



## SECOND ITEM ON THE AGENDA

**Standing Orders of the Conference:  
Further proposals regarding  
representation of Employers' and  
Workers' delegates at the  
International Labour Conference**

1. In line with the Governing Body decision of March 2009,<sup>1</sup> the Office conducted intense consultations in order to prepare the present document for the attention of the Committee on Legal Issues and International Labour Standards (LILS).
2. A major change in this proposal compared to the one presented in March 2009 is that there is no new type of submission called "petition". The members of the Governing Body who participated in the consultations expressed their preference to deal with the matter of an act or omission of a government that has prevented a delegate or adviser from attending the Conference through a complaint under article 26ter, albeit a new type of complaint. Consequently, the Office prepared a draft that was considered favourably and further refined during the consultations.
3. Accordingly, the conditions of receivability of this new complaint rely very much on the already existing text. The only addition is a possibility of presenting the new type of complaint in the situation in which the act or omission that prevented a delegate or adviser from attending the Conference took place during the second or third week of the Conference. The main idea of the whole procedure is that it remains efficient and quick.
4. There was a long debate on the role of the Officers of the Conference. It was clarified that it would be preferable not to limit the scope of their action, but to leave it to their discretion and wisdom. However, it was also clarified that the action the Officers may take is limited by the very nature of their function. In particular, such action cannot have any self-executing effect in a member State and it would be impossible to impose any measures upon the government. At this stage, one can imagine that the Officers would use their good offices to find a solution with the government concerned. They would certainly establish a contact with the government, either by a letter or in a meeting, and may suggest solutions to the problem.

<sup>1</sup> See GB.304/PV, para. 208 and GB.304/9/1, para. 38.

5. It seems obvious that no solution could be found without collaboration with the government concerned. That is why the text provides for such collaboration.
6. One should bear in mind that the main aim of this new type of complaint is not to sanction any government for any act or omission but to examine, together with the government concerned, whether or not the obstacles to the attendance of an accredited delegate or adviser could be removed during the Conference. The objective remains the achievement of full tripartite representation of all member States at the Conference, as required by article 3, paragraphs 1 and 2, of the Constitution.
7. In this context it should be noted that some participants in the consultations wanted to introduce in the text as a qualifier that the complaints have to rely on act of government committed in a deliberate manner. The Office did not include this in its proposal because the idea met with strong objections from those representing the majority of members of the LILS Committee. The Office considered that the focus of the procedure should be on resolving the problem and not on the conduct of those who created the problem. Furthermore, intention is difficult to prove in case of omission. For example, if the government failed to request Swiss entry visas for the non-governmental members of its delegation, it would be almost impossible to determine whether or not this was deliberate, and if the government rectifies its omission by applying for the visas, the possibly deliberate character of the omission would be almost irrelevant for the purpose of the new complaint.
8. It was also suggested that the Officers of the Conference should no longer report to the plenary, but only inform the Credentials Committee about the outcome of any actions they might have taken.
9. The Office used this occasion to make some editorial changes, such as the receivability requirements expressed in the negative in article 26ter, 2(a) and (b), which are now in the positive in article 26ter, 3(a) and (b). The substance was not altered with such changes and all changes are indicated below, with additions underlined and deletions crossed out.
10. The Office therefore prepared a new proposal of amendments to the Standing Orders in light of the issues that were identified as non-controversial during the consultations. Those proposals are presented in the appendix.
11. ***The Committee may wish to recommend to the Governing Body that it invite the Conference to adopt at its 99th Session (June 2010) the amendments to articles 5 and 26ter of the Standing Orders of the International Labour Conference proposed in the appendix.***

Geneva, 16 October 2009.

*Point for decision:* Paragraph 11.

## Appendix

### ARTICLE 5

#### *Credentials Committee*

1. The Conference shall appoint a Credentials Committee consisting of one Government delegate, one Employers' delegate and one Workers' delegate.

2. The Credentials Committee shall examine, in accordance with the provisions of section B of Part II:

- (a) the credentials as well as any objection relating to the credentials of delegates and their advisers or to the failure to deposit credentials of an Employers' or Workers' delegate;
- (b) any complaint of non-observance of paragraph 2(a) of article 13 of the Constitution;
- (c) any complaint regarding an act or omission of a government by which an accredited delegate or adviser has been prevented from attendance at the Conference in line with article 3, paragraphs 1 and 2, of the Constitution;
- (d) the monitoring of any situation with regard to the observance of the provisions of article 3 or article 13, paragraph 2(a), of the Constitution about which the Conference has requested a report.

### ARTICLE 26TER

#### *Complaints*

1. The Credentials Committee may consider complaints that a Member has failed to comply with paragraph 2(a) of article 13 of the Constitution where:

- (a) the Member is alleged to have failed to pay the travelling and subsistence expenses of one or more of the delegates that it has nominated in accordance with article 3, paragraph 1, of the Constitution; or
- (b) the complaint alleges a serious and manifest imbalance as between the number of Employer or Worker advisers whose expenses have been covered in the delegation concerned and the number of advisers appointed for the Government delegates.

2. The Credentials Committee may also consider complaints alleging that an accredited delegate or adviser has been prevented from attending the session of the Conference due to an act or omission of a government.

~~23.~~ A complaint referred to in paragraph 1 shall not be receivable if in the following cases:

- (a) if the complaint it is not lodged with the Secretary-General of the Conference before 10 a.m. on the seventh day following the opening of the Conference or, thereafter, in the case of a complaint referred to in paragraph 2, it is lodged within 48 hours of the alleged act or omission preventing attendance of the delegate or adviser concerned,

and if the Committee considers that there is ~~insufficient~~ time to deal with it properly;  
~~or~~and

- (b) ~~if the complaint it is not~~ lodged by an accredited delegate or adviser alleging the non-payment of travel and subsistence expenses in the circumstances set out under (a) or (b) of paragraph 1, or alleging the act or omission of a government as referred to in paragraph 2, or it is lodged by an organization or person acting on ~~his or her~~ behalf of such delegate or adviser.

34. The Credentials Committee shall, in its report, present to the Conference any conclusions that it has unanimously reached on each complaint considered by it.

5. In the case of a complaint referred to in paragraph 2, if the Credentials Committee has been unable to resolve the matter, the Committee may refer the matter to the Officers of the Conference. The Officers of the Conference, soliciting the collaboration of the government concerned, may take any action they deem necessary and appropriate with a view to facilitating the attendance at the Conference of the delegate or adviser concerned. The Officers will inform the Credentials Committee of the outcome of any such action.

46. When, in the light of the examination of a complaint, the Credentials Committee unanimously considers that it is necessary to monitor the situation, it may propose this to the Conference, which shall decide, without discussion, on the proposal. If it is so decided, the Government concerned shall report on such questions that the Credentials Committee judges necessary, to the subsequent session of the Conference when it submits the delegation's credentials.