



Reports on credentials

Second report of the Credentials Committee

Composition of the Conference

1. Since 5 June 2009, when the Credentials Committee adopted its first report (*Provisional Record* No. 4B), no new credentials have been received. Therefore, at present a total of 167 member States are represented at the International Labour Conference.
2. As of today there are 4,944 persons accredited to the Conference (as compared to 4,838 in 2008, 4,657 in 2007, and 4,500 in 2006), of whom 4,096 are registered (as compared to 4,212 in 2008, 4,003 in 2007 and 3,828 in 2006). The attached list contains more details on the number of delegates and advisers registered.
3. In addition, the Committee wishes to indicate that 172 ministers, vice-ministers, and deputy ministers have been accredited to the Conference.

Monitoring

4. The Committee was seized automatically with three cases, pursuant to article 26quater of the *Standing Orders of the Conference*, by virtue of decisions of the Conference taken at its 97th Session (2008).

Djibouti

5. At its 97th Session (2008), the Conference decided to renew the monitoring of Djibouti (*Provisional Record* No. 20, 2008) thereby requesting the Government to submit at the 98th Session of the Conference (2009), 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, and specifically, on 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. This request was made on the basis of a proposal of the Credentials Committee, which unanimously considered that the procedure relating to the composition of the Workers' delegation of Djibouti to the Conference should once again be monitored, by virtue of article 26bis, paragraph 7, of the *Conference Standing Orders*. The Office reminded the Government of this request by the Conference in a letter of 2 June 2009 signed by the Executive Director of the Standards and Fundamental Principles and Rights at Work Sector.

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6. Despite this reminder, the Government did not present the report requested by the Conference. The clarifications requested by the Committee were provided orally in the Government's name by Mr Guedi Absieh Houssein, Director of Labour and Government delegate at the Conference. He was accompanied by Ms Aicha Hassan Mohamed, Chief of Service of Labour and Government adviser at the Conference. He stated that the Government had not provided the detailed monitoring report requested by the Committee because the Government considered that it had already provided a written report as well as having been heard before the Committee last year.
 7. *The Committee once again deeply deplores the lack of cooperation by the Government, all the more so since, again this year, an objection was lodged concerning the nomination of the workers' representatives (see paragraphs 43–56 below). The recurrent objections lodged at each session of the Conference indicate that the nomination procedure of the Workers' delegation to the Conference is not carried out in a satisfactory manner for the workers' representatives. The Committee reaffirms that the nomination of the Workers' delegation must be carried out in agreement with the most representative workers' organizations, on the basis of pre-established objective and verifiable criteria and with respect for the ability of workers' organizations to function without interference by the Government. The Committee is particularly concerned by the fact that it has not been provided with any information which shows that progress has been made; the information provided orally by the Government was limited to indicating that the method used to nominate the social partners had remained unchanged. The Committee wishes to stress that it is incumbent upon the Government to take all necessary measures to evaluate the representative nature of the different organizations and that it has an obligation to consult the most representative organizations within the meaning of article 3, paragraph 5, of the ILO Constitution.*
 8. *In light of the above, as well as the conclusions to the objection concerning the nomination of the Workers' delegation of Djibouti (see paragraphs 50–56 below), the Committee proposes to the Conference, by virtue of article 26bis, paragraph 7, of the Conference Standing Orders, 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, in particular 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 calls upon the Government to 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.*

Islamic Republic of Iran

9. At its 97th Session (2008), the Conference decided, by virtue of article 26bis, paragraph 7, of the *Conference Standing Orders* and based on the recommendation of the Credentials Committee, to monitor the procedure relating to the composition of the Employers' delegation of the Islamic Republic of Iran to the Conference (*Provisional Record* No. 20, 2008). The Government was requested to submit at the 98th Session (2009) of the Conference, at the same time that it submits its credentials for the delegation of the Islamic Republic of Iran, a detailed report on the procedure utilized to nominate the Employers' delegate and advisers. Specifically, this report should indicate the organizations that will have been consulted on the matter; the date, time and place of these consultations; and the names of the individuals nominated by the organizations during these consultations. The Office reminded the Government of this request by the Conference in a letter dated 13 May 2009 signed by the Executive Director of the Standards and Fundamental Principles and Rights at Work Sector.

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10. Noting the absence of a reply by the Government, the Committee invited it to orally provide clarification on this matter at the same time as it was asked for its observations regarding an objection concerning the nomination of the Employers' delegation of the Islamic Republic of Iran submitted by the Employers' group at this session of the Conference (see paragraphs 65–73 below). On 10 June 2009, the same day it was heard by the Committee in connection with the abovementioned objection, the Government submitted written information referring to the request made last year under article 26bis, paragraph 7, of the *Conference Standing Orders*. The Government apologized for the late submission of the report which was due, among other things, to its response to the Committee on Freedom of Association of the Governing Body.
 11. *The Committee deeply regrets that the Government failed to submit the requested report when it submitted the credentials of the Iranian delegation, all the more so since the nomination of the Employers' delegation of the Islamic Republic of Iran is once again the subject of an objection at this session of the Conference. One of the purposes of the Conference monitoring a situation in accordance with article 26quater of the Conference Standing Orders, is to enable the Credentials Committee to start examining the situation directly upon its nomination on the basis of a report available to it at the start of the Conference. The Committee therefore decided that the documents provided could not be considered as the report requested by the Conference and decided to consider them as written information submitted in relation to the objection made by the Employers' group.*
 12. *In light of the foregoing and in view of the repeated objections to the nomination of the Employers' delegation of the Islamic Republic of Iran, which indicates the absence of significant progress in the situation, the Committee proposes to the Conference, by virtue of the abovementioned provisions, to again 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 the Islamic Republic of Iran, a detailed report on the procedure utilized to nominate the Employers' delegate and advisers. Specifically, this report should indicate the organizations that will have been consulted on the matter; the date, time and place of these consultations; and the names of the individuals nominated by the organizations during these consultations. The report should also indicate the objective and verifiable criteria, established in consultation with the organizations concerned, for the procedure to nominate the Employers' representatives and report in detail how the criteria were established.*

Myanmar

13. At its 97th Session (2008), the Conference decided to renew the monitoring of Myanmar (*Provisional Record* No. 20, 2008) in view of the particular circumstances of this case, namely that the Government admitted to having failed to nominate a Workers' delegate for the sole purpose of avoiding an objection concerning nomination. Accordingly, the Government of Myanmar was requested to submit, at the same time it submitted 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, specifying 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 positions they held within those organizations.
14. The Credentials Committee received a letter from the Ambassador, Permanent Mission at Geneva, attaching a report by the Worker Consultative Committee (WCC), entitled "Report of the implementation for the election of the Workers' delegate to the 98th Session of the International Labour Conference", signed by Mr Kyi Thar Swe, Chairman of the WCC. The report states that the Director-General of the Department of Labour invited

11 worker representatives from 11 industrial sectors and 11 employer representatives to a meeting in Yangon on 4 November 2008. The representatives were told by the Director-General that the Workers' delegate to the Conference must be a "genuine worker who represents the total workforce of the country, without any intervention of the Government and employer and it would need to be in line with the ILO Constitution". This meeting was attended by the ILO Liaison Officer.

15. The same 11 worker representatives met again on 7 November 2008 and formed, with the consensus of all members, the WCC comprised of a chairman, vice-chairman, secretary and eight members; the WCC drew up a draft workplan as to how to proceed with the elections. This meeting was also attended by members of the Department of Labour as well as Employers' representatives. The draft workplan called for elections during December 2008 and January 2009 at the "ground level", followed by elections at the "township level" during January-February 2009, at the "state/division" level during February and March, and finally, during March and April it would carry out the election of the Workers' delegate to the 98th Session of the Conference.
16. The draft workplan was communicated to the Department of Labour, which in turn transmitted it to the ILO Liaison Officer on 11 November 2008 and to the Executive Director of the Standards and Fundamental Principles and Rights at Work Sector on 13 November for further advice. In response to this, a Note verbale and Aide-memoire were sent to the Permanent Mission of Myanmar at Geneva on 12 January 2009. It recalled the constitutional principles governing the nomination of the non-government delegates to the Conference and reminded the Government that the Credentials Committee had concluded in 2008 that "the only way a government could avoid facing repeated objections addressed to the Committee would be to allow workers to organize themselves without any interference from the Government and elect their representatives to the Conference".
17. In a meeting of the WCC in Yangon on 9 February 2009, which was also attended by representatives of the Department of Labour and an employers' representative, the textile industrial sector was selected as the sector from which the Workers' delegate would be elected. According to an annex to the report, the ratio of the workforce in Myanmar to the workforce in the textile industrial sector was 320:1. The procedures and guidelines for the elections were also formulated at this meeting. The industry would be separated into six election groups. In addition to members of the WCC being responsible for organizing the elections within the various groups, the groups would also be supported by the Director-General of the Department of Labour, one Deputy Director-General, one Director, one Deputy Director and four Assistant Directors. In addition, for each election one employer representative from the concerned factory or industry as well as township-level authorities would also provide assistance. Selected members of the WCC and the election group for the factory or industry-level workers' candidate would supervise the election. The number of elected candidates from each factory was based on one candidate per 500 workers. Elections at the township level were to take place at the factory or industry which was in the centre of the township. A Township Committee of the Election of the Workers' Delegate would be formed and include five freely chosen workers. The leader of the Township Committee would also be elected freely and independently. The WCC would supervise the township worker delegate elections, which would be on the basis of an open voting system. The number of elected candidates at the township level was one candidate per 10,000 workers. Thirty-seven township-level candidates were elected from 88,058 workers in 196 factories or industries.
18. During an ILO mission to Myanmar the WCC members met with the Executive Director of the Standards and Fundamental Principles and Rights at Work Sector and an official from the Office of the Legal Adviser on 1 March 2009. It was stressed to the WCC that the Workers' delegate must be a "genuine worker", representative of the total workforce of the

nation. In addition, the nomination would need to be in line with the ILO Constitution, free of interference from the government and employers.

19. In a meeting of 7 April 2009 the WCC decided that the method of voting for the Workers' delegate would not be by paper but rather an "open voting system by show of hands". The WCC also decided to invite the ILO Liaison Officer, as well as a representative of the Employers' and of the Government to observe the election.
20. On 23 April 2009, 35 out of the 37 elected workers' candidates for the township level, the WCC and the ILO Liaison Officer met at the Hlaing Thar Yar industrial zone. At this meeting the ILO Liaison Officer broadly explained the role and responsibility of a worker delegate to the Conference. According to the report, the election of the Workers' delegate was held the following day at the same office. It was attended by 36 of the 37 candidates who "elected freely and independently among themselves using an open voting system by show of hands" Mr Thein Soe as the Workers' delegate to the 98th Session of the Conference and Mr Thaung Htike Soe as a back-up delegate.
21. The election of the adviser for the Workers' delegate was also held that same date and was supervised by the elected Workers' delegate and his back-up. Mr Kyi Thar Swe, Chairman of the WCC, was elected as the adviser to the Workers' delegate to the 98th Session of the Conference.
22. The Committee also received an **objection** from the International Trade Union Confederation (ITUC) concerning the nomination of the Workers' delegation of Myanmar. ITUC contended that once again the Government had not complied with its obligation, under article 3 of the ILO Constitution, to nominate a bona fide representative of the workers. Taking note of the detailed report presented to the Committee by the Government of Myanmar on the election procedure of the Workers' delegation, it nevertheless expressed strong reservations in respect of the nomination of the Workers' delegation and considered that the nomination was not made in accordance with article 3, paragraphs 1 and 5, of the ILO Constitution. ITUC considered that the election procedure was unclear on a number of key elements. Firstly the report was silent on how the 11 worker representatives, comprising the WCC, had been selected. According to ITUC, these representatives were selected by the Government. Secondly, it questioned why employers' representatives were present at more than one meeting that had been called to discuss the Workers' delegate nomination; this cast doubts on the legitimacy of the process. Thirdly, it noted that the Chairperson of the WCC had been accredited as an adviser. Fourthly, it questioned the representativeness of the nominated delegate and alleged that the proportion of workers in the textile industry could not be considered sufficiently representative. Fifthly, the report did not provide information on the nature of the organizations consulted. According to ITUC, the Government had not allowed workers to organize themselves without interference and it submitted that the nominated delegate did not normally represent Workers' interests. The ITUC requested the Committee to call upon the Government to provide an explanation to each of the matters raised in its objection as well as to invalidate the credentials of the Workers' delegation of Myanmar.
23. The clarifications requested by the Committee were provided in the Government's name, orally by Mr Thant Kyaw, Director-General, Ministry of Foreign Affairs and Mr Chit Shein, Director-General, Ministry of Labour. The Government recalled that in 2007 this Committee had concluded that the nomination of the Workers' delegate had not been made in accordance with the conditions required under the ILO Constitution. In order to avoid the same conclusion, it did not nominate a Workers' delegate in 2008 but was still called before the Committee to explain its failure to nominate a Workers' delegate. According to the Government, it had tried to become educated as to what was expected of it. The Government recognized that it was in a period of transition and that no workers'

associations existed in the country but that in 2010 there would be a new Constitution and elections of a democratic government. According to the Government, the WCC was composed of 11 members representing the industrial zones. The industrial zones had been asked to send a workers' representative; the zone committee management then asked each factory to choose an experienced worker from the senior worker level to inform the workers that they had to nominate a representative, which they did. The zone committees gave these names to the Department of Labour. The Government clarified the nine-step procedure for selecting the Workers' delegate; whereas the selection of the WCC was only a "semi-elective" process, the final election of the Workers' delegate had been carried out under a "full elective" process. According to the Government it was present, along with employers' representatives, at several meetings held during the election process in order to explain the purpose of the International Labour Conference or to provide administrative support, but while elections were actually being held neither the Government nor the Employers were present. The Government clarified the choice of the textile sector: although overall it represented only 0.3 per cent of the workforce, it was nevertheless the most important within the industrial sector. According to the Government, the basic workers' organizations in the factories were no longer active.

24. Further clarifications requested by the Committee were provided orally by the Workers' delegate, Mr Thein Soe, and his adviser, Mr Kyi Thar Swe. According to them, the members of the WCC were selected following requests sent to the various industrial zones asking for nominations of factory workers; typically the various factories nominated their "leader" who was so named because of his or her experience and knowledge and would normally be the most respected senior worker. The WCC was divided into six geographic groups and each group was responsible for visiting the factories in the region assigned in order to oversee the elections of the workers' representative from the factory. Mr Swe clarified that the report of the WCC before the Committee was a translation of what had been submitted by the WCC. According to Mr Soe and Mr Swe, although government officials and employers' representatives provided administrative assistance throughout the process, none were present when votes were being cast. Mr Soe and Mr Swe admitted that their knowledge of English was weak because they were from the basic factory level and that they had difficulties following Conference debates. They planned to report back to workers in Myanmar based upon documents they had collected while at the Conference. They confirmed that they had heard about the basic workers' organizations that had existed in the past, but that they were never members.
25. Also heard by the Committee was Mr M. Maung Maung of the Federation of Trade Unions of Burma, accredited to the Conference as a representative of the International Trade Union Confederation (ITUC). According to him, the members of the WCC were not freely elected and although the Workers' delegate and adviser were genuine workers, they did not represent the interests of all workers. He alleged that not all of the meetings reported to have taken place did not in fact take place. He made the same allegation concerning the elections; some of his "network" was not aware of elections having taken place in some of the factories. This being said, in other factories there were elections, but it was not clear that the workers understood exactly what the person being elected was expected to do. According to him, it was very "telling" that there was no media coverage of the elections. Concerning the choice of the textile industry, he said that it was the largest industrial sector but not the largest sector in terms of workers. Moreover, it was considered to be a weak sector and within the control of the Government. He alleged that the law which will allow for freedom of association will do so in name only, as the State Security Act will be used to override it, as has been the case since 1998.
26. *The Committee notes the timely submission of a detailed report on the nomination of the Workers' delegation of Myanmar containing the information requested by the Conference. While the body of the report is signed by the Chairperson of the WCC, the Committee notes*

that it has been submitted by the Government of Myanmar as its own report in response to the request of the Conference.

- 27.** *The Committee notes that it also received an objection from ITUC concerning the nomination of the Workers' delegation of Myanmar. As it is entirely based on observations on the report submitted by the Government under the monitoring by the Conference, the Committee decides to examine the substance of the objection together with the report.*
- 28.** *Regarding the procedure followed for the nomination of the Workers' delegate, the Committee expresses serious doubts as to the adequacy of the manner in which the 11 members of the WCC have been designated, which remains largely unclear. The explanation provided orally by the government in this regard, admitting that the process was only "semi-elective", involving an intervention of an experienced senior worker without any democratic legitimacy does not make up for the absence of any details on this part of the process in the report and does not reassure the Committee in this regard. Concerning the actual election procedure carried out by the WCC, the Committee is concerned by the presence of government officials and employers' representatives at a number of meetings, including at the meeting of 9 February 2009 in the course of which it was decided to hold the elections in the textile sector. It notes, however, the assurances by the Government and the Workers' delegate that government or employer representatives were never present during the actual voting operations.*
- 29.** *The Committee further notes that, according to the report, the ratio of the total workforce in Myanmar to the workforce in the textile sector is 320:1, which means that, numerically, the elected Workers' delegate represents only 0.32 per cent of the country's total workforce. The Committee notes that this is even less than the figure put forward in 2007, which was 0.5 per cent. The Committee doubts, however, that the elected Workers' delegation can be considered to truly represent even those 0.32 per cent of the country's workforce. Firstly, while the elected persons appear to be genuine workers in the sense that they are not associated with the Government or employers, they appear to have no permanent representative mandate at home or any past experience in representing workers in any forum. Secondly, while some efforts were undertaken, including through the ILO Liaison Officer, to brief the WCC, and through it, the workers at the township level on the purpose of the election, the Committee doubts that most workers who voted, in particular at the basic level, were aware of the purpose. In this connection, the Committee notes with surprise that, as it appears from photographs reproduced in the report, banners put on the wall in rooms where elections were held, showed the subject of the meeting ("Ceremony of the election of the Myanmar Worker delegate to the 98th International Labour Conference") only in English and not in a national language.*
- 30.** *Considering the above, the Committee is of the view that the procedure followed for the nomination of the Workers' delegation of Myanmar was totally inadequate. As a result, the nominated delegation is not representative of the workers of the country. The Government's misconception is to have believed that the nomination of a truly representative worker could be done in a one-time election organized over a period of only six months in the absence of any representative structures of workers in the country.*
- 31.** *The Committee recalls that article 3, paragraph 5, of the ILO Constitution requires governments "to nominate non-Government delegates and advisers chosen in agreement with the industrial organizations, if such organizations exist, which are most representative of employers or workpeople, as the case may be, in their respective countries". It further recalls that already ten years ago, the Committee concluded, on an objection concerning the Workers' delegation of Myanmar, that "although no organizations existed in Myanmar within the meaning of article 3, paragraph 5, of the Constitution, the Government still had an obligation under paragraph 1 of article 3 to*

nominate ‘delegates representing respectively the employers and the workpeople of each of the Members’” (Provisional Record No. 26, 1999, paragraph 7). At that time, the Committee had also considered the link between freedom of association and the nomination of the Workers’ delegate and found that such a link was in keeping with the spirit of the ILO Constitution and the fundamental principle of tripartism. In its view, representative workers’ organizations could not be consulted and their representatives nominated unless the principle of freedom of association was fully respected. This was necessary for the establishment of independent organizations of workers’ representative of the workpeople with full freedom to enable them to create the structures for the articulation and pursuit of their objectives. The Committee noted on this point that it was difficult to conceive a proper nomination in the absence of independent and structured organizations of employers and workers. Last year, the Committee stated that “the only way a government could avoid facing repeated objections addressed to the Committee would be to allow workers to organize themselves without any interference from the government and elect their representatives to the Conference”. The Committee can only reiterate this statement.

- 32.** *The Committee expresses its grave concern at the continuing absence of freedom of association in Myanmar and at the fact that, as noted by the Committee on the Application of Standards at this session of the Conference, the Government had embarked upon a road map for democracy without ensuring the basic requisites for freedom of association (Provisional Record No. 16, 2009). It also notes in this regard that the Committee on the Application of Standards has called upon the Government to accept an extension of the ILO presence to cover the matters relating to the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).*
- 33.** *In view of the fact that the nomination procedure utilized by the Government has, again, not resulted in the nomination of a Workers’ delegation which represents the workers of Myanmar, the Credentials Committee should recommend the invalidation of the credentials of the Workers’ delegation. Very reluctantly, however, it refrains from proposing invalidation this year in view of the fact that the objection raises questions that go beyond those concerning exclusively the nomination of the Workers’ delegation to the Conference, and which are being dealt with by several bodies of the ILO supervisory machinery. The Committee urgently requests the Government to take meaningful steps towards permitting the establishment of free and independent organizations, which entails allowing workers to organize themselves without any government interference. In so doing, it should seek advice from the Office. This should create an environment in which the selection of the Workers’ delegate and his or her advisers may be done in full respect of the requirements set out in the ILO Constitution.*
- 34.** *The Committee considers that the situation justifies not only the renewal of the monitoring decided by the Conference at its last session in respect of Myanmar but its reinforcement. The Committee is of the view that the powers concerning the monitoring of a situation conferred upon the Conference under articles 26quater and 26bis, paragraph 7, of the Conference Standing Orders are not limited to requesting a report to the following session of the Conference, although such a request is always required in order for the Committee to be seized of the matter the following year. Therefore, by virtue of the abovementioned provisions of the Conference Standing Orders, the Committee unanimously proposes that the Conference request the Government of Myanmar to:*

 - (a) submit to the Director-General of the International Labour Office, by the end of the year 2009, a detailed report on the progress achieved in Myanmar as regards the establishment of permanent structures for the independent representation of the workers in the country and on how the Government envisages to consult those*

structures for the purpose of nominating the Workers' delegate and advisers to the next session of the Conference; and

- (b) *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, specifying 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 positions they held within those organizations.*

Objections

35. The Committee has received 13 objections this year. These relate both to the credentials of delegates and their advisers who are 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 failure to deposit credentials of a Workers' delegate by the Government of Bosnia and Herzegovina

36. The Committee received an objection presented by the International Trade Union Confederation (ITUC) concerning the failure to deposit the credentials of a Workers' delegate by the Government of Bosnia and Herzegovina. The ITUC requested the Committee to ask the Government for explanations and to urge it to respect its obligations pursuant to article 3, paragraph 1, of the ILO Constitution.
37. In a written communication addressed to the Committee in response to its request, the Government submitted that the Confederation of Trade Unions of Bosnia and Herzegovina was unable to reach an agreement on the composition of the Workers' delegation and it was for that reason that no Workers' delegate was nominated. As proof of this, the Government attached copies of documents in which the Ministry of Civil Affairs of Bosnia and Herzegovina asked the Confederation of Trade Unions of Bosnia and Herzegovina to nominate a representative, as well as the responses which indicated that a consensus as to who would represent the country's workers could not be reached.
38. *While noting the explanation of the Government, 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, Employer and Worker representatives the Conference cannot function properly or attain its objectives.*
39. *The Committee trusts that next year the Government will carry out the necessary consultations, and arrive at the nomination of the Workers' delegation in agreement with the most representative workers' organizations so as to be represented at the Conference by a full tripartite delegation.*

Objection concerning the nomination of the Workers' delegation of Cameroon

40. The Committee received an objection concerning the nomination of the Workers' delegation of Cameroon presented by Mr Gilbert Ndzana Olongo, Secretary-General of the *Confédération des syndicats indépendants du Cameroun* (CSIC). He contested the participation of Mr Oumarou Mougoue, Chairman of the CSIC, as an adviser to the delegation. The Secretary-General contended that the Chairman had been relieved of his functions as Chairman since 2001, as had been shown by several judicial decisions. He submitted a similar objection at the previous session of the Conference but the Committee ratified the Chairman's credentials following governmental manoeuvrings. He denounced the Ministry of Labour and Social Security's interference and attempts to destabilize the CSIC and its contempt for the legal decisions, as well as for the International Labour Organization's principles and standards concerning trade union freedom. He requested the Committee not to admit Mr Oumarou Mougoue to the Conference as the CSIC's representative. Among documents attached by the CSIC was a resolution dated 23 October 2001 confirming the dismissal of its Chairman adopted by the Central Union Council following an extraordinary session of the organization in September 2001, a ruling of the Appeal Court of Central Yaoundé delivered on 25 July 2003 confirming a lower court decision ordering the suspension of resolutions adopted by a dissident congress of the CSIC, a certificate of no appeal against the ruling of the Appeal Court dated 15 October 2008, and the notices of process that the Court of Appeal ruling had been delivered to Mr Oumarou Mougoue and the Ministry of Labour and Social Security dated 26 August 2008.
41. *The Committee deeply regrets that the Government has not responded to its request for comments on the objection, particularly as a Government delegation is present at the Conference. The absence of reply does not preclude the Committee from examining the matter and giving credence to the allegations of the objecting organization.*
42. *The Committee notes that the objection does not call into question the representativity of the CSIC but rather a person representing it, Mr Oumarou Mougoue, accredited as an adviser. The Committee notes that the objection arises from an internal conflict in the CSIC and that, according to the information provided, the national courts have taken a final decision on the matter. The Committee considers that the objection does not contain enough information in order to proceed with an examination of the objection. Under these circumstances, the Committee decides not to uphold the objection.*

Objection concerning the nomination of the Workers' delegation of Djibouti

43. The Committee received an objection concerning the nomination of the Workers' delegation from Djibouti presented by Mr Adan Mohamed Abdou, Secretary-General of the *Union Djiboutienne du travail* (UDT), and Mr Kamil Dirane Hared, Secretary-General of the *Union générale des travailleurs Djiboutiens* (UGTD). They alleged that the persons nominated to the Conference since 1997 to represent the trade unions were not qualified to do so. Concerning the Workers' delegation present at this session of the Conference, the authors of the objection stated that Ms Saida Mohamed Moussa, representative of the UGTD was not part of the trade union movement and that Mr Mohamed Youssouf Mohamed, presented as the President of the UDT, had never held that position. They also submitted that the Government had never implemented any decisions taken by supervisory bodies of the ILO, or the recommendations of the ILO direct contacts mission of 2008, or those of the Credential Committee. They requested the Committee to take an effective and final decision with regard to the Government of Djibouti.

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44. In a written communication addressed to the Committee at its request, the Government indicated that it was not inclined to follow up on the objection; the content of which had not changed since 1995 and which came from representatives of an *intersyndicale* which did not exist in any legal sense. Furthermore, this group had never provided the Committee with any proof that it represented the Djiboutian workers and their interest was in using the Committee for propaganda. The Government restricted its reply to referring the Committee to communications provided during previous sessions of the Conference and asked that the Workers' representatives be questioned about their nomination as part of the Djibouti delegation to the Conference.
45. The clarifications requested by the Committee were provided in the Government's name orally by Mr Guedi Absieh Houssein, Director of Labour and Government delegate at the Conference. He was accompanied by Ms Aicha Hassan Mohamed, Chief of Service of Labour and Government adviser at the Conference. He confirmed that the method used to nominate the social partner delegates this year was the same method that was used last year: when the Government received the invitation from the Director-General of the ILO to participate in the Conference it asked the organizations representing employers as well as the organizations representing workers to designate their respective representatives to the Conference. The Government simply integrated the persons nominated into the delegation of Djibouti. Mr Absieh Houssein considered that he was not in a position to provide any more information on the nomination method used, which, in his opinion, had all guarantees of neutrality. He explained that the fact that the letters were addressed to the President of one confederation and to the Secretary-General for the other was simply an indication of the internal structure of the organizations concerned; it was the organizations themselves which indicated to whom communications should be addressed.
46. According to the Government, the objection before the Committee came from one individual, Mr. Abdou, who had been heard extensively by the Committee last year. Not wanting to interfere with the internal affairs of the trade union, he said he was not in a position to respond to questions concerning the internal structure of the UDT and he referred the Committee to the Workers' delegation present at the Conference. The Government stated that the issue of the choice of representative of the trade union confederation did not arise only in terms of the Conference but also at the national level, for example to the National Council on Labour, Employment and Professional Training, a tripartite organization recently constituted in which the trade union confederations were widely represented (three representatives from each confederation). Furthermore, even though the Labour Code of 2006 provided for general elections determining union representativity, the Government admitted that these elections had not yet been held because efforts had been concentrated on revising the collective agreements and putting in place the abovementioned National Council. However, the Government assured the Committee that elections would be carried out in the near future and that this would help end the incertitude surrounding the representativity of the two trade union confederations. The Government repeated its request for assistance from the Committee as well as the Office as to the best way to nominate the Workers' representatives to the Conference.
47. Clarifications requested by the Committee were provided orally by Mr Mohamed Abdou. He was accompanied by Mr Hassan Cher Hared, Secretary in charge of international relations of the UDT. He stated that since 1997 the Government has continually nominated to the delegation of Djibouti individuals who were not representatives of the workers. The Government had continually shown disregard for the ILO Constitution, rules and decisions of its supervisory bodies. Once again this year the Government had nominated Mr Youssouf Mohamed as the representative of the UDT. Mr Mohamed Abdou recalled that the Committee had already been informed last year by an objection that Mr Youssouf Mohamed had never been the elected President of the UDT. Even if Mr Youssouf Mohamed had been the President of a "clone" organization of the UDT created in 1999 by

a pseudo congress called by the Government, in 2002 he had been co-opted as Vice-President of the true UDT, in order to put an end to the split. In May 2008 the Executive Board of the UDT had relieved him of his functions as Vice-President because he had proclaimed himself as President of the organization at the request of the Government, but that post had been vacant since the departure of the last President of the UDT, Mr Ahmed Djama Egeh. Mr Cher Hared added that Mr Youssef Mohamed did not hold any function as a basic trade union representative in Djibouti and did not have any desk or office. He alleged that the authorities instructed the postal service to deliver any mail addressed to the UDT to Mr Youssef Mohamed but they had to back down on this issue when the postal workers' union, an affiliate of the UDT, refused to do so. Additionally, Mr Mohamed Abdou stated that Ms Saida Mohamed Moussa, nominated as the representative of the UGTD to the current session of the Conference, had not been designated by that organization because she was unknown in the trade union movement in Djibouti. Mr Cher Hared said that she was a member of a neighbourhood organization as well as of a political party. Mr Mohamed Abdou contended that these new nominations showed once again the Government's arrogant attitude, not only towards the truly representative Djiboutian trade unions but also towards the ILO, of which it is a Member, and whose decisions it had been ignoring over the past decade.

48. Mr Mohamed Abdou recalled that, following the recommendation to the Government to include a representative of the UDT in the delegation of Djibouti to the Conference, made by the direct contacts mission to Djibouti in January 2008, the International Trade Union Confederation (ITUC) had approached the President of the country concerning the necessity to include the Secretary-General of the UDT in the delegation since it was the most representative confederation in Djibouti. However, according to Mr Mohamed Abdou, the governmental authorities considered ITUC to be a subversive organization. As examples, Mr Mohamed Abdou referred to an ITUC mission that had been searched at the Djibouti airport in 2006 and more recently the cancellation of a workshop on decent work in which ITUC was supposed to be a participant. In the end, the workshop was organized in a neighbouring country. In addition to its refusal to adequately implement the recommendation of the direct contacts mission concerning the representation of workers at the Conference, the Government had also ignored all the other recommendations made, in particular as regards to the amendment of several provisions of the Labour Code of 2006, the reintegration of workers who had been laid off in 1995 after a strike, and the composition of the National Council on Labour, Employment and Professional Training which included only representatives of the "clone" organization of the UGTD and Mr Youssef Mohamed and his cohorts to the exclusion of the UDT. Mr Mohamed Abdou concluded that the only way to put a stop to the arrogant attitude of the Government vis-à-vis the ILO and trade unions was to request the invalidation of the credentials of the Workers' representatives of Djibouti.
49. Clarifications requested by the Committee were also provided orally by Ms Saida Mohamed Moussa, Workers' delegate at the Conference. She stated that she held the position of Secretary of Women's Affairs in the UGTD since 2007; she was also a member of a bank's union. She also gave the Committee details of some union activities in which she had participated in this function. The UGTD Secretary-General had nominated her as its representative to the Conference. She stated that she did not know the authors of the objection. According to her the UGTD had eight affiliates but that she could not give any indications as to how many members it represented.
50. *The Committee observes that, from 1997 to 2008, it has examined on eight separate occasions, objections concerning the nomination of the Workers' delegation of Djibouti. Given the fact that this year, the Committee must once again examine an objection concerning the nomination of the Workers' delegation, it can only note with regret the absence of any real progress.*

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51. *The Committee recalls that last year it had been presented with an objection concerning the nomination of Mr Youssouf Mohamed to the Conference as the UDT's representative as well as his function within that organization. The Committee was provided with evidence whose authenticity was rather doubtful. It concluded that, given the information available to it, the representative of the UDT to the Conference was not chosen independently and without interference from the Government. The Committee notes that again this year Mr Youssouf Mohamed has been nominated as the representative of the UDT to the Conference and that, once again, this had been contested. Taking into account the very limited nature of the information provided by the Government, as well as its confirmation that the same procedure was used for the nomination of the Workers' representatives, the Committee considers that it does not have before it any new information providing answers to the questions raised last year. The Committee, therefore, continues to have serious doubts as to the independent nature of the nominated representative of the UDT to the present session of the Conference. Taking into account all the information available to it, such as the recommendations of the past decade of ILO supervisory bodies, reports of direct contact missions sent to Djibouti, as well as other corroborating sources, the Committee finds that the existence of the UDT led by Mr Mohamed Abdou as part of the trade union movement in Djibouti is a fact. As had been indicated in the report of the direct contacts mission of January 2008, the Committee had confirmation that the mission had met with Mr Mohamed Abdou in his function as the Secretary-General of the UDT, the highest ranking official of that organization. The Committee also notes that, even in the presence of the authorities, the presidency of the UDT was mentioned only in so far as invoking Mr Djama Egeh, who no longer held that function (see Case No. 2450 before the Committee on Freedom of Association, 351st Report, Annex). Furthermore, the Credentials Committee considers that the Government's choice to send its request for the nomination of the Workers' delegation to the President of the UDT since 2008 raises questions and that the explanations provided by the Government have done little to remove the doubts surrounding the authentic nature of the consultations as required by the ILO Constitution. The Committee concludes, in light of the information before it, that the nomination of the representative of the UDT to the Conference must be carried out in consultation with the UDT as presently led by Mr Mohamed Abdou as Secretary-General. The Committee expects that the Government will ensure that the nomination of the representative of the UDT to future sessions of the Conference will be carried out in conformity with this Committee's recommendations and article 3, paragraph 5, of the ILO Constitution.*
52. *The Committee notes the explanations provided to it by Ms Saida Mohamed Moussa, the representative of the UGTD at the Conference, regarding her position within that organization. The Committee is surprised by the fact that she does not know the number of UGTD members. It is not convinced that Ms Mohamed Moussa occupies an important position in a major workers' organization justifying her nomination as Workers' delegate of Djibouti.*
53. *The Committee concludes that the Government has not fulfilled its obligations as set out in article 3 of the ILO Constitution because it has not nominated Workers' delegates representing the workers of Djibouti in agreement with the most representative workers' organization. This year it has serious doubts concerning the representative nature of the Workers' delegation to the Conference. As a result the Committee could ask the Conference to invalidate the credentials of the Workers' delegation of Djibouti.*
54. *The Committee observes, however, that the objection raises questions that go above and beyond those concerning exclusively the nomination of the Workers' delegation to the Conference. Some of these questions have already been presented before the different supervisory bodies in the ILO and reflect violations of the principle of freedom of association in the country and government interference in trade union matters. Regretting*

the absence of any progress, despite the expectations raised in the recommendations of the direct contacts mission of January 2008 as well as the hopes expressed last year, the Committee calls upon the Government to guarantee the implementation of a procedure based on objective and transparent criteria for the nomination of the Workers' representatives at future sessions of the Conference. To this end, it expects that these criteria will be identified so that consultation with all parties concerned, and particularly with the genuine workers' organizations in Djibouti which includes the UDT whose current Secretary-General is Mr Mohamed Abdou, can be carried out in an environment respecting the ability of the workers' organizations to act in total independence from the Government, in accordance with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

55. *The Committee expresses its deep concern that the Government has persistently ignored its obligations set out in the ILO Constitution. It deeply regrets the lack of cooperation by the Government and it is concerned with the Government representative's lack of willingness to provide the information requested of him. The Committee considers that the problem arises not only from a total lack of goodwill on the part of the Government to improve the situation, but also from a lack of commitment to the principles and obligations arising from membership in the ILO. As regards the will of the Government to improve the situation, only the Government can decide. Nonetheless, the Office also has a role to play in clarifying the precise meaning of obligations arising from the Constitution. The Committee calls upon the Government to avail itself of the technical assistance that can be provided by the Office in order to overcome all the difficulties related to freedom of association in the country, which includes the nomination of the Workers' delegate, so that Djibouti can fully take part in the Conference.*
56. *Taking into account the above, although the Committee has decided not to recommend the invalidation of the credentials of the Workers' delegation this year, it will do so in the future if it considers that the Government has not taken the necessary measures to fulfil its constitutional obligations.*

Late objection concerning the nomination of the Workers' delegate of Ecuador

57. *The Committee received an objection from the Confederación Ecuatoriana de Organizaciones Sindicales Libres concerning the nomination of the Workers' delegate of Ecuador whose name appeared in the Provisional list of delegations published, as a supplement to the Provisional Record on 3 June 2009.*
58. *This objection, dated 9 June 2009, was received by the Office only on 10 June and therefore well after the expiry of the 72-hour time-limit provided for in article 26bis, paragraph 1(a), of the Conference Standing Orders. The Committee therefore considers that the objection is not receivable by virtue of the abovementioned provision of the Conference Standing Orders.*

Objection concerning the nomination of the Workers' delegation of Gabon

59. *The Committee received an objection concerning the Workers' delegation of Gabon presented by the Confédération gabonaise des syndicats libres (CGSL). Mr Etienne Francis Mayombo, Secretary-General of the CGSL alleged that the nomination of representatives from the Entente syndicale du Gabon (EN.SY.TG.) and from the Intersyndicale, as titular and substitute delegates respectively, was to the detriment of the*

most representative workers' organizations, such as the CGSL and breached article 3, paragraph 5, of the ILO Constitution, as well as provisions of the Tripartite Consultation Convention, 1976 (No. 144). This illustrated the little interest the Government had in establishing objective mechanisms for determining trade union representativity in the country. The CGSL indicated that the EN.SY.TG. had no basic union framework. The *Intersyndicale* was not a formal organization in the sense of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and it had been created for political purposes. To support the objection the CGSL provided a copy of an agreement, signed in 2007 under the auspices of the Ministry of Labour, which recognized four trade union confederations as the most representative; this included the CGSL. The CGSL contested the credentials of the titular delegate as well as the concerned substitute delegate to this session of the Conference as not coming from any of those organizations.

60. *The Committee deplores that once again that the Government has not responded to its request for comments on the objection, particularly as a Government delegation is present at the Conference. The Committee warns that a repeated failure to respond to a request for information could lead the Committee to propose to the Conference the monitoring of the situation in the future. In the present case the absence of reply does not preclude the Committee from examining the matter and giving credence to the allegations of the objecting organization. Nevertheless, the Committee finds that the objection does not contain sufficient information allowing it to examine the allegations. Even though the CGSL provided information concerning the recognized representativity of certain workers' organizations, including the CGSL, it did not provide any information on the procedure used to nominate the Workers' delegation nor any indication of having proposed other candidates as titular or substitute delegate.*
61. *The Committee reminds the Government that the nomination of the Workers' delegation to the Conference must be carried out in consultation with the most representative workers' organizations, on the basis of pre-established objective and verifiable criteria concerning the authenticity and representativity of the organizations. The Committee expects the Government to ensure that the nomination of the Workers' delegation to future sessions of the Conference has been made in consultation with the organizations recognized as the most representative in the meaning of article 3, paragraph 5, of the ILO Constitution.*

Objection concerning the nomination of the Workers' delegation of Guinea

62. The Committee received an objection from the *Union générale des travailleurs de Guinée* (UGTG) concerning the nomination of the Workers' delegation of Guinea. The UGTG contended that the nomination procedure was flawed, in particular by the lack of information on the part of the Government as well as its biased decision not to take into account the UGTG when establishing the list of workers' representatives. It indicated that this situation is characteristic of breaches of the ILO Constitution and Conventions that the Government had ratified. It requested the Committee not to accept the accreditation of the tripartite delegation of Guinea, unless the UGTG's rights had been restored and it was treated like the seven organizations comprising the delegation.
63. *The Committee deeply regrets that the Government has not responded to its request for comments on the objection, particularly as a Government delegation is present at the Conference. The absence of reply does not preclude the Committee from examining the matter and giving credence to the allegations of the objecting organization.*
64. *The Committee notes, however, that it has not been provided with enough information to conclude either that the Workers' delegation present at the Conference is not representative or that the representativity of the objecting organization is such that it*

should have been consulted in the meaning of article 3, paragraph 5, of the ILO Constitution. Consequently, the Committee decides not to uphold the objection.

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

65. The Committee received an objection concerning the nomination of the Employers' delegation of the Islamic Republic of Iran presented by the Employers' group at the Conference. The Group alleged that the Government had not implemented the recommendations made by the Committee last year when it dealt with a similar objection; instead, the Government had unilaterally nominated members of the Iranian Confederation of Employers (ICE) to the Conference delegation without consulting the Iranian Confederation of Employers' Association (ICEA). The ICEA Secretary-General, Mr Otaredian, had only been consulted by the Government in a meeting on 25 May 2009 – after the Government had already submitted the credentials of the Iranian delegation – and he had rejected the proposal made to him to include one ICEA representative as adviser in the delegation. Recalling that the Iranian legislation permitted the existence of only one national employers' organization, the Employers' group noted that a case concerning the dissolution of the ICEA was pending before the Tehran Civil Public Court, in which no judgement had yet been rendered as shown by the certificate issued by the Court and copy of which was provided to the Committee. The Employers' Group regretted that ICE members had again been registered in the Employers' delegation as being members of the ICEA. Despite the recommendations of the Committee on Freedom of Association of the Governing Body in 2008, the Government had not taken measures to re-register the ICEA or to ensure that the ICEA could exercise its activities without interference. The Employers' group requested that the Committee propose the invalidation of the credentials of the Iranian Employers' delegation, request the Government to nominate the persons proposed by Mr Otaredian in a letter of 25 April 2009, cease harassment of ICEA and refrain from any interference in its activities, stop supporting the ICE financially and materially and fully implement the recommendations of the Committee of last year.
66. In a written communication addressed to the Committee at its request, the Government stated that it had requested the ICE to carry out extensive consultations with all employers' organizations in the country on the nomination of the Iranian Employers' delegation to the Conference. The invitation to a meeting was sent to members of the self-dissolved ICEA – some of whom enjoyed valid credentials as employers' organizations – and was published in the press. The Secretary-General of the ICEA refused the invitation. The Government considered that an administrative court judgement, which confirmed the self-dissolution of ICEA, was final and irreversible so government officials were bound to respect it in their dealings with employers' organizations, even if there was also a case before a civil court. Regarding the confusion between the acronyms "ICEA" and "ICE" and others, the Government noted that there may have been typographical errors in this regard, whose importance had been overstated. It also mentioned a possible reconciliation and fusion between ICE and ICEA. The Government also assured that it was looking forward to an election to be conducted with ILO support to determine the appointment of the Employer representatives; it remained impartial with regard to the contending organizations and it had not favoured, or interfered, in the activities of either organization.
67. Clarifications requested by the Committee were provided orally by Mr Hossein Nategh Nouri, Director-General, International Affairs and Overseas Employment, Ministry of Labour and Social Affairs, accompanied by Mr Amirhossein Shamir, Labour Counsellor at the Permanent Mission at Geneva, both Government delegates to the Conference, and by Mr Kourosh Ahmadi, First Counsellor at the Permanent Mission in Geneva and Government adviser at the Conference. He stated that the Government had implemented the Committee's recommendations concerning the nomination of its delegation as far as it

had been possible within the limitation of the Labour Law, which permitted the existence of only one Employers' organization. After the ICEA had declined the invitation to take part in the consultation meeting organized by the ICE, its Secretary-General was invited by the Government to a consultation meeting on 25 May where he was offered that the ICEA could nominate one adviser in the Employers' delegation, which he also declined. The ICEA had thus been consulted as much as possible in light of the decision of the Administrative Justice Court's Appellate Branch concerning the dissolution of the ICEA, which government officials were obliged to respect. The Government disputed the claim that the ICEA was legally recognized while the Tehran Civil Public Court was seized of the matter since the Court had issued a statement certifying that neither party could be considered eligible to any rights pending final decision. According to the Government, it was bringing, with the help of the judiciary, the contending organizations together to create one national employers' organization. To this end the ICE had chosen not to hold the meeting of its general assembly; consequently, it would be dissolved in four months by virtue of its articles of association. According to Mr Nategh Nouri, the nationwide ICE with its 1,400 members representing major industries was the most representative employers' organization; the ICEA had only 210 members who were providing less permanent employment opportunities. The Government was consulting with the ILO to obtain technical assistance to review, among other things, its Labour Law.

68. The Committee received an unsolicited written submission from the Confederation of Iranian Employers (which is the same organization as the ICE) which alleged that the consultation process for selecting the Iranian Employers' delegation to the Conference had been carried out in accordance with the recommendations the Committee made last year.
69. *The Committee recalls that article 3, paragraph 5, of the ILO Constitution requires consultation by the Government of the most representative employers' organizations. The Committee recalls that last year it considered that an employers' organization could not be excluded on the basis that it existed only de facto and that the Government should have at its disposal verifiable and objective criteria to determine the representativeness of the two groups representing employers. The Committee notes the Government's assertion that this year it requested the ICE to carry out consultations with all employers' organizations of the country and that its efforts to have the ICEA join these consultations were not successful. The Committee considers that a consultation carried out through one of the organizations competing for the nomination of the members of the Employers' delegation to the Conference without the concurrence of the others cannot fulfil the requirement for consultation mentioned above. The Committee has not been convinced that objective and verifiable criteria has been used for the determination of the most representative employers' organization of the country.*
70. *The Committee notes that the Government has, again, invoked the shortcomings of its legislation as a constraint to the implementation of the Committee's recommendations. Recalling the recommendations of the Committee on Freedom of Association, the Credentials Committee considers that the Government should take measures as a matter of urgency to amend the Labour Law so as to ensure the exercise of freedom of association and, in particular, the right to establish more than one employers' and workers' organization, in a manner that does not prejudice the rights formerly held by the ICEA; and to take the necessary measures to amend the existing legislation so as to ensure that employers' and workers' organizations may fully exercise their right to elect their representatives freely and without interference by public authorities. (Committee on Freedom of Association, Report No. 350, paragraph 1166). While taking note of the Government's consultations with the Office concerning the provision of technical assistance, the Credentials Committee reiterates its recommendations made in 2007 and 2008 that the Government avail itself of this assistance in relation to various questions involving freedom of association.*

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71. *Pending final judicial decision concerning the dissolution of the ICEA, the Committee recalls the recommendation of the Committee on Freedom of Association, according to which the Government is requested to immediately take the necessary measures to re-register the ICEA to ensure that it can exercise its activities without hindrance (Report No. 350, paragraph 1166(f)). The Credentials Committee notes that in spite of the ICEA's alleged dissolution, the Government has been able to have direct consultations with the ICEA. It regrets, however, that these consultations took place after the Government had already deposited the credentials of the delegation of the Islamic Republic of Iran with the Office.*
72. *As regards the acronym of the organization to which the members of the Employers' delegation belong, the Committee has difficulties to believe the Government's explanation according to which the confusion between "ICE" and "ICEA" is the result of a mere typographical error, as it is the same error for the second consecutive year, already pointed out by the Committee in its conclusions last year (Provisional Record No. 4C, paragraph 53).*
73. *The Committee urges the Government to establish, in consultation with the relevant organizations, a transparent and inclusive procedure, based on objective and verifiable criteria, to nominate the employers' representatives so that next year the Employers' delegation of the Islamic Republic of Iran to the Conference will be nominated in full compliance with the relevant provisions of the ILO Constitution. To this end, the Committee expects the Government to urgently initiate the revision of its Labour Law and other relevant legislation with the technical assistance of the Office.*

Objection concerning the nomination of the Workers' delegate of Liberia

74. The Committee received an objection presented by Mr Marcus Blamah, Secretary-General of the Liberia Labour Congress (LLC) concerning the nomination of Mr Moses Barwor, President General of the LLC as the Workers' delegate of Liberia alleging that the nomination was based on favouritism within the Ministry of Labour. Mr Blamah alleged that Mr Barwor had refused to call an Executive Board meeting to discuss issues relating to representation, in violation of the LLC constitution as well as past practices. Consequently, the delegate was not selected by a majority and was not endorsed by the Executive Board of the LLC. It requested the Committee not to honour any person claiming to be the Workers' delegate.
75. In a written communication addressed to the Committee at its request, the Government indicated that it is the National Tripartite Committee (NTC) which oversaw this year's vetting process for the delegation of Liberia. The NTC – which is comprised of representatives of the Government, employers and workers – received two letters of nomination from the LLC. The first one nominated the Secretary-General and was signed by both the Secretary-General and the Vice-President (who at the time was Acting President). Two weeks later another letter was sent, withdrawing the name of the Secretary-General and nominating the President General. According to the Government, this letter was signed by the President General and the Vice President (who had also signed the first letter). Since, as a matter of fundamental principle the Ministry of Labour does not get involved in internal matters of either workers' or employers' organizations, it referred this matter to the NTC.
76. In a further submission Mr Blamah stated that he was selected as the Workers' delegate to this year's Conference at an Executive Board meeting held on 31 March 2009 and he provided a copy of the letter to the Ministry of Labour on that same day. He alleged that the President General overturned that decision by a letter to the Government while he,

Mr Blamah, was out of the country. He further alleged that the Acting Secretary-General had refused to sign that letter and that to this day the secretariat did not have a copy of it. He informed the Government of this problem in a letter of 7 May 2009, asking it to investigate and correct the situation prior to the Conference.

77. In a further submission addressed to the Committee at its request, the Government provided copies of the nomination letters. The first letter, on official letterhead, was dated 31 March 2009 and was signed by Mr Blamah as the Secretary-General and “approved” by Ms Manning as Acting President General of the LLC; it nominated the Secretary-General as the Workers’ delegate. On 7 April Ms Manning, this time signing as First Vice President of the LLC sent a letter, not on official letterhead, withdrawing the previous nomination. On 8 April a third letter was sent, signed by Mr Barwrwr as President General. Attached to that letter was a list of union nominees to the Conference; it indicated Mr Barwrwr as the titular delegate for the Workers’ and Mr Blamah as adviser.
78. *Article 26bis, paragraph 1(c), of the Conference Standing Orders provides that an objection shall not be receivable if the author of the objection was serving as adviser to the delegate whose nomination objection was taken. The Committee notes that the author of the objection, listed as an adviser in the Revised provisional list of delegations of 9 June 2009, had not registered in the Workers’ delegation of Liberia and should therefore not be regarded as serving as adviser within the meaning of the abovementioned provision.*
79. *The Committee notes that it is not the representative character of the LLC that is in question, but the capacity of the person nominated to represent it, in effect Mr Barwrwr accredited as the Workers’ delegate. The questions raised by the objection appeared to be essentially internal to the LLC and, therefore, fell within the domain of the ruling bodies of that organization and not the Committee’s mandate. However, the Government received two contradictory nominations from the LLC and a letter from the author of the objection requesting investigation and correction of the situation; these communications should have given rise to doubts as to the validity of the nomination and the Government should have taken the necessary measures to seek to clarify the validity of the nomination before the start of the Conference. The Committee notes that the Government had referred the matter to the NTC but it has no information as to how the NTC dealt with the matter, if it did so. The Committee trusts that the Government will ensure that the nomination of the Workers’ delegation to future sessions of the Conference will be made in agreement with the most representative workers’ organizations. The Committee recalls that the process to nominate the Workers’ delegation must fulfil the conditions of impartiality, transparency and predictability required under article 3, paragraph 5, of the ILO Constitution.*

Objection concerning the nomination of the Workers’ delegation of Myanmar

80. The Committee received an objection from the International Trade Union Confederation (ITUC) concerning the nomination of the Workers’ delegation of Myanmar.
81. *The Committee notes that conclusions reached on the objection are included in the conclusions on monitoring (see paragraphs 26–34 above).*

Objection concerning the failure to deposit credentials of a Workers’ delegate by the Government of Somalia

82. The Committee received an objection presented by the International Trade Union Confederation (ITUC) concerning the failure to deposit the credentials of a Workers’ delegate by the Government of Somalia. The ITUC requested the Committee to ask the

Government for explanations and to urge it to respect its obligations pursuant to article 3, paragraph 1, of the ILO Constitution.

83. In a written communication addressed to the Committee at its request, the Ministry of Labour and Social Affairs noted for the Committee that the long period of instability in the country had led to the collapse of many social structures and, consequently, there was currently no national workers' organization in the country. However, efforts were being made to establish one because the Government recognized that it was important to have a democratically elected institution.
84. *The Committee notes that at the 2003, 2004, 2005, 2007 and 2008 sessions of the Conference, Somalia was not represented by a full tripartite delegation and that in 2006 it was not represented at all. In 2008, the Committee took particular note of the Government's declared intention to send a complete delegation to future sessions of the Conference. However, it notes that at the present session of the Conference there is an Employers' delegate but no Workers' delegate. The Committee expresses deep concern at the fact that this member State has not been represented by a complete delegation for a number of years. The Committee recalls the obligation of member States 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, Employer and Worker representatives, the Conference cannot function properly or attain its objectives. The Committee therefore hopes that the general situation in Somalia will improve soon. The Committee urges the Government to establish an environment in which freedom of association is respected and workers are able to organize themselves, and that Somalia should be represented by full tripartite delegations at future sessions of the Conference.*

Objection concerning the nomination of the Workers' delegate of Chad

85. The Committee received an objection presented by Mr Adja François Djondang of the *Union des syndicats du Tchad* (UST), concerning the nomination of the Workers' delegate of Chad.
86. *Pursuant to article 26bis, paragraph 1(c), of the Conference Standing Orders, an objection is not receivable if the author of the objection is an adviser for the delegate against whom the nomination is contested. The Committee notes that the name of the author of the objection appears on the Provisional list of delegations published on 3 June 2009, as adviser to the Workers' delegate as well as on the Revised provisional list of delegations published on 9 June 2009. Given the fact that Mr Djondang has also registered in person in this capacity, the Committee decides that the objection is not receivable.*

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

87. 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 stated that the Government should not have included as advisers in the delegation Mr Alfredo Rafael Cabrera Martínez, from the *Confederación de Agricultores y Ganaderos de Venezuela* (CONFAGAN), Ms Keyla de la Rosa, from *Empresarios por Venezuela* (EMPREVEN), or Mr Miguel Valderrama and Mr Mario Castillo Serrano, both from the *Federación de Artesanos, Micros, Pequeños y Medianos Industriales* (FEDEINDUSTRIA). It claimed that they did not represent

organizations of employers that could be considered representative according to the criteria recognized by the ILO (free, independent organizations without government interference). The Employers' group emphasized the financial support and favouritism that these organizations received from the Government, as it had been denounced in past years before the Committee on Freedom of Association of the Governing Body, as well as at the Conference. Furthermore, CONFAGAN had much fewer members than the organization that was truly representative of the rural sector, the *Federación Nacional de Ganaderos* (FEDENAGA). In March 2009 the Committee on Freedom of Association had stressed the importance of non-interference by the Government in employers' organizations and the adoption of a neutral stance in the treatment of and relations with all the workers' and employers' organizations, as well as the need to respect the *Federación de Cámaras y Asociaciones de Comercio y Producción de Venezuela* (FEDECAMARAS), the most representative employers' organization in the country. It also noted that FEDECAMARAS had not accepted the nominations of the representatives of CONFAGAN, EMPREVEN, and FEDEINDUSTRIA. It pointed out that not only had the Government changed the composition of the Employers' delegation, as it had been proposed by FEDECAMARAS, but it had also imposed advisers from such semi-public bodies that were neither independent nor representative. Finally, it stated that while the Government had financed the participation of these imposed advisers, it had only paid for the participation costs of two FEDECAMARAS representatives – Ms Albis Muñoz and Mr Bingen de Arbeloa.

88. In a written communication addressed to the Committee at its request, the Government stated that FEDECAMARAS, EMPREVEN, CONFAGAN and FEDEINDUSTRIA had been deemed to be the most representative employers' organizations based on the fact that they recognized and accepted each other as such, evidenced by their participation in and their dialogue during meetings held at the Ministry of Labour. It added that EMPREVEN, CONFAGAN and FEDEINDUSTRIA were important and recognized organizations representing fundamental economic sectors. The Ministry had invited the four organizations to two consultation meetings in order to reach an agreement as to the composition of the Employers' delegation. All organizations had attended the first meeting, on 14 May 2009, but no agreement had been attained. In the meeting FEDECAMARAS had reiterated its proposal for the Employers' delegation, composed exclusively of FEDECAMARAS' members, which it had already communicated to the Ministry. Only EMPREVEN, CONFAGAN and FEDEINDUSTRIA had been present at the second meeting. The Government had decided on the composition of the delegation based on a consistent practice it applied since 2002 and in accordance with the ILO Constitution. The Government also stated that it had held a meeting with the four organizations on 26 May 2009 in order to discuss the establishment of a mechanism and corresponding measures to determine the degree of representativeness and membership of employers' organizations. It added that a follow-up meeting had been scheduled for 30 June in order to further discuss proposals with the different organizations. The Government also explained that there was no rotation agreement in place and that historically FEDECAMARAS had always nominated the Employers' delegate. The Government denied that it favoured any organization and argued instead that it had been promoting the establishment of more inclusive mechanisms in order to incorporate employers historically excluded by FEDECAMARAS. As to the payment of travel and subsistence expenses, it stated that due to the current economic crisis it had decided to cover only those of the titular delegate and four advisers, chosen on the basis of pluralism. Finally, the Government claimed that while the ILO Constitution prescribed reaching an agreement with the most representative organizations, this did not require that all employers' organizations reach an agreement with the most representative organization in the country, nor that the latter be the only one participating in the Conference.

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89. The Committee received an unsolicited submission from EMPREVEN, CONFAGAN and FEDEINDUSTRIA defending their right to participate actively in the Conference, including the work of its committees.
90. *The Committee notes that the situation has, again, not materially changed with respect to 2007 and 2008. In its recommendations regarding similar objections lodged in those years against the composition of the Employers' delegation of the Bolivarian Republic of Venezuela, the Committee concluded that "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" (Provisional Record No. 4C, 2007, para. 86 and 2008, para. 92). In this regard, the Committee notes with interest that the Government stated an intention to discuss the establishment of a mechanism to determine the degree of representativeness and membership of employers' organizations. It had held a meeting to that effect with FEDECAMARAS, EMPREVEN, CONFAGAN and FEDEINDUSTRIA shortly before the Conference and had scheduled a follow-up meeting for 30 June 2009. In the meantime, the Government has not provided the Committee with objective information that could convince it that any organization other than FEDECAMARAS could be considered as being among the most representative employers' organizations of the country. The Committee notes that it does not have sufficient objective evidence to decide on the claim as to the non-representative nature of the challenged organizations. However, it recalls that in March 2009 the Committee on Freedom of Association had requested the Government to comment on the abovementioned allegations of interference and favouritism, had reiterated the importance of the adoption by the Government of a neutral attitude when dealing with any workers' or employers' organizations and had asked the Government to examine the alleged areas of potential discrimination against employers or organizations belonging to FEDECAMARAS. In view of the doubts existing as to the very character of three organizations, EMPREVEN, CONFAGAN and FEDEINDUSTRIA, the Committee had also recommended in 2007 and 2008 that the Government avail itself of the technical assistance that the Office may offer in that respect. The Committee notes with regret the fact that the Government, although it had welcomed this recommendation, did not approach the Office to discuss the possibility of such technical assistance. It therefore reiterates its recommendation that the Government seek technical assistance of the Office.*
91. *The Committee restates its final recommendation in 2007 and 2008: "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." The Committee expects not to repeat this recommendation next year.*

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

92. The Committee received an objection concerning the nomination of the Workers' delegation of the Bolivarian Republic of Venezuela submitted by Mr Manuel Cova, Director-General of the *Confederación de Trabajadores de Venezuela* (CTV).

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93. *In accordance with article 26bis, paragraph 1(c), of the Conference Standing Orders an objection is not receivable if the author of the objection is serving as adviser to the delegate to whose nomination objection is taken. The Committee notes that although the CTV according to the objection refused the Government's nomination of Mr Cova and Ms Castellano and asked that any subsistence expenses or travel arrangements made in their names be cancelled, Mr Cova registered in person at the Conference on 3 June 2009 as Workers' adviser of the Bolivarian Republic of Venezuela. In that capacity, he also registered as Worker deputy member of the Conference Committee on the Application of Standards, as shown in Provisional Record No. 3A dated 5 June 2009. The Committee therefore notes that Mr Cova is serving as an adviser to the Workers' delegate of the Bolivarian Republic of Venezuela and that the objection is not receivable by virtue of the abovementioned provision of the Conference Standing Orders.*

Complaints

94. The Committee also received and dealt with seven complaints, which are listed below in the French alphabetical order of the member States concerned.

Complaint concerning a serious and manifest imbalance between the number of Employers' and Government advisers of the Plurinational State of Bolivia

95. The Committee received a complaint presented by Mr Iván Bustillos Aramayo, member of the *Confederación de Empresarios Privados de Bolivia*, and Employers' delegate at this session of the Conference, alleging a serious and manifest imbalance between the number of advisers of the Government delegation and the number of advisers of the Employers' delegation accredited by the Government of the Plurinational State of Bolivia.
96. *The mandate of the Committee regarding complaints in accordance with article 26ter of the Conference Standing Orders concerns the obligation of Governments under article 13, paragraph 2(a), of the ILO Constitution "to pay the travelling and subsistence expenses of its delegates and their advisers" attending the Conference. Since the complaint does not allege any non-payment of expenses of a delegate or adviser, the Committee considers that it is not competent to hear this complaint.*

Complaint concerning a serious and manifest imbalance between the number of Workers' and Government advisers whose expenses have been covered by the Government of Italy

97. The Committee received a complaint presented by Ms Cecilia Brighi, Workers' delegate at this session of the Conference alleging a manifest imbalance between the number of Workers' and Government advisers whose expenses have been covered by the Government. The complaint is supported by the International Trade Union Confederation (ITUC). According to the complaint, the workers' organizations were informed that, due to financial reasons the Government could accredit only one Worker and one Employer representative to this session of the Conference, although it would not be opposed to the presence of other persons in the delegation, provided that the expenses would not be charged to the Government. Despite these financial constraints, the Government delegation consisted of a total of 16 persons, including nine advisers. In subsequent communications, Ms Brighi informed the Committee of the Government's decision to pay for one more adviser to the Workers' delegate. The Italian trade union confederations nevertheless

nominated two persons as advisers although one adviser's travel and subsistence expenses would not be paid by the Government. Both were accredited.

98. In a written communication addressed to the Committee in response to its request, the Government stated that the perceived imbalance was due to an alternation among the Government advisers; the nine advisers were not simultaneously present at the Conference; because of this alternation there was a balanced number of advisers to each of the three groups of the national delegation. The Government also noted that the planned presence of the Minister of Labour, Health and Social Policies and his Diplomatic Counsellor at the Conference had a mere political value and that these persons could not be counted as forming part of the regular Government delegation to the Conference.
99. *The Committee recalls that article 13, paragraph 2(a), of the ILO Constitution imposes on its Members an obligation to pay the travel and subsistence expenses of the delegates and their advisers nominated to the Conference. The competence conferred on the Committee in 1997 to examine complaints on the non-observance of that provision includes, in accordance with article 26ter, paragraph 2(b), of the Conference Standing Orders, cases of serious and manifest imbalance as between the number of Employer or Worker advisers whose expenses have been covered in the delegation and the number of advisers appointed for the Government delegates. In the course of the discussions that led to the introduction in 1997 of these provisions of the Standing Orders, their purpose was stated as to ensure that the financial means available for the participation of a tripartite delegation to the Conference would be distributed between the Government, the Employers' and the Workers' delegations at least in a proportion similar to that envisaged in the Constitution for the composition of delegations to the Conference. It was acknowledged that for an imbalance to be objectionable, it had to be abnormal or serious and it must be manifest.*
100. *The Committee notes that, in the present case, according to the Revised provisional list of delegations published on 9 June 2009, the two Government delegates are accompanied by ten advisers and substitute delegates, all from the Ministry of Labour, Health and Social Policies, while the Workers' delegation consists of the delegate and two advisers. The Committee takes note of the Government's explanation according to which the perceived imbalance is due to an alternation among the Government advisers and that each of them attends the Conference only for a limited period. The Committee notes, however, that at the time of the examination of this complaint, on 10 June 2009, after half of the duration of the Conference, ten advisers had already registered and an 11th had been nominated. The Government had up to three representatives registered in each of the four technical committees of the Conference (including the Committee of the Whole and the Committee on the Application of Standards), while the Workers have no representative in two of the technical committees. The Committee also observes that the alternation in the Government delegation, as compared to a presence of all representatives for the whole duration of the Conference, may permit savings as regards subsistence expenses, but not as regards travel expenses. In so far as the Government has provided resources for one Workers' adviser while covering the expenses of many more Government advisers, the ability of the Government delegation and of the Workers' delegation to actively participate in the Conference plenary and technical committees cannot be considered to be comparable. The Committee therefore finds that there is a serious and manifest imbalance between the number of Workers' and Government advisers whose expenses have been covered by the Government of Italy. The Committee expects that the Government will cover the travel and subsistence expenses of all the Workers' advisers who attended the Conference. It also expects that in the future the Government will cover the expenses of a sufficient number of advisers in the Workers' delegation to ensure the ability of workers to fully participate in the Committees and the plenary of the Conference, as part of a balanced tripartite delegation as envisaged by the Constitution of the ILO.*

Complaint concerning the non-payment of the travel and subsistence expenses of the Workers' delegation by the Government of Mauritania

101. The Committee received a complaint presented by the Secretaries General of four union confederations of Mauritania: the *Union des travailleurs de Mauritanie* (UTM), the *Confédération générale des travailleurs de Mauritanie* (CGTM), the *Confédération libre des travailleurs de Mauritanie* (CLTM) and the *Confédération nationale des travailleurs de Mauritanie* (CNTM). They submitted that the Government had not fulfilled its obligation to pay the travel and subsistence expenses for the Workers' delegation at this session of the Conference. In addition, they alleged that the Workers' delegation to the Conference was composed of representatives from the least representative workers' organizations rather than the most representative. The complainants requested the Committee to ensure that the Government reimbursed their travel and subsistence expenses for the duration of the Conference, as well as any fees they paid for obtaining the necessary visa to enter Switzerland.
102. *The Committee notes that in a first letter presenting credentials dated 18 May 2009, the Government had provided a list of workers' representatives coming from 11 workers' confederations and had indicated that the nomination of the delegate and advisers was still under discussion and that a final delegation list would be sent at a later date. A second letter presenting credentials dated 22 May contained a list of ten workers' representatives without indication of their functions at the Conference. The Committee notes that on 11 June the Government had again presented credentials, reducing the number of the Workers' delegation to six and indicating the Workers' delegate and his advisers.*
103. *The Committee finds that the Government had not presented credentials, in an adequate format including details on the persons accredited, before 11 June. The composition of the Workers' delegation of Mauritania, as it appeared on the Provisional list of delegations and the Revised provisional list of delegations, published on 3 and 9 June 2009 respectively, did not seem to reflect the intention of the Government which was only specified at a late stage of the Conference. The Committee deeply regrets that the lack of clear information in the credentials presented did not allow it to establish the facts in order to examine the complaint.*
104. *The Committee believes that the Government should not be able to avoid an examination of credentials foreseen by the Conference Standing Orders by presenting credentials that do not contain the minimum information required. The Committee wishes to emphasize the importance of indicating, upon submission of the credentials, the functions (delegate or adviser) held by the members of the Government, Employers' or Workers' delegations. It also recalls the obligation, under article 26, paragraph 1, of the Conference Standing Orders, to submit the credentials of the delegates, advisers and all other members of the delegation to the Office no later than 15 days before the opening date of the Conference. Respect for the obligation to accredit a fully tripartite delegation by the deadline facilitates the verification of credentials by all the parties concerned and thereby permits the Committee to effectively carry out its mandate as set out in the ILO Constitution and the Conference Standing Orders.*

Complaint concerning the non-payment of the travel and subsistence expenses of the Employers' delegate by the Government of Nicaragua

105. The Committee received a complaint presented by the Employers' group, alleging the non-payment of the travel and subsistence expenses of the Employers' delegate, Mr Freddy

José Blandon, who could nevertheless attend this session of the Conference because his employers' organization had paid for his expenses. Although this was the first time a complaint was filed for this reason, this was the third consecutive year that the Government had not covered the expenses of the employer delegate; in 2007 and 2008 the delegate had chosen not to file a complaint, giving the Government the benefit of the doubt. The Employers' group asked the Committee to obtain confirmation beyond the information contained in the credentials submitted by the Government, should it claim it had already met its full obligations under article 13, paragraph 2(a), of the ILO Constitution. Furthermore, it requested the Government to refund the amounts paid by his employers' organization to ensure the presence of the delegate at this session of the Conference and that in the future it complied with the obligation to pay the travel and subsistence expenses well in advance of the opening of the Conference.

106. In a written communication to the Committee made at its request, the Minister of Labour of Nicaragua, Ms Jeannete Chávez Gómez, acknowledged that the Government had not been able to cover the travel and subsistence expenses of the Employers' and Workers' delegates for the third consecutive year. She attributed this inability to pay on budgetary constraints, linked to the international economic crisis. She added that due to such financial difficulties the government officials in Nicaragua had not been able to attend this session of the Conference, having had to entrust the representation of the Government delegation to officials from its Permanent Mission at Geneva. She hoped that in the future budget availability would allow the Government to cover the costs of a full delegation.
107. *The Committee acknowledges the difficult financial situation that many member States are facing at this moment and understands the financial burden that the participation of a full tripartite delegation to the Conference implied. It notes that all the Government representatives registered came from its Permanent Mission. However, while most governments could rely on the support of their Permanent Mission in Geneva to ensure participation of a governmental delegation, the social partners could not rely on such a system. The decision not to cover expenses of the Employer's delegate is incompatible with the Government's obligation under article 13, paragraph 2(a), of the ILO Constitution to cover the expenses of a complete tripartite delegation. The Committee notes that the financial crisis has not only an impact on governments, but an even greater impact on the social partners and their ability to cover their own expenses. The Committee, therefore, expects that the Government will meet its duty to cover the travel and subsistence expenses of the Employers' delegate for the entire duration of the Conference, and that, in the future, the Government will comply with its constitutional obligations in this respect.*

Complaint concerning partial payment of the subsistence expenses of the Workers' delegate by the Government of Peru

108. The Committee received a complaint submitted by Mr Huaman Rivera, Secretary-General of the *Confederación General de Trabajadores del Perú* (CGTP), concerning the partial payment of the subsistence expenses of the Workers' delegate. The CGTP argued that it was not until 4 June 2009 that it had become aware, by reading the Bulletin of Legal Norms of the *Official Gazette*, that Ms Carmela Sifuentes de Holguín, President of the CGTP, had been nominated as the Workers' delegate to this session of the Conference and that she would travel to Geneva from 9 to 19 June 2009. In a letter dated 5 June, addressed to the Minister of Labour, the CGTP had expressed its concern as to the delay in the nomination and as to the fact that her arrival in Geneva was scheduled to happen after the beginning of the Conference. The CGTP had petitioned that the outbound trip of the Workers' delegate be moved to 6 June but it noted that subsequently the Ministry of Labour had advanced her departure date from Peru to 8 June. This entailed that, arriving 24 hours before 11 June, date on which the Government of Peru had to provide an account of

its application of the Convention on indigenous and tribal peoples before the Committee on the Application of Conventions and Recommendations, the delegate would be excluded from a substantial part of the work of the Conference and could not prepare nor fully participate in the debates. Accordingly, the CGTP argued that the Government had violated its obligation under article 13, paragraph 2, of the ILO Constitution, to pay for the subsistence expenses of Workers' and Employers' delegates during the whole duration of the Conference.

109. *The Committee notes that the Government acknowledged, in a late communication addressed to the Committee at its request, the information submitted by the complainant as to the travel arrangements of the Workers' delegate. The Committee recalls that payment of travel and subsistence expenses of non-governmental delegates for less than the entire length of the Conference is not compatible with article 13, paragraph 2(a), of the Constitution, which requires the Government to cover for the travel and subsistence expenses of a tripartite delegation for the full duration of the Conference. The Committee has reiterated this finding in the past (Provisional Record No. 4C, 2005, para. 36, Provisional Record No. 6D, 2004, para. 40). It notes with regret that once again the Government did not comply with this obligation, and it expects that it will do so in the future. Only if participation is ensured for the whole duration of the Conference, may the members of the tripartite delegation take an active part in the Conference and decide, in full independence of each other, when and how they may wish to exercise their speaking and voting rights. The Committee further notes that, where the Government is in charge of the travel arrangements for non-governmental delegations, this constitutional obligation entails that such arrangements must be made so as to allow for the full participation of the tripartite delegation in the Conference during its entire length.*

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

110. 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 not covered his travel and subsistence expenses. He was not provided with any information as to why his expenses would not be covered; he pointed out that it was the Government who had taken steps to secure his visa to come to Switzerland.
111. In a written communication addressed to the Committee at its request, the Government acknowledged that it was not in compliance with article 13 of the ILO Constitution but that due to budget constraints it was unable to pay the travel and subsistence expenses of the Employers' and Workers' delegations to this session of the Conference. It added that the Government delegation had also been reduced, the Government being represented by its Ambassador in Geneva and one delegate coming from the capital.
112. *The Committee notes the explanation provided by the Government and understands the financial burden of the participation of a full tripartite delegation to the Conference. It notes, however, that whereas a government has the ability to assure its representation through a diplomatic mission, the same cannot be said for employers' or workers' organizations. The Committee considers that the decision not to cover the costs of the social partner delegates is incompatible with the Government's obligation as set out in article 13, paragraph 2(a), of the ILO Constitution and it expects that the Government will cover the expenses of Mr Manzi for this session of the Conference. It also expects that in the future the Government will make it a priority to pay the travel and subsistence expenses of the Employers' and Workers' delegates in order to be in full compliance with its constitutional obligations. 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 principle of tripartism requires a balanced representation of employers and workers so as to permit their effective participation at meetings. Without the participation of Government, Employer and Worker representatives the Conference cannot function properly or attain its objectives.

Complaint concerning partial payment of the travel and subsistence expenses of the Workers' delegate by the Government of Zimbabwe

113. The Committee received a complaint concerning the Workers' delegate of Zimbabwe, submitted by the International Trade Union Confederation (ITUC). The complaint alleged that the titular delegate, Mr Lovemore Matombo, received half the amount of allowances compared to those received in 2008, which would prevent him from staying in Geneva for the third week of the Conference. In this connection, it also pointed to the number of delegates, advisers and substitute delegates accredited in the Government delegation. The ITUC requested the Committee to call upon the Government to comply with article 13, paragraph 2(a), of the ILO Constitution and provide Mr Matombo with a sufficient allowance to allow him to take part in the third week of the Conference.
114. In a written communication addressed to the Committee at its request, the Government stated that the allowances provided to Mr Matombo were calculated using the same rate as for Government representatives. Last year special rates were applied because the Government considered that hotel rates and general expenses might be higher due to the European football tournament. It submitted that Mr Matombo had already raised the matter of the payment of his subsistence expenses with the Government and he had already been provided this same information. The Government admitted that it had erroneously indicated to the Office that it would pay for two Workers' delegates but in fact it had informed the Workers' delegates that it would fund only one delegate.
115. *The Committee notes the explanation provided by the Government that it has complied with its obligation to pay for the travel and subsistence expenses of the Workers' delegate. It decides, therefore, not to uphold the complaint.*
116. *The Committee, however, reminds the Government of the importance of providing accurate information in order for the Credentials Committee to discharge its functions. It recalls that such information is requested in accordance with the Resolution concerning the Strengthening of Tripartism in the Over-all Activities of the International Labour Organisation adopted by the International Labour Conference on 21 June 1971.*

Communications

117. The Committee also received one communication.

Communication concerning the Workers' delegation of Ireland

118. The Committee received a communication on 9 June 2009 presented by the International Trade Union Confederation (ITUC), drawing the attention of the Committee to a manifest imbalance between the number of Workers' advisers whose travel expenses had been paid by the Government and the number of advisers appointed by the Government. It submitted that the Government informed the Irish Congress of Trade Unions in a letter of 8 May that

due to a serious budgetary situation, the Government was in a position to support only one Workers' delegate. As a result, the Irish Workers' delegation was composed of only a titular delegate. However, the Government delegation was composed of two titular delegates and five advisers and substitute delegates. ITUC considered that such an imbalance goes against the principle of tripartism. It requested the Committee to ask the Government for explanations for this situation.

119. In a written communication addressed to the Committee, the Government stated that due to severe budgetary constraints it had reluctantly informed the workers and employers that it was unable to sponsor more than one delegate for each social partner. However, delegates could be substituted during the Conference. It submitted that the same constraints applied to the Government. Due to uncertainty as to who would be available to attend the Conference, advisers for the Government were included on the credentials list but it was the Government's intention that only one adviser and substitute delegate would actually attend the Conference; in fact during the first two weeks only one adviser and substitute delegate attended the Conference. The perceived imbalance in the number of Workers' and Government advisers was regrettable but not intentional, as the Government had high regard for the ILO's tripartite nature.
120. *The Committee notes that, according to the Revised provisional list of delegations published on 9 June 2009, the two Government delegates are accompanied by seven advisers and substitute delegates, while the Workers' delegation consists only of the titular delegate. The Committee notes the explanation provided by the Government according to which Government advisers had been included in the delegation list on a contingency basis. It also notes, however, that at the time of the examination of this communication, 10 June 2009, after half of the duration of the Conference, five advisers had already registered.*
121. *The Committee considers that the very principle of tripartism and the composition of delegations to the International Labour Conference, as envisaged by article 3 of the ILO, Constitution requires Members to accredit delegations which do not present serious and manifest imbalance as between its three parts.*

General observations

122. This year, the Committee has been faced with a number of complaints and communications that raised expressly or implicitly the question of imbalanced delegations as regards the number of Government, Employers' and Workers' advisers accredited in delegations. The Committee considers that there is a general principle requiring Governments to send delegations to the Conference which do not present a serious and manifest imbalance as between its three parts, so that Government, Employers and Workers have a comparable ability to actively participate in the work of the Conference. This can be inferred from the very principle of tripartism as reflected in the ILO Constitution, in particular its article 3 concerning the delegations to the Conference and article I(d) of the Declaration of Philadelphia (1944), and the *Resolution concerning the Strengthening of Tripartism in the Over-all Activities of the International Labour Organisation* adopted by the International Labour Conference on 21 June 1971. The Committee would like to request the Governing Body, through the Conference, to consider possible measures to improve the situation in this respect.
123. The Committee wishes to stress the importance of governments stating clearly, in the credentials deposited with the Office, the functions held by the members of the Government, Employers' and Workers' delegations, particularly as to the nomination of delegates and advisers. It notes that in one case examined this session, lack of clarity as to

such nomination prevented the Committee from fully examining a complaint (paragraphs 101–104 above). Article 3, paragraph 8, of the ILO Constitution states the obligation of governments to communicate to the Office the “names of the delegates and their advisers”. Credentials must clearly identify the persons to which the functions as delegates and advisers are entrusted, otherwise they cannot be considered as credentials and may be rejected by the Office. In order to facilitate the fulfilment of this obligation, the Committee recalls that governments are requested to utilize the credentials form enclosed with the letter of convocation to the Conference, which is sent to governments every year, or the *Online Credentials*¹ application made available by the Office. These forms for credentials are important as they assist in providing clear information on the role of each member of the delegation as well as on the organizations consulted in the nomination process as well as on the payment of travel and subsistence expenses.

- 124.** 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, 12, and 34.

Geneva, 16 June 2009.

(Signed) James Smythe
Chairperson

Lidija Horvatić
Ulf Edström

¹ <http://www.ilo.org/credentials/index.asp>.

- 1) Government delegates
2) Government advisers
3) Employers' delegates

- 4) Employers' Advisers
5) Workers' delegates
6) Workers' Advisers

List of registered delegates and advisers

	1)	2)	3)	4)	5)	6)		1)	2)	3)	4)	5)	6)		1)	2)	3)	4)	5)	6)		1)	2)	3)	4)	5)	6)
Afghanistan.....	2	5	1	4	1	1	Ecuador.....	2	5	1	2	1	1	Luxembourg.....	2	10	1	4	-	6	Sierra Leone.....	2	-	-	-	-	-
Albania.....	2	6	1	1	1	1	Egypt.....	2	7	1	2	1	6	Madagascar.....	2	3	1	-	1	-	Singapore.....	2	10	1	2	-	6
Algeria.....	2	9	1	5	1	6	El Salvador.....	2	1	1	-	1	-	Malawi.....	2	4	1	-	1	-	Slovakia.....	2	5	1	4	1	4
Angola.....	2	2	1	-	1	2	Equatorial Guinea.....	2	-	1	-	1	-	Malaysia.....	2	4	1	-	1	2	Slovenia.....	2	2	1	1	1	1
Antigua and Barbuda.....	-	-	-	-	-	-	Eritrea.....	2	1	1	-	1	1	Maldives.....	-	-	-	-	-	-	Solomon Islands.....	-	-	-	-	-	-
Argentina.....	2	5	-	6	1	6	Estonia.....	2	2	-	1	1	-	Mali.....	2	6	1	1	1	1	Somalia.....	2	1	1	1	-	-
Armenia.....	-	-	-	-	-	-	Ethiopia.....	2	3	1	1	1	1	Malta.....	2	3	1	5	1	4	South Africa.....	2	7	1	3	1	6
Australia.....	2	2	1	2	1	2	Fiji.....	2	1	1	-	1	-	Marshall Islands.....	-	-	-	-	-	-	Spain.....	2	7	1	6	1	6
Austria.....	2	10	1	2	-	2	Finland.....	2	6	1	4	1	4	Mauritania.....	2	3	1	-	-	1	Sri Lanka.....	2	7	1	-	1	6
Azerbaijan.....	2	2	1	1	1	5	France.....	2	12	1	5	1	6	Mauritius.....	2	4	1	1	1	-	Sudan.....	2	2	1	2	1	6
Bahamas.....	2	-	1	-	1	2	Gabon.....	1	5	1	1	1	3	Mexico.....	2	9	1	6	1	6	Suriname.....	2	-	1	-	1	-
Bahrain.....	2	6	-	3	1	2	Gambia.....	2	2	1	-	1	-	Republic of Moldova.....	2	1	-	-	-	-	Swaziland.....	2	7	1	3	1	1
Bangladesh.....	2	5	1	2	1	2	Georgia.....	2	-	1	6	1	3	Mongolia.....	1	2	1	3	1	1	Sweden.....	2	9	1	2	1	5
Barbados.....	2	2	1	-	1	1	Germany.....	2	12	1	4	1	6	Montenegro.....	2	3	1	-	1	-	Switzerland.....	2	8	1	3	1	5
Belarus.....	2	4	1	2	1	6	Ghana.....	1	7	1	5	1	5	Morocco.....	2	11	1	3	1	6	Syrian Arab Republic.....	2	3	-	2	1	4
Belgium.....	2	12	-	4	1	6	Greece.....	2	12	-	5	1	6	Mozambique.....	2	4	1	3	1	3	Tajikistan.....	2	-	-	-	-	-
Belize.....	2	-	1	-	1	-	Grenada.....	-	-	-	-	-	-	Myanmar.....	2	5	1	-	1	1	United Republic of Tanzania.....	2	12	1	3	1	5
Benin.....	2	10	1	-	1	6	Guatemala.....	2	3	1	-	1	-	Namibia.....	2	7	1	3	1	2	Thailand.....	2	8	1	2	1	6
Bolivia.....	2	2	1	-	-	-	Guinea.....	2	11	1	6	1	5	Nepal.....	2	2	1	-	1	6	The Former Youg. Rep. of Maced	2	3	1	1	1	1
Bosnia and Herzegovina.....	2	2	-	-	-	-	Guinea-Bissau.....	2	-	-	-	-	-	Netherlands.....	2	8	1	3	1	3	Timor-Leste.....	2	-	1	-	1	-
Botswana.....	2	5	1	-	1	-	Guyana.....	-	-	-	-	-	-	New Zealand.....	2	4	1	1	1	1	Togo.....	2	5	1	5	1	6
Brazil.....	2	12	1	6	1	5	Haiti.....	2	3	1	-	1	1	Nicaragua.....	2	1	1	-	1	-	Trinidad and Tobago.....	2	5	1	1	1	1
Brunei Darussalam.....	2	5	1	-	1	-	Honduras.....	2	5	1	1	1	-	Niger.....	2	5	1	3	1	6	Tunisia.....	2	6	1	4	1	6
Bulgaria.....	2	7	1	3	1	2	Hungary.....	2	9	1	6	1	5	Nigeria.....	2	11	1	3	1	6	Turkey.....	2	11	1	6	1	5
Burkina Faso.....	2	11	1	3	1	5	Iceland.....	2	2	1	1	-	1	Norway.....	2	9	1	4	1	6	Turkmenistan.....	-	-	-	-	-	-
Burundi.....	2	3	1	-	1	-	India.....	2	7	1	6	1	6	Oman.....	2	12	1	6	1	5	Tuvalu.....	-	-	-	-	-	-
Cambodia.....	2	2	-	-	1	-	Indonesia.....	2	12	1	6	-	2	Pakistan.....	2	2	1	-	1	-	Uganda.....	2	2	1	4	1	3
Cameroon.....	2	7	1	3	1	5	Islamic Republic of Iran.....	2	7	1	4	1	5	Panama.....	2	4	1	2	1	2	Ukraine.....	2	2	1	1	1	6
Canada.....	2	9	1	4	1	4	Iraq.....	2	7	1	-	1	-	Papua New Guinea.....	2	5	1	-	1	-	United Arab Emirates.....	2	12	1	2	1	1
Cape Verde.....	2	1	1	-	1	-	Ireland.....	2	7	-	1	1	-	Paraguay.....	2	6	1	1	1	1	United Kingdom.....	2	7	1	5	1	6
Central African Republic.....	2	4	1	-	1	1	Israel.....	2	9	1	2	1	3	Peru.....	2	3	1	-	1	1	United States.....	2	12	1	5	1	6
Chad.....	2	9	1	1	1	3	Italy.....	1	10	1	1	1	2	Philippines.....	2	8	1	4	1	6	Uruguay.....	2	4	1	3	1	3
Chile.....	2	12	1	6	1	6	Jamaica.....	2	7	1	2	1	-	Poland.....	2	6	1	4	1	5	Uzbekistan.....	2	5	-	-	-	-
China.....	2	12	1	5	1	6	Japan.....	2	12	1	3	1	5	Portugal.....	2	10	1	6	1	5	Vanuatu.....	-	-	-	-	-	-
Colombia.....	2	11	-	5	1	6	Jordan.....	2	5	1	2	1	5	Qatar.....	2	11	1	1	1	-	Venezuela (Bolivarian Rep).....	2	11	1	5	1	5
Comoros.....	-	1	1	-	1	-	Kazakhstan.....	2	1	1	-	1	-	Romania.....	2	4	1	5	1	5	Viet Nam.....	2	8	1	1	1	1
Congo.....	2	8	-	-	1	6	Kenya.....	2	6	1	4	1	5	Russian Federation.....	2	12	1	2	1	6	Yemen.....	2	1	-	-	1	2
Costa Rica.....	2	-	1	-	1	-	Kiribati.....	2	-	1	-	1	-	Rwanda.....	2	2	-	-	1	-	Zambia.....	2	7	1	4	1	4
Côte d'Ivoire.....	2	12	1	6	1	5	Republic of Korea.....	2	12	1	4	1	6	Saint Kitts and Nevis.....	-	-	-	-	-	-	Zimbabwe.....	2	12	1	1	1	3
Croatia.....	2	2	1	2	1	3	Kuwait.....	2	12	-	2	1	5	Saint Lucia.....	-	-	-	-	-	-							
Cuba.....	2	3	1	1	1	1	Kyrgyzstan.....	-	-	-	-	-	-	Saint Vincent and the Grenadines.....	-	-	-	-	-	-							
Cyprus.....	2	8	1	4	1	6	Lao People's Dem. Republic.....	2	-	1	1	1	1	Samoa.....	-	-	-	-	-	-							
Czech Republic.....	2	12	-	4	1	4	Latvia.....	2	2	-	-	1	-	San Marino.....	2	1	1	1	1	4							
Democratic Republic of the Congo	1	4	-	2	-	1	Lebanon.....	2	7	1	4	1	4	Sao Tome and Principe.....	2	2	1	-	1	-							
Denmark.....	2	6	1	3	1	4	Lesotho.....	2	5	1	-	1	-	Saudi Arabia.....	2	6	1	3	1	2							
Djibouti.....	2	3	1	-	1	1	Liberia.....	2	4	1	-	1	1	Senegal.....	2	12	1	2	1	6							
Dominica.....	-	-	-	-	-	-	Libyan Arab Jamahiriya.....	2	7	1	-	1	4	Serbia.....	2	3	1	1	1	4							
Dominican Republic.....	2	12	1	3	1	5	Lithuania.....	2	2	1	-	1	-	Seychelles.....	-	-	-	-	-	-							

	1)	2)	3)	4)	5)	6)
Total	325	944	144	348	151	470

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