



Report of the Standing Orders Committee

1. The Standing Orders Committee, set up by the Conference at its first sitting on 2 June 2010, met on 7 June 2010. It was composed of 78 members (58 Government members, 19 Employer members and one Worker member).

2. The Committee elected its Officers as follows:

Chairperson and Reporter: Mr Julio Guillermo Rosales (Government member, Argentina)

Vice-Chairpersons: Mr Jorge de Regil Gómez (Employer member, Mexico)
Ms Trine Lise Sundnes (Worker member, Norway)

3. The Committee had before it *Provisional Record* No. 2, which contained proposals submitted to the Conference by the Governing Body at its 306th Session (November, 2009) concerning amendments to the Standing Orders of the International Labour Conference. The aim of those amendments was to create a procedure in order to take action in relation to an alleged act or omission on the part of a government that has prevented an accredited delegate or adviser from attending the Conference.

4. The representative of the Secretary-General (the Legal Adviser of the Conference) explained that, following discussions in November 2008 (303rd Session), March 2009 (304th Session) and November 2009 (306th Session), the Governing Body had recommended several amendments to the Standing Orders of the Conference that would introduce a new type of complaint under articles 5 and 26ter of the Standing Orders. The proposed amendments, contained in the appendix to *Provisional Record* No. 2, would create an efficient and impartial procedure to quickly address an alleged act or omission on the part of a government that has prevented an accredited delegate or adviser from attending the Conference. The proposed procedure would maintain the essential role of the Credentials Committee in addressing the problem early and also introduced a role for the Officers of the Conference. The Governing Body had used the occasion to recommend some editorial changes to the Standing Orders for clarity, also contained in the appendix to *Provisional Record* No. 2, which did not modify the substance of the existing text. Finally, the Legal Adviser noted the need to correct a typographical error in the Spanish version of the text of paragraph 3(a) of article 26ter in the appendix. To align this version with the English and French texts, the word “no” before “*le queda tiempo*” should be deleted.

5. The Employer members expressed their support for the proposed amendments which had been discussed comprehensively in the Governing Body, and agreed with correcting the

typographical error in paragraph 3(a) of article 26ter of the Spanish version of the appendix.

6. The Worker members supported the proposed amendments and the correction of the typographical error in article 26ter already noted, and lauded the creation of an impartial and efficient procedure to address the issue in question.
7. The Government member of the Bolivarian Republic of Venezuela, speaking on behalf of the governments of the Latin American and Caribbean States (GRULAC) attending the Conference,¹ affirmed its position stated in the Governing Body meetings in November 2008 (303rd Session), March 2009 (304th Session) and November 2009 (306th Session). Following an intensive and constructive tripartite dialogue that resulted in a text to their satisfaction, the GRULAC governments had agreed by consensus to having this item placed on the agenda of this session of the Conference. The proposed amendments would not give rise to an automatic mechanism but rather, as stated in paragraph 3 of *Provisional Record* No. 2, to “an efficient and impartial procedure to address the problem quickly” in the event of a 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. In the same way, as paragraph 3 of the *Provisional Record* indicated, “the action which the Officers of the Conference could take would be limited by the very nature of their functions and, in particular, could not have any self-executing effect in a member State” in the sense that “the Officers would use their good offices to find a solution with the government concerned”. Similarly, as indicated in paragraph 4 of the *Provisional Record*, the main aim of this new type of complaint was not to blame any government for any act or omission but to examine, together with the government concerned, whether the obstacles to the attendance of an accredited delegate or adviser could be removed during the Conference; in other words, as the document clearly expressed, “[n]o solution could be found without collaboration with the government concerned”. In addition, in the interests of improving the wording of the Spanish version, he suggested that, along with the correction of the typographical error noted by the Legal Adviser, the proposed amendment to article 5, paragraph 2(c), of the Standing Orders of the Conference, should include an “a” before “un consejero” to read “... se haya impedido a un delegado o a un consejero técnico acreditado...”. He interpreted the expression in article 26ter, paragraph 5 “take any action they deem necessary and appropriate” to mean that the Officers of the Conference would for that purpose solicit in advance “the collaboration of the government concerned”.
8. The Government member of Cuba, endorsing the statement by GRULAC, emphasized that the proposed mechanism was not intended as a means to punish or control governments but rather as an objective and impartial procedure to address particular situations with a view to cooperating with the government concerned to resolve the issue. He expressed the view that the actions of the Officers could not have any self-executing effect in a member State and, while it was desirable to never use this procedure by avoiding situations that would lead to its application, in case it became necessary, it should be applied objectively, impartially, and in cooperation with the government concerned.
9. The Committee therefore recommended that the Conference adopt the following amendments to articles 5 and 26ter of its Standing Orders contained in the appendix to its report, as corrected.

¹ Argentina, Bahamas, Barbados, the Plurinational State of Bolivia, Brazil, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Uruguay and the Bolivarian Republic of Venezuela.

Adoption of the report

10. In submitting the draft report for adoption, the Chairperson reminded the Committee that, in his capacity as Reporter, he would present the report to the Conference.
11. Following an expression of support by the Government member of Ecuador, the report was adopted without amendment.

Geneva, 10 June 2010

(Signed) J. G. Rosales
Chairperson and Reporter

Appendix

Proposed amendments to the Standing Orders of the International Labour Conference

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.

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