuine character as employers' organizations and their ability to act in absolute independence from the Government or any other state bodies. The Committee expects that the Government will ensure, with the assistance of the Office, 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

90. The Committee received an objection regarding the nomination of the Workers' delegation of the Bolivarian Republic of Venezuela, presented by Mr Manuel Cova, on behalf of the *Confederación de los trabajadores de Venezuela* (CTV). The objecting organization alleged that for the fifth consecutive year the nomination of the Workers' delegation was made in flagrant violation of the criteria reiterated by the Committee on this subject at the four preceding sessions of the Conference. Indeed, during the preparatory coordination meeting held on the premises of the Office of International Relations on 25 January 2007, the five trade union centres in the country (CTV, CUTV, CODESA, CGT and UNT) unanimously decided to designate a member of the CTV as Workers' delegate to the Conference. However, the Minister appointed instead a representative of the *Unión Nacional de Trabajadores* (UNT), thereby ignoring the recommendations of this Committee, which already in 2003 exhorted the Government to ensure that the delegation would be designated taking into account "the relative representativeness of the various trade union organizations in the country through a

process that will cast no doubt as to its impartiality, transparency and predictability.” The objecting organization attached a copy of the minutes of a meeting, held on 3 May 2007, during which only the CTV and the CGT confirmed the previous position of 25 January 2007, while UNT and CUTV contested it. By letter of 21 May 2007, Mr Cova informed the Government that he declined the position of adviser given to him. Accordingly, it was requested that the credentials of the Workers’ delegate in the present session of the Conference be invalidated.

- 91.** In a written communication submitted to the Committee at its request, Ms Drany Pamphil, Director of the Bureau of International Relations and ILO Liaison Office of the Ministry of Labour and Government delegate at the Conference, and Mr José Gregorio Villarroel, Director-General of Labour Relations and Government adviser and substitute delegate at the Conference, raised the issue of receivability of the objection for the following reasons. First, the objection is irreceivable because it was presented at 9.30 a.m. at the opening date of the Conference. Given that paragraph 1(a) of article 26bis of the *Interim Provisions of the Conference Standing Orders* provided that the objection would not be receivable if not lodged “with the Secretary-General within 72 hours from 10 a.m. of the first day of the Conference”, the Government considered that all objections lodged before the opening of the Conference were irreceivable. Secondly, the objection was irreceivable because the author of the objection, Mr Cova, could not act on behalf of the CTV, this authority being vested with the Executive Committee of the CTV. Thirdly, Mr Cova was included in the credentials deposited by the Government as adviser, and therefore his objection was irreceivable in light of paragraph 1(c) of article 26bis of the *Interim Provisions of the Conference Standing Orders*.
- 92.** As regards substantive arguments, the Government indicated that, according to information available in the archives of the Ministry of Labour and Social Security, which were neither entirely exact nor final, the UNT encompassed 267 affiliated union organizations, whereas the CTV represented 123. Other factors were also important, such as the number of workers affiliated to each one. It also recalled the decision by the Supreme Court of Justice of 17 June 2004, according to which the determination of the most representative trade union required the holding of a trade union referendum taking into account the productive and economic sectors, the sphere of influence and the importance of the scope of activity of each organization. It concluded therefore that it concerned an inter-union problem that the trade union centres themselves had to resolve.
- 93.** The Government subsequently provided a chronological list of events. On 18 January 2007, it invited the five most representative trade union centres to meet on 25 January 2007. Although in that meeting it was agreed that the position of titular delegate to the Conference would be accorded to the CTV, and that each of the remaining centres should have two advisers, the UNT later opposed the validity of this agreement since it did not recognize the legitimacy of the person who had attended that meeting on its behalf, Ms Ana Yáñez. The agreement was subsequently invalidated during a second meeting held on 16 April 2007 with the CGT, CODESA, CUTV and UNT, but without the CTV, at which it was decided to call for a third meeting. This meeting was held on 3 May 2007, during which the CUTV and UNT supported the candidacy of the latter, in order to prevent the re-emergence of the hegemony that the CTV had maintained for several years, and noted that the process of rotation established four years ago designating the Workers’ delegation of the country to the Conference had been challenged systematically by the CTV before this Committee. Further, the Government alleged that the CTV had embarked in early May 2007 on a media campaign denouncing the Government for its refusal to include it in the delegation to the Conference, when in fact the decision had been the result of a free and independent decision by the main trade unions. Lastly, the Government emphasized its insistence that all the organizations had their respective advisers. In fact,

the Government had acted as facilitator, and ensured that the travel and subsistence expenses of all the Worker members of the delegation were paid.

- 94.** At the request of the Committee, Mr Cova, author of the objection, provided further oral explanations. In respect of his absence from the meeting of 16 April 2007, Mr Cova said that the CTV had not received the invitation for the meeting, nor was it sent the minutes. He confirmed, as attested to by letter of 21 May 2007 to the Government, that he had declined to be an adviser in the country's Workers' delegation. Referring to the rotation agreement, the CTV was ready to respect if agreed to autonomously, that is, coming from the proper trade union centres without interference from the Government. As concerns the numerical criteria determining the representativeness of the centres, he declared that the last trade union elections dated back to 2001. The National Electoral Council, which governed such elections, recognized the true representativeness of the CTV, and for years the ILO had requested the Government to recognize this result. In respect of the UNT, Mr Cova questioned its legitimacy.
- 95.** Clarifications requested by the Committee were provided orally by Mr Rafael Chacón, Vice-Minister of Labour and Government delegate; Ms Clara Ferreira, Director-General of the Office of the Ministry of Labour and Social Security and Government adviser; Mr José Gregorio Villarroel, Director-General of Labour Relations and Government adviser and substitute delegate; Ms Drany Pamphil, Director of the Bureau of International Relations and ILO Liaison Office of the Ministry of Labour and Government delegate at the Conference; and Mr Oscar Carvallo, Ambassador of the Bolivarian Republic of Venezuela in Geneva. It was indicated that the situation referred to in the objection was totally different from last year. It was difficult for them to consider it devoid of political connotations, given the role played by the CTV in the coup d'état of 2002 and in the sabotage of the oil sector in 2002–03. In respect of the invalidation of the agreement reached on 25 January 2007, it was stated that this was necessary as one of the five centres (UNT) invited by the Ministry had challenged the capacity of the person who attended the meeting on its behalf to conclude an agreement, since she was not a national coordinator (Ms Yañez). The Government specified that it expected that those who attended those meetings were able to represent their organizations. As regards the meeting of 16 April 2007, the Government confirmed that it had transmitted the relevant invitation to the CTV. With reference to the rotation agreement, which had permitted the respective trade union centres to fill the position of Workers' delegate to the Conference, this year the Government had with the majority of the centres decided to terminate the agreement, and it would not be implemented in the future. Concerning the number of nominated advisers, it was stated that 11 were included instead of the eight required by the ILO Constitution in order to satisfy all the trade unions and to avoid the CTV relaunching its public campaign against the Government. Despite the fact that Mr Cova had declined to be adviser in the Workers' delegation, the Government had maintained him in the credentials to avoid further objections. The Government confirmed that it had paid the travel and subsistence expenses of the entire delegation.
- 96.** *The Committee wishes to recall that, with respect to the Government's plea that the objection is irreceivable, the reference to the starting point of calculating the time limit for presenting objections cannot be interpreted as determining the point in time before which objections cannot be lodged. The Committee has constantly interpreted article 26bis of the Interim Provisions of the Conference Standing Orders as permitting early filing, as it has considered on many occasions objections filed before the beginning of the Conference. In fact, Governments are supposed to present their credentials at least 15 days before the date fixed for the opening of the session of the Conference. The Committee benefits from early presentation of objections and encourages all interested parties to continue with the well-established practice of lodging objections with the Office as early as possible so that they can be presented to the Committee immediately upon its*

appointment by the Conference. Concerning the second reason mentioned by the Government, the Standing Orders do not require that the author of the objection be the representative of an organization. The objection could have been lodged by Mr Cova in his personal capacity and the issue of whether or not he could represent the CTV is to be resolved within the CTV itself. As for the third reason, namely considering that Mr Cova as an adviser cannot challenge the credentials of the titular delegate, the Committee notes that Mr Cova refused clearly to be nominated as an adviser to the Workers' delegation. A number of press reports provided by the Government and the letter of Mr Cova to the Minister of 21 May 2007 clearly state that he did not accept the position of adviser. In spite of all this, the Government maintained the name of Mr Cova as an adviser to the Workers' delegate, but listed him in the tenth place among advisers, while this year only eight advisers are admissible. Finally, Mr Cova did not register at the Conference as an adviser within the delegation of the Bolivarian Republic of Venezuela, but as a member of the delegation of the International Trade Union Confederation (ITUC). The Committee, noting that the author of the objection listed as an adviser had declined to act in that capacity and had not registered in the Workers' delegation, considers that he could not be regarded as serving as adviser within the meaning of article 26bis, paragraph 1(c), of the Interim Provisions of the Conference Standing Orders. For all the reasons presented above, the objection is therefore found receivable and this decision of the Committee is final pursuant to article 26bis, paragraph 2(b), of the Interim Provisions.

- 97.** *The Committee notes that the 2003 rotation agreement enabled in the past four sessions of the Conference the CGT, CODESA, CUTV and UNT to nominate in turn the Workers' titular delegate, although some of them represented less than 1 per cent of the workers in the country. This agreement was contested in the past by the CTV but last year the CTV suggested that a consensual system of rotation be explored by the confederations without government interference (Provisional Record No. 5C, 2006, paragraph 59). In that spirit, the rotation agreement was originally confirmed by the organizations attending the meeting of 25 January 2007 and resulted in the nomination of the CTV's representative as the titular delegate. Now that it was the CTV's turn to nominate the Workers' delegate and consensus was achieved, the UNT later opposed its application. The Government readily accepted this organization's new state of affairs and stated in its oral explanations that the rotation agreement would not be applied in the future. The Committee therefore notes that no clear criteria guided the nomination of the Worker's delegation at the 96th Session of the Conference. As for the future, the Committee takes note of the indication that the Government considers that the rotation agreement does not exist any more. The organizations concerned should therefore be able to rely on the criteria of representativeness in the nomination process. The Committee hopes that these organizations themselves will be able to nominate the Workers' delegation as a result of their independent consultations and in accordance with the requirements of the ILO Constitution. In this context, the Committee also observes that the principle of participatory democracy, as described by the Government, does not correspond to the consultation and nomination criteria required under the ILO Constitution.*
- 98.** *The Committee notes with surprise that the Government had taken this year a different approach than last year when a similar situation was raised by the CTV contesting the commitment taken on its behalf. Last year, the Government simply ignored the appeal from the CTV and the Committee considered that such an approach was not incorrect. This year, when the UNT contested a commitment already taken on its behalf, the Government actively pursued it, although there was no apparent reason for doing so. The invitation letter for the 25 January 2007 meeting was sent to the UNT, and not to Ms Yáñez. When Ms Yáñez came to the meeting her identity document was checked and her presence was not contested either by the Government representatives or by other participants. Everyone therefore accepted her signature of the agreement on behalf of the UNT in good faith. By responding to the invitation letter addressed to the UNT, Ms Yáñez,*

who is commonly referred to by the press as National Coordinator of the UNT, must have been mandated to discuss on behalf of the UNT a very specific issue indicated in the letter. The allegation that she was not properly instructed or authorized by the UNT represents an internal problem of that organization and puts into question its good faith in the consultation process. As for the second meeting, the Committee received contradictory information on whether or not the CTV was invited, as its absence was not noted in the minutes of the meeting. In any case, the invitation letter for the 3 May 2006 meeting did not contain any justification why a new meeting was necessary. The CTV must have been very surprised by the agenda of the meeting as the system of nomination had already been agreed upon in January 2007. Even in that meeting, there was a clear division between the organizations who expressed themselves: while the CTV and CGT maintained their support for the rotation agreement, the CUTV and UNT were against it. The position of CODESA was not indicated. The Committee therefore does not understand why the Government supported the reopening of an already completed consultation process, contrary to what was done last year, and how the Government could draw conclusions about the nomination of the Workers' delegation following the split views expressed in the 3 May 2007 meeting.

- 99.** *From the information in its possession, the Committee concludes that the role of the Government goes beyond the role of facilitation, as the Government itself defined it. The Government decided who would be invited to the consultation meetings without indicating any criteria for its choice of invitees. It organized the consultative meetings in its premises in the presence of government officials who also signed the minutes of the meetings. The appeal against the result of the consultation was not sent by the UNT to the other workers' organizations but to the Government and it was the Government that decided to organize another consultative meeting, again in the presence of the Government officials, thereby revoking a decision which was arrived at by consensus of all the organizations concerned. Finally, the Government made nominations contrary to the opinion of two out of the four workers' organizations who expressed themselves in the meeting of 3 May 2007 and contrary to the rotation agreement that the Government defended in the past. By playing such an important role, the Government substantially influenced the consultation process and the Committee finds that it faces an even more paradoxical situation than last year: in spite of several meetings and the initially achieved consensus of all parties concerned, the Workers' delegation accredited to the Conference does not seem to reflect any agreement reached during the consultation process.*
- 100.** *The Committee notes that the issue of representativeness of each of the organizations concerned has not yet been clarified. While the CTV relies on the 2001 elections, the Government provides this year new criteria: the number of affiliates (267 for the UNT and 123 for the CTV, while there are no numbers for other organizations). The Government itself states that these numbers are neither exact nor final. This method of determining representativeness of the organizations varies from methods used in previous years and makes it difficult for the Committee to compare the Government's figures. As already stated in 2005 by the Committee, while the CTV does not seem to be in a position to prove that it is the most representative workers' organization at the national level, the Government cannot demonstrate the contrary. The Committee therefore finds that there is not much to add to its findings presented at the 93rd Session of the Conference in respect of the representative character of the CTV (Provisional Record No. 4D, 2005). Noting, however, that the question of representativeness will become even more important in the absence of any rotation agreement, the Committee recommends that the Government avail itself of any advice or technical assistance that the Office can provide. The Committee regrets that the Government had not asked for the technical assistance of the Office following the Committee's previous recommendations.*

101. *The lodging of objections at each session of the Conference by both the Employers' and Workers' groups indicates that the nomination process is not being done correctly. Thus, the Committee finds itself in the situation, once again, of recalling that the nomination of the Workers' delegation should be made in agreement with the most representative workers' organizations, on the basis of pre-established, objective and verifiable criteria, and undertaken in such a manner as to respect the capacity of the workers' organizations to act in absolute independence from the Government. The Committee expects that the Government will ensure, with the assistance of the Office, 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 Zimbabwe**

102. The Committee received an objection presented by the International Trade Union Confederation (ITUC) concerning the nomination of the Workers' delegation by the Government of Zimbabwe. The ITUC firstly recalled that, in addition to Mr Lovemore Matombo, the President of the Zimbabwe Congress of Trade Unions (ZCTU), the original proposal by the ZCTU included also Mr Wellington Chibebe, the Secretary-General of the ZCTU, who was not initially included in the credentials. The ITUC objected to the nomination of Ms Linda Manyenga as an adviser to the Workers' delegate, accredited as "Board member of the National Social Security Authority" and workers' representative. Ms Manyenga was not a bona fide workers' representative, and the Committee was requested to invalidate her credentials. The ITUC noted that the presence of government officials in one of the social partners' groups was a grave and serious attempt to undermine the autonomy of the groups necessary for the proper functioning of the Conference.

103. In a written communication addressed to the Committee in response to its request, the Government stated that Ms Manyenga, who had been a workers' representative at the Board of the National Social Security Authority (NSSA) since 2001, had already attended the Conference from 2001 to 2004, together with representatives of the ZCTU and that no objections to her presence had been raised in the past. The agreement to include members of the NSSA Board in respective parts of delegations to the Conference dated back to 2000, so that they could benefit from the discussions at the Conference.

104. *The Committee notes that the Government did not dispute that the name of Ms Manyenga was not put forward by the ZCTU. The Government indicated that she was included in the delegation as a workers' representative in the NSSA Board pursuant to an old arrangement dating back to 2000. The Committee, however, notes that following the end of the 91st Session of the Conference (2003), Ms Manyenga was relieved of her functions in the ZCTU General Council and was therefore no longer representing it at the NSSA Board. This was communicated by the ZCTU to NSSA on 5 January 2004 and the names of the new members were notified to the Minister on 13 December 2006. Consequently, she was not included in the Workers' delegation in 2005 or 2006.*

105. *The Committee is not questioning the membership of Ms Manyenga in the NSSA Board, but rather her presence in the Workers' delegation. The Committee notes that only three names were communicated to the Government by letter of 22 May 2007, namely Mr Lovemore Matombo, Mr Wellington Chibebe and Ms Sithokozile Siwela.*

106. *The Committee notes with regret that the Government appointed a person of its own choice to the Workers' delegation. The Committee wishes to recall that the nomination for the Workers' delegation has to be done in consultation with the most representative workers' organizations in each country and that the Government must accept the choice*

of these organizations regarding all the persons to be nominated as the Workers' representatives. If the Government wants to invite persons that were not nominated by such organization to attend the Conference, it should include them in the governmental part of the national delegation. Otherwise, the autonomy of groups at the Conference, which is an essential condition for its proper functioning, will be seriously compromised. The Committee expects that the Government will nominate in future the Workers' delegation exclusively in agreement with the most representative workers' organization.

Complaints

- 107.** The Committee also received and dealt with the following three 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

- 108.** The Committee received a complaint from the Central Council of the National Union of Afghanistan Employees concerning the non-payment of the travel and subsistence expenses of the Workers' delegate of Afghanistan, Mr Mohammad Qasem Ehsas. As a consequence, the Workers' delegate could not attend the present session of the Conference.
- 109.** In several written communications addressed to the Committee at its request, Mr Mohammad Ghouse Bashiri, Deputy Minister of Labour, Social Affairs, Martyrs, and Disabled and Government delegate to the Conference, brought to the attention of the Committee that after a very long period of military occupation and social unrest, the Government was committed to restoring democracy in the country and had invited the social partners to participate in this process. The Government further stated that the reason for non-payment of the travel and subsistence expenses of the Workers' delegate was the administrative situation created by Mr Ehsas himself: he had refused to submit his passport on time to get a Swiss visa and had requested a special itinerary through Germany.
- 110.** *As last year, the Committee acknowledges the difficult situation which Afghanistan has been facing over the past years and understands the financial burden that the participation of a full tripartite delegation to the Conference implied. It, however, notes that almost all accredited governmental representatives had registered and that apart from the representatives of the Permanent Mission, five had come from Afghanistan. This cast serious doubts as to the Government's incapacity to cover, at 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.*
- 111.** *The Committee notes that the Government failed to implement its request from the last year (Provisional Record No. 5C, 2006) to meet its duty to cover the travelling and subsistence expenses of the Workers' delegate for the entire duration of the 95th Session of the Conference. It further considers that the reasons invoked by the Government this year are not of such a nature as to justify the non-payment of the expenses of the Workers' delegate and prevent his participation in the work of the Conference. The Committee urges the Government to comply, in the future, with its constitutional obligations in this respect.*

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112. *In light of the above, the Committee unanimously considers that the fulfilment by the Government of Afghanistan of its obligations under article 13, paragraph 2(a), of the ILO Constitution has to be monitored for the next session of the Conference. By virtue of article 26ter, paragraph 4, of the Interim Provisions of the Conference Standing Orders, the Committee proposes to the Conference to request the Government to submit to the next session of the Conference, at the same time that it submits its credentials for the delegation of Afghanistan, a proof of payment of the travelling and subsistence expenses of the Workers' delegate of Afghanistan.*

**Complaint concerning certain expenses
of the Employers' delegate of Lesotho**

113. The Committee received a complaint presented by the Employers' group at the Conference concerning certain problems with travelling expenses experienced by Mr Thabo Makeka, the Employers' delegate of Lesotho. The Employers' group alleged that, unlike last year when the Government did not pay the travelling expenses of Mr Makeka, this year the Government chose the travel agency for arranging the plane tickets and volunteered to assist Mr Makeka with his visa for Switzerland. As the issuance of the visa was delayed by the late application to the Swiss authorities by the Government, Mr Makeka could not use the ticket provided by the Government. He therefore had to find another travel agency and reschedule the flight, thereby incurring additional expenses that were not covered by the Government.
114. In a written communication addressed to the Committee in response to its request, the Government of Lesotho confirmed that it chose the travel agency for arranging the travel. As for the visa, the Government stated it had no obligation to facilitate the acquisition of a visa for non-government delegates. The Government considered that the visa application was made on time and provided a proof of payment of subsistence and travelling expenses for Mr Makeka.
115. *The Committee finds that the delegate's travelling and subsistence expenses were covered by the Government in accordance with article 13, paragraph 2(a), of the ILO Constitution. The Committee, however, considers that the Government is not correct in stating that it did not have any obligation to assist the non-government delegates in obtaining their visas for Switzerland. As indicated in the Guide to the Conference, "the main responsibility for obtaining entry visas for Switzerland lies with the governments of member States and the delegates included by them in the delegation's official credentials". Pursuant to article 3, paragraph 1, of the ILO Constitution, the non-government delegates are representatives of the member States to the same extent as the government delegates. A government submitting credentials to the Office should also be responsible for assisting the non-government delegates in obtaining their Swiss visas. To the extent that the alleged delay in the visa application by the Government may have caused increased expenses to Mr Makeka, he may be entitled to compensation from the Government. The Committee trusts that an arrangement may be found between Mr Makeka and the Government in that respect.*

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

116. The Committee received a complaint presented by Mr Eric Manzi, Secretary-General of the *Centrale des syndicats des travailleurs du Rwanda* (CESTRAR) and Workers' delegate, alleging that the Government had decided not to cover his travel and subsistence

expenses, for reasons related to the absence of an agreement among the workers' organizations regarding the nomination of their delegate to the Conference.

- 117.** In a written communication addressed to the Committee at its request, the Government indicated that, following several letters inviting them to communicate the name of their representative to the Conference, the three trade union centres concerned (namely, the *Conseil national des organisations syndicales libres* (COSYLI), the *Congrès du travail et de la fraternité au Rwanda* (COTRFA-Rwanda), and the CESTRAR) had not reached an agreement. The CESTRAR had then expressed its interest in participating in the Conference while taking charge of all related expenses. The Government observed that it had covered the expenses of the Employers' delegate, whose nomination had not raised any difficulties, contrary to the situation of the workers. The Government specified in this regard that Rwanda was currently engaged in a process of workers' elections that should settle the question of the representativeness of trade union organizations.
- 118.** *Without prejudice to the considerations related to the representativeness of trade union organizations that are the subject of an objection (see paragraphs 70–71, above), regarding which the Government has not provided any information, the Committee notes that the name of Mr Manzi is on the list of credentials deposited by the Government. In these circumstances, the Committee wishes to recall that article 13, paragraph 2(a), of the ILO Constitution requires member States to bear the expenses of, at least, a complete tripartite delegation. The Committee trusts that the Government will cover the travel and subsistence expenses of the Workers' delegate and, in future, will fulfil its constitutional obligations in this respect.*

Communications

- 119.** The Committee also received the following two communications.

Communication concerning the Workers' delegation of Morocco

- 120.** The Committee received, on 15 May 2007, a communication presented by the International Confederation of Arab Trade Unions (ICATU) concerning the Workers' delegation of Morocco. The ICATU stated that the Government must take into account the actual representativeness of national trade union organizations in the nomination of Workers' delegates to the Conference, and should thus not systematically exclude the *Union marocaine du travail* (UMT), which is an active member of ICATU.
- 121.** In response to the Committee's invitation to give its views, the Government stated that a coordination meeting between the four most representative trade union organizations in the country (UMT, CDT, UGTM and FDT) was held on 3 May 2007 concerning the nomination of members of the Workers' delegation to the present session of the Conference. The UMT came but refused to meet with the other trade union centres, arguing that it was the most representative organization. For lack of consensus between the four trade union centres, the CDT, UGTM and FDT, signatories to a rotation arrangement, agreed to designate the Workers' delegate from the FDT.
- 122.** *The Committee notes the information provided and considers that this communication does not call for any action on its part.*

Communication concerning the Workers' delegation of Chad

- 123.** The Committee received on 30 May 2007 an urgent communication from the International Trade Union Confederation (ITUC), stating that Mr Djibrine Assali Hamdallah, Secretary-General of the *Union des syndicats du Tchad* (UST) and titular Workers' delegate, had been prevented from leaving the country to attend the Conference and that his service passport had been taken from him. According to the ITUC, this measure was aimed at putting pressure on the UST in view of the strike by public sector workers currently ongoing. The ITUC expressed its concerns about this situation and requested the Committee to urgently call on the Government to allow Mr Assali to freely and immediately leave Chad to participate in the Conference.
- 124.** In oral clarifications provided to the Committee, Mr Mbaibardoum Djeguedem, Director of Labour and Social Security of the Ministry of Public Service and Labour and Government delegate of Chad, and Ms Kade Elisabeth Ndilguem, Adviser, of the same Ministry, explained that Mr Assali had wished to leave the country on 27 May 2007, one day earlier than the delegation, to visit another African country before going to Geneva. For unknown reasons, he presented at the airport his service passport with a mission order from his own organization, but not with the mission order issued by the Government, which is mandatory in this case. This was the reason why his service passport had been confiscated. The official mission order had been issued on time. Otherwise Mr Assali would not have been able to obtain his visa for Switzerland. The mission order remained valid and he could recover his passport from the police. As regards the ongoing strike, the Government representatives indicated that Mr Assali, in his capacity of Vice-President representing the workers, was a member of the negotiating committee chaired by the Minister of Public Service and Labour, which negotiated since 28 April in order to settle the conflict. As soon as the negotiations concluded, he would be able to go to Geneva with the Minister.
- 125.** They also presented a written response by the Government, as had been requested by the Committee. The Government maintained that Mr Assali had never been prevented from going to Geneva for the Conference, that no action had been taken against him and that he had liberty of movement. A copy of the official mission order, which lists Mr Assali as a member of the Chad delegation, was appended to the response.
- 126.** In order to resolve the situation, the Committee requested both the Government representatives and the secretariat of the Committee to inform Mr Assali that he was entirely free to come to Geneva for the Conference, in accordance with the explanation provided by the Government. In response to this information, Mr Assali communicated to the Committee that his service passport had not yet been returned and his expenses, although approved, were not paid to him upon a specific order of the Minister. He further alleged that police forces entered several premises of trade unions, which was also reflected in an online news communiqué by the ITUC dated 6 June 2007.
- 127.** *The Committee notes that the Minister did arrive at the Conference, which was not the case of Mr Assali. The information provided to the Committee regarding the freedom of movement of Mr Assali seems to be totally contradictory and the Committee expresses its puzzlement in this respect. The Committee notes that it has already taken action regarding the communication, but admits with regret that it has not produced the expected result.*

General comments

- 128.** During the Committee's review of objections, one Government expressed its doubts at to the impartiality of the members of the Committee, and suspected political motivations on the part of authors of certain objections. Another Government warned the authors of objections that lodging them could not be used as a vehicle for vilification of governments. First, the Committee wishes to recall that it was appointed by the Conference to review the credentials of delegations based on the mandate provided for in the ILO Constitution. The filing of objections is part and parcel of the procedure foreseen in the ILO Constitution and the *Conference Standing Orders* and no retaliation can be made for submitting objections to the Conference. Second, the Committee also wants to assure the Conference that it functions in total impartiality and uses all methods at its disposal to determine, in the best way possible, its recommendations on the objections, complaints and communications received.
- 129.** The Committee notes that the *Interim Provisions of the Conference Standing Orders concerning the verification of credentials*, which will remain valid until the end of the 97th Session of the Conference, are supposed to be reviewed by the Governing Body at its 300th Session in November 2007. The Committee recalls that the new mandate was introduced upon the initiative of the Committee itself. The Committee did use the new mandate and finds it a very useful tool in dealing with issues of credentials of delegates. The Committee has recommended and reviewed several measures for the monitoring of situations raised by both objections and complaints. It also examined objections concerning the failure of governments to deposit credentials of Employers' or Workers' delegates. The Committee therefore considers that the *Interim Provisions* have fully justified their existence and respectfully requests the Governing Body and the 97th Session of the Conference to introduce them as amendments to the Conference Standing Orders.
- 130.** The Committee notes an increasing discrepancy between the number of accredited delegates and those who actually register at the Conference. The Committee requests the Governing Body to examine the reasons for this discrepancy and the extent to which it may have an impact on the proper functioning of the Conference.

* * *

- 131.** 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 proposals contained in paragraphs 8, 62 and 112.

Geneva, 13 June 2007.

(Signed) J. Kavuludi,
Chairperson.

L. Horvatić.

U. Edström.

CONTENTS

	<i>Page</i>
<i>Reports on Credentials</i>	
Second report of the Credentials Committee	1
Composition of the Conference	1
Monitoring	1
Objections	3
Complaints	28
Communications	30
General comments	32