



Reports on credentials

Second report of the Credentials Committee

Composition of the Conference

1. Since 1 June 2012, when the Credentials Committee adopted its first report (*Provisional Record* No. 4B), new credentials have been received from two member States (Bahamas and Equatorial Guinea). Therefore, at present a total of 170 member States are represented at the International Labour Conference.
2. As of today there are 5,327 persons accredited to the Conference (as compared to 5,469 in 2011, 5,138 in 2010, and 4,944 in 2009), of whom 4,395 are registered (as compared to 4,464 in 2011, 4,227 in 2010, and 4,096 in 2009). The attached list contains more details on the number of delegates and advisers registered.
3. The Committee wishes to indicate that 151 ministers, vice-ministers and deputy ministers have been accredited to the Conference.

Monitoring

4. The Committee was seized automatically with two cases, pursuant to article 26quater of the Standing Orders of the International Labour Conference, by virtue of decisions of the Conference taken at its 100th Session (2011).

Djibouti

5. At its 100th Session (2011), the Conference decided, by virtue of article 26bis, paragraph 7, of the Conference Standing Orders, and upon the unanimous recommendation of the Credentials Committee, to renew the reinforced monitoring measures concerning Djibouti (*Provisional Record* No. 25, 2011) and it requested the Government to: (a) submit to the Director-General of the International Labour Office, by the end of the year 2011, a detailed report on the progress achieved in Djibouti as regards the establishment of criteria for the independent representation of workers in the country and the concrete actions undertaken towards a definitive resolution of the problem; and (b) submit for the next session of the Conference, at the same time that it submits its credentials for the delegation of Djibouti, a detailed report substantiated with relevant documentation on the procedure utilized to nominate the Workers' 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.

6. The Government did not submit the reports requested.
7. *Noting that the Government once again did not respect its obligation to provide the reports requested, the Committee deplores its lack of cooperation, all the more so, as again this year, the nomination of the Workers' delegation to the Conference has been the subject of an objection (see paragraphs 27–35).*
8. *Taking into account the examination of the objection, the Committee considers that the situation justifies the renewal of the monitoring under analogous terms to those decided by the Conference at its last session (see paragraph 35).*

Myanmar

9. At its 100th Session (2011), the Conference decided, by virtue of article 26bis, paragraph 7, of the Conference Standing Orders, and upon the recommendation of the Credentials Committee, to renew the monitoring concerning the nomination of the Workers' delegate of Myanmar (*Provisional Record* No. 25, 2011) thereby requesting the Government to: (a) submit to the Director-General of the International Labour Office, by the end of the year 2011, a detailed report on the progress achieved in Myanmar as regards the establishment of free and independent workers' organizations and on how the Government envisages to consult them 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.
10. In a letter dated 27 December 2011 addressed to the Director-General of the International Labour Office, Mr Chit Shein, Director-General, Ministry of Labour, recalled the progress made towards the adoption of the Labour Organizations Law since the approval of the State Constitution in 2008. The Labour Organizations Law, which had been modified following advice given by ILO experts, had been adopted by the Parliament and was approved by the President. It was to come into force after notification signed by the President; the Government added that the Law defining the Rights and Responsibilities of the People's Workers of 1964 had been revoked. Awareness-raising workshops on the establishment of free and independent labour organizations had been held, in cooperation with the ILO Liaison Officer and the Deputy Minister for Labour, on 17 and 19 December 2011.
11. In a communication dated 22 May 2012, complemented on 26 May, the Ministry of Labour transmitted information on the procedure utilized to nominate the Workers' delegate, which stated that the Workers' delegate to the 101st Session of the Conference was democratically elected by secret ballot on 1 May 2012 when representatives from 15 workers' organizations had attended the May Day Celebrations. Before the election took place, the ILO Liaison Officer explained thoroughly what a delegate's participation in the Conference entailed. The Myanmar Overseas Seafarers Federation chose not to submit a candidate, citing a difference of opinion on the election procedure used by the Department of Labour. Nevertheless, the General Secretary of the Federation did agree to preside over the election. The 14 candidates all came from basic labour organizations; the

membership of each organization was provided in the election report. Having received the majority vote following the secret ballot, Mr Thant Zin Oo, from the Basic Labour Organization of Aung Tile Factory was nominated Workers' delegate to the 101st Session of the Conference.

12. *The Committee notes with satisfaction that the Government of Myanmar has submitted both reports required under the monitoring decision adopted by the Conference at its 100th Session (2011), and that for the first time in 13 years the Government has appointed a Workers' delegate whose credentials are not the subject of an objection.*
13. *The Committee commends the Government for the progress achieved towards the development of free and independent workers' organizations in Myanmar, as part of wider political transformation in the country; in particular, the Committee welcomes the fact that new legislation permitting the creation of free trade unions has been adopted, taking into account advice provided by the ILO, and is now being implemented.*
14. *As regards the nomination of the Workers' delegate of Myanmar to this session of the Conference, the Committee notes that on 1 May 2012, all 15 workers' organizations that had registered by that date convened for the purpose of electing the delegate and 14 of them participated in the election. While the Committee notes that these organizations were all basic workers' organizations which, taken together, according to the figures provided by the Government, had only 2,110 members, and that the delegate's representativity of the country's workforce remains thus very limited, it considers that this situation is a necessary transition phase pending the creation of further workers' organizations. In this connection, it also notes that, according to the Government's statement at the special sitting on Myanmar of the Committee on the Application of Standards (Provisional Record No. 19, Part 3), the number of registered workers' organizations had already increased to 41 within one month.*
15. *The Committee therefore expects that the number of basic labour organizations in the country will continue to grow and that they will be able to establish and join federations and confederations, which will form their opinions and adopt their policies through democratic procedures, so that the most representative organizations among them can be consulted by the Government for the purpose of nominating the Workers' delegate to future sessions of the International Labour Conference. The Committee recommends that the Government avail itself of the technical assistance that the Office may offer in that respect.*
16. *The Committee has in the past made reference to the fact that the Committee on Freedom of Association of the Governing Body had requested the Government to recognize the Federation of Trade Unions of Burma (FTUB) as a legitimate trade union organization (Provisional Record No. 4C, 2008) and it is therefore with great interest and expectation that it notes the Government's reference in the Committee on the Application of Standards to discussions concerning modalities for the registration of the FTUB under existing law and the return of Mr Maung Maung, its General Secretary, to the country.*
17. *Highly interested in the further developments in this regard and with the intent to assist the Government with its comments, the Committee considers that the situation should continue to be monitored, so that the Credentials Committee at the next session of the Conference can assess and accompany further progress achieved as regards the development of workers' organizations in the country and their consultation for the purpose of nominating the Workers' delegate to the Conference.*

-
18. Therefore by virtue of articles 26quater and 26bis, paragraph 7, of the Conference Standing Orders, the Committee unanimously proposes that the Conference request the Government of Myanmar to submit for the next session of the Conference, at the same time that it submits its credentials for the delegation of Myanmar, a detailed report on the further progress in Myanmar as regards the establishment of free and independent workers' organizations and on the procedure utilized to nominate the Workers' delegate and advisers in agreement with the most representative of these organizations.

Objections

19. The Committee has received 19 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* published as a Supplement to the *Provisional Record* of 30 May 2012 and to the failure to deposit credentials of an Employers' or a Workers' delegate. The Committee has completed the examination of all objections, which are listed below in the French alphabetical order of the member States concerned.

Objection concerning the nomination of the Workers' delegation of Cameroon

20. The Committee received an objection concerning the nomination of the Workers' delegation of Cameroon presented by Mr Louis Sombes, National Chairman of the *Confédération des syndicats autonomes du Cameroun* (CSAC), contesting the nomination of Mr Pierre Louis Mouangue as an adviser to the delegation. The author of the objection alleged that since July 2011, the CSAC is the scene of repeated interference by the Government in its operations and internal management. He alleged that the reorganization of the Executive Board was carried out in breach of the provisions of the Statute and internal rules of procedure: the trend represented by Mr Mouangue is the consequence of dissent within the organization and of a pseudo-congress that was held in Limbé on 23 July 2011 with the support of the Government, and which was unknown to the majority of the affiliated organizations. Condemning the operations of the dissident group, these organizations called for an urgent ordinary congress, which was held in Yaoundé on 23 and 24 September 2011, and which, according to the author of the objection, resulted in the democratic election of a new national Executive Board. On 18 April 2012 the new Minister of Labour called a meeting with Mr Sombes, National Chairman of the CSAC from the congress in Yaoundé and Mr Vewesse, Confederal Chairman from the congress in Limbé. During the meeting, the Minister stated that in the framework of governmental measures aimed at cleaning up the unions, he was giving the two factions of the CSAC 15 days, renewable once, to resolve the existing dissention and to present a single organization. Pointing out that this approach is not in line with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), the author of the objection indicated that the dissident party was hostile to the idea of holding a unifying congress. The Government's decision to include Mr Mouangue in the delegation of Cameroon thus illustrates the Government's bias. He requested the Committee to refuse to admit Mr Mouangue as an adviser to the Conference.
21. In a written communication addressed to the Committee at its request, the Minister of Labour and Social Security indicated having been informed, on 8 August 2011, about the ordinary congress of the CSAC, convened by Mr Sombes in Limbé. According to the minutes in their possession, a new Executive Board – with Mr Mouangue as Secretary-General – had been elected. Two months later another congress, also convened by Mr Sombes, contested the results of the first congress. Having considered that the two factions failed to resolve their dispute within the time frame given, the Government decided to follow the minutes of the congress convened in Limbé and thus maintained

Mr Mouangue in the delegation. The Government also stated that all the stakeholders were consulted on the nomination of the representatives of the Employers and Workers at the present session of the Conference and that it did not interfere in the nomination process.

22. *The Committee notes that the objection does not call into question the representativity of the CSAC but rather the person representing it, Mr Pierre Louis Mouangue, accredited as adviser. While it considers that the Government's reply regarding the presence of Mr Mouangue in the delegation of Cameroon is not convincing, the Committee notes that the objection arises from an internal conflict in the CSAC which does not fall within the scope of its mandate, but rather that of the national judicial authorities. In these circumstances, and in light of the information before it, the Committee decides not to uphold the objection.*

Objection concerning the nomination of the Workers' delegate of Costa Rica

23. The Committee received an objection presented by the *Unión Nacional de Empleados de la Caja y de la Seguridad Social (UNDECA)*, the *Asociación Nacional de Educadores (ANDE)*, *Asociación de Profesores de Segunda Enseñanza (APSE)*, the *Central General de Trabajadores (CGT)*, the *Asociación Nacional de Empleados Judiciales (ANEJUD)*, the *Central del Movimiento de Trabajadores Costarricenses (CMTC)*, the *Central Unitaria de Trabajadores (CUT)*, the *Sindicato de la Salud y la Seguridad Social (SISS)*, the *Sindicato de Profesionales en Ciencias Médicas de la Caja e Instituciones Afines (SIPROCIIMECA)*, the *Asociación Nacional de Profesionales en Enfermería (ANPE)*, the *Asociación de Empleados del Seguro Social (AESS)*, the *Asociación Nacional de Técnicos en Telecomunicaciones de Costa Rica (ANTTEC)*, the *Asociación Costarricense de Directores Médicos (ALODIMED)*, the *Sindicato de Trabajadores de Farmacia de la Caja Costarricense de Seguro Social y Afines (SINTAF)*, the *Sindicato de los Trabajadores de la Salud y la Seguridad Social (SINTRASAS)*, the *Coordinadora Unitaria Sindical, Magisterial y Comunal (CUSIMA)*, and the *Sindicato Nacional de Administradores de Servicios de Salud del Seguro Social (SINASSASS)* concerning the nomination of the Workers' delegate of Costa Rica. On 3 May 2012 an assembly was held among a majority of the workers' organizations in Costa Rica, for the purpose of nominating a representative to the Conference. According to the objecting organizations, this included the most representative workers' organizations and represented a total of 259,192 workers. At the assembly, Mr José Luis Castillo Solano, a representative of the *Sindicato de Trabajadores de JAPDEVA (SINTRAJAP)* was elected as Workers' delegate and Mr Olmán Chincilla Hernández, a representative of the CMTC, as adviser and substitute delegate. On 4 May 2012 the outcome of this election for the purposes of nominating a Workers' delegation to the Conference was submitted to the Government. The Government, in complete disregard of the proposal that it had received, proceeded to nominate Mr Sergio Saborío, Secretary-General of the *Confederación de Trabajadores Rerum Novarum (CTRN)*. The objecting organizations considered the Government's actions were arbitrary and demonstrated continued favouritism. Indeed, the objecting organizations alleged that the Government had for several years accredited a representative from the same workers' organization that was neither the most representative workers' organization nor independent. The authors of the objection considered that the complete and open disregard of their proposal contravened article 3 of the ILO Constitution as the Workers' delegate had not been established in agreement with the most representative workers' organizations.
24. In a written communication addressed to the Committee at its request, the Government indicated that it had nominated the Workers' delegate from the most representative workers' organization of the country, the CTRN, that had a total of 61,040 members. Prior to the nomination, the Government had conducted consultations with the important

workers' organizations of the country. According to the Government, the assembly of workers' organizations that had been held by the objecting organizations appeared to have been convoked by one sector of the trade union movement and therefore it was not clearly an assembly held by the full Costa Rican trade union movement. It stressed that the number of members affiliated to those organizations present at the meeting reached only 42,446 members, whereas the authors of the objection had self-attributed a much higher number of 259,192. The Government considered that the nomination of Mr Saberío had occurred in conformity with article 3, paragraph 5, of the Constitution, since a nomination by a temporary alliance of some workers' organizations would have required the support from the most representative workers' organization. The Government considered that since there had been no candidate designated by consensus from all of the country's workers, nor a system of rotation that reflected an agreement with the most representative workers' organization, the nomination had been made on the basis of the names submitted by the organization with the largest number of members.

25. *The Committee notes that the information brought to its attention, by the objecting organizations as well as the Government, does not provide it with sufficient data, on the number of members in the organizations concerned, allowing it to come to any clear conclusions on their representativity. The numerical importance of the group of organizations having nominated its representatives from the ranks of SINTRAJAP and CMTC increases six-fold in terms of membership, depending upon whether the information comes from the Government or the objecting organizations. This data could not be verified on the basis of information provided from the Department of Social Organizations in the Ministry of Labour and Social Security. On the other hand, the Committee notes that, according to the available data provided by the Government, adding the membership numbers of the following organizations – ANEJUD, CGT, CMTC, CUT, SISS, SIPROCIMECA, UNDECA, as well as SEBANA, SINTRAJAP and the Unión Nacional de Trabajadores y Trabajadoras (UNT) (as mentioned in the letter of 4 May) – otherwise said, without considering the membership of the ten other objecting organizations – the total is 58,064 which approaches the amount communicated for the CTRN (61,040). Only looking at these numbers, the Government should have taken account of the nomination coming from the group of workers' organizations.*
26. *In this respect, the Committee recalls the Advisory Opinion No. 1 of the Permanent Court of International Justice (PCIJ) of 1922. The PCIJ found that when several organizations agreed on a nomination, the Government had to take into account their joint numerical strength. Failing an agreement between all the most representative organizations, the nomination of a coalition of organizations whose membership numbers are, taken together, larger than those of the most numerous organizations, can therefore prevail. In any event, the Committee emphasizes the importance of clarifying the situation of representativity among the workers' organizations in the country and to ensure that the nomination of the Workers' delegation is made in agreement with the most representative organizations. The Committee expects that the Government will ensure, if necessary with technical assistance from the Office, that the nomination of the social partners at future sessions of the Conference will be in full compliance with article 3, paragraph 5, of the ILO Constitution.*

Objection concerning the nomination of the Workers' delegation of Djibouti

27. The Committee received an objection concerning the nomination of the Workers' delegation of Djibouti presented by Mr Adan Mohamed Abdou, Secretary-General of the *Union djiboutienne du travail* (UDT), and Mr Kamil Diraneh Hared, Secretary-General of the *Union générale des travailleurs djiboutiens* (UGTD). The authors of the objection alleged that the Government had once again refused to take into account the list of representatives designated by their respective organizations for participation in the present

session of the Conference, preferring instead the “clone unions”. According to them, the Government continued to usurp the name of the UGTD, as it did of that of the UDT, in breach of its commitments before the Committee. The authors of the objection denounced the organization of a congress of the clone union UGTD in 2010, with support from the Government and the World Federation of Trade Unions (WFTU) and stated that this question was the subject of a complaint before the Committee on Freedom of Association. They requested the Committee to take an effective and definitive decision with respect to the delegation of Djibouti.

28. Clarifications on the objection were provided orally by Mr Mohamed Abdou, in the name of the UDT, and Mr Mohamed Doubad Waiss, in his capacity as First Deputy Secretary-General of the UGTD. They were accompanied by Mr Hassan Cher Hared, Secretary of International Relations in the UDT. They recalled that for 15 years the Government had tried to put into the delegation of Djibouti, people who did not represent the workers and that it continued to ignore the decisions of the supervisory bodies of the ILO. According to them, the UGTD congress in 2010 was in fact a pseudo-congress, held during a seminar for Somali workers, with the support of the Government and international organizations such as the WFTU, which were manipulated by the Government. They recalled that in 2009 the Government prevented the UDT from holding its congress, which then had to be held semi-clandestinely in January 2010. Trade union leaders as well as basic organizations of the true UDT and UGTD continued to be harassed and subjected to anti-union discrimination. The climate was getting even worse, and the freedom of movement of heads of unions was menaced and the Government sought to prevent them from appearing before international bodies like the ILO. They provided a number of documents in support of their objection.
29. *The Committee deeply regrets that the Government did not respond to the invitation to present its comments on the objection.*
30. *It also deeply regrets that the Government did not submit the reports as requested by the Conference (see paragraph 7), and this for several years, which reflects a lack of respect for the procedures before the Committee and more generally, for its obligations as a Member of the International Labour Organization. In the absence of a reply by the Government, the Committee bases its conclusions on the information brought to its attention by the objecting organizations.*
31. *The Committee expresses its deep concern about the absence of any progress on this issue and the lack of cooperation by the government authorities. It deplores the attitude of the Government, which clearly does not intend to address the problems that have repeatedly been brought to the Committee’s attention. The Committee takes note of the information provided orally by Mr Mohamed Abdou, Mr Doubad Waiss and Mr Cher Hared. Recalling that it is in the interest of the objecting organizations to present specific allegations, supported by relevant documentation, which are within the jurisdiction of the Committee, it regrets that certain documents were brought to its attention at a late stage, when these could have been provided in time to support the objection addressed to the Committee.*
32. *The Committee is very concerned by the confusion that continues to reign over the Djiboutian trade union movement. It notes that according to the information provided orally, the UGTD – through its General Secretary Mr Direneh Hared – called into question the legitimacy of the congress held in 2010 with the support of the Government and certain international organizations, presented as having been manipulated, so that the phenomenon of “clonage” of the organizations has in fact not disappeared.*

-
33. *The Committee notes in this regard that the Committee on Freedom of Association, in its last examination of Case No. 2450 (follow-up) (Report No. 363, March 2012), expressed its deep concern at the absence of any real progress and insisted yet again on the need for the Government to guarantee the right to hold free and transparent elections to all trade unions in the country, particularly the UDT and its affiliated organizations, or the UGTD led by Mr Diraneh Hared and its affiliated organizations. These elections must enable workers to designate their representatives freely, in accordance with their own statutes and without interference by the public authorities. It is only in a framework which fully respects the capacity of workers' organizations to act in total independence that the Government will be in a position to determine, with these organizations, objective and transparent criteria for nominating workers' representatives to national and international tripartite bodies and to the International Labour Conference (see also Case No. 2753, ibid.).*
34. *The Committee strongly urges the Government to implement without delay the measures that it has called for in order to put an end to a situation that has lasted much too long. The Committee considers that it is essential that any assistance or technical cooperation activities in the country by the Office, in consultation with the international confederations concerned, take into due account the conclusions of the Committee on Freedom of Association and the Credentials Committee, so that concrete solutions can be found in a framework that fully respects the capacity to act of the genuine workers' organizations in Djibouti, in total independence from the Government, in accordance with the provisions of 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).*
35. *In light of the above, the Committee considers that the situation justifies the renewal of the monitoring decided by the Conference at its last session, that is a reinforced monitoring. By virtue of article 26quater and 26bis, paragraph 7, of the Conference Standing Orders, the Committee unanimously proposes that the Conference request the Government of Djibouti to:*
- (a) submit to the Director-General of the International Labour Office, by the end of the year 2012, a detailed report on the progress achieved in Djibouti as regards the establishment of criteria for the independent representation of workers in the country and the concrete actions undertaken towards a definitive resolution of the problem; and*
 - (b) submit for the next session of the Conference, at the same time that it submits its credentials for the delegation of Djibouti, a detailed report substantiated with relevant documentation on the procedure utilized to nominate the Workers' delegate and advisers, specifying the organizations consulted on the matter and according to which criteria, the numerical importance of the consulted organizations, 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.*

Objection concerning the nomination of the Workers' delegation of Egypt

36. *The Committee received an objection presented by the Egyptian Federation of Independent Trade Unions (EFITU), signed by its President, Mr Kamal Abou'Ita, concerning the presence of members coming from the Temporary Committee for the Administration of the Egyptian Trade Union Federation in the Workers' delegation of Egypt. The objecting organization alleged that the Egyptian Trade Union Federation (ETUF) was dissolved by the Egyptian judiciary and replaced by an administrative committee whose mandate was to*

monitor the enforcement of judgements concerning the dissolution of remaining union levels. But this mandate now having been completed, the Temporary Committee had since usurped the authority of the ETUF, without any elective process. According to the objecting organization, the fact that the interim government had chosen the Workers' delegate from within the ranks of an administrative committee of the dissolved federation, was against the principles of freedom of association. It added that it had only been informed of the composition of the delegation after members of the dissolved federation had already left for the Conference and it argued that this was a manoeuvre by the interim government to prevent the EFITU's participation at the Conference. It therefore contested the credentials of the Workers' delegate as well as other members of the delegation coming from the administrative committee in question.

37. The Committee also received a copy of a letter from Mr Abou'Ita to the Minister of Manpower and Migration stating that he rejected his appointment in the Workers' delegation of Egypt and, in particular, his appointment as deputy head of that delegation in violation of his right to be the head of the delegation.
38. In a written communication addressed to the Committee at its request, the Government submitted that independent trade union organizations had been growing since the Government declared in February 2012 the importance it attached to freedom of association; according to the latest data concerning independent trade unions registered as of 30 May 2012, there were 798 trade union committees, 48 general trade unions, and 15 union federations. Available data showed that the ETUF was the most representative. The Government had shown great interest in providing the suitable environment for freedom of association in the country, and the Ministry of Manpower and Migration had undertaken consultations with representatives of different trade unions through an exchange of letters. The ETUF, the EFITU, and the Center for Trade Union and Workers' Services (CTUWS), were the most representative organizations in the country, therefore the Ministry asked them to provide it with nominations for the Workers' delegation. The ETUF replied on 6 May, the EFITU on 9 May and the CTUWS on 10 May. The ETUF and the EFITU were officially notified on 27 May that the titular delegate should be in rotation. The titular delegate was from the ETUF this year, and the substitute delegate came from the EFITU. The Government contended that a decision of the Ministry of Manpower of 4 August 2011 had dismantled the ETUF Board and the Temporary Committee was created to run the Federation with all the powers that were vested in the ETUF Board. It was to continue its work until union elections were held in all committees of the Federation; as these elections had not yet been held this mandate had been duly extended twice for a period of six months. In order to facilitate the travel arrangements for the delegation, the Government alleged that it provided the necessary information to the Swiss Embassy in Cairo and the Egyptian Ministry of Foreign Affairs, but that it was the Swiss Embassy in Cairo that found it to be a problem that some of the individuals lacked new passports with national numbers. The Government was making every effort to support all workers' organizations and to provide help to establish the principle of freedom of association.
39. Clarifications requested by the Committee were provided orally in the name of the Government by Mr Yasser Hassan, Minister at the Permanent Mission in Geneva. He was accompanied by Mr Abd Elfattah Mohamed, Director-General of the Organizations and Conferences Department in the Ministry of Manpower and Migration and Government delegate to the Conference. Mr Hassan stated that the ETUF, established in 1957, was governed by Law No. 35 of 1976; under this law, union elections had to be held every five years. The ETUF was under a process of restructuring since last year, following a court judgement from before the revolution which had not been implemented; the federation level board was dissolved and replaced by a temporary committee, but this did not touch the structure of the trade unions under the ETUF. The Temporary Committee was

supposed to be in place only until new elections were held in November 2011, but since the judiciary could not oversee the elections due to the Parliamentary elections being held in November, the mandate of the Temporary Committee was extended until May 2012. However, in May 2012 the judiciary was again unable to oversee the elections, due to the Presidential elections, so the mandate had once again been extended six months. According to the Government, if the court decision had dissolved all the unions of the ETUF, then the elections would have been immediately held. By Order No. 187 of the Minister of Labour, published in the *Official Gazette* on 6 August 2011, the Temporary Committee had the same mandate as the ETUF Board. Article 2 gave the Temporary Committee all the rights held by the Board and Article 3 stated that the Temporary Committee would stay in place until there were elections under judicial supervision. The Temporary Committee was chaired by the ex-head of cooperatives, and included among its members a lawyer from the court of appeal, the Secretary-General to the general union of social services, a well-known journalist, and trade unionists from various sectors. As regards the Supreme Constitutional Court Judgement No. 220/19 of 1 April 2012, this concerned the union elections of 1996 – but did not pronounce on the elections of 2001 or 2006. As regards its possible implications, it was noted that the Board was already dissolved and it did not affect the union structure of the ETUF. In 2011 the EFITU became a registered entity and was considered de facto a workers' organization, and Law No. 35 of 1976 did not apply to it. The EFITU would be governed by the new trade union law being discussed in Parliament. Before the new trade union law could be presented to the Plenary, it first had to go through the proposal committee, the committee on labour issues, and the legislative committee. As of 6 June the draft law had already gone through the first two committees. According to the Government, Egypt had been receiving technical cooperation from the ILO and had a process of consultation and cooperation with the Social Dialogue Sector. Concerning the nomination of the Workers' delegate, the Government asserted that it consulted with the ETUF, the EFITU and the CTUWS; all three entities sent back lists of nominees, claiming to be the only legitimate most representative workers' organization. The Government first had to ask them to shorten those lists so that they complied with the rules of the ILO on the maximum number of advisers, then called them together, and suggested that they use a rotation system among them. When consultations deadlocked, the Government gave the parties a list of names that it was putting forward in the credentials. Some of the delegation took the list to the Swiss Embassy in Cairo, which said it needed a letter from the Ministry of Foreign Affairs. It appears that some members of the delegation received the letter from the Ministry of Foreign Affairs more quickly than others, and so were able to get to Geneva by the opening of the Conference.

40. *With regard to article 26bis, paragraph 1(c) of the Conference Standing Orders, according to which 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 the signatory of the objection, Mr Kamal Abou'Ita, appears to be the person shown in the credentials as Kamal Refal, Head of EFITU, and designated as Workers' adviser and substitute delegate. Nevertheless, as he has expressly rejected his nomination as Workers' adviser and has not registered to the Conference, the Committee considers that the objection is receivable.*
41. *The Committee notes that the objection is lodged in the context of a situation of political change and of transition to trade union pluralism in Egypt. It notes that the Trade Union Act (Law No. 35), which institutionalizes a single trade union system benefiting the ETUF is still in force and that other workers' organizations, which have been developing in particular since 2011, still have no legal status. In this connection, the Committee notes with interest that the legislative process for the adoption of a new trade union law is now at an advanced stage.*

-
42. The Committee further notes that the Government, after having failed to obtain agreement on the composition of the Workers' delegation between the three trade union federations which it considers to be the most representative workers' organizations of the country, has nominated the delegate from the ETUF, a substitute delegate from the EFITU and advisers from the three organizations. The Committee notes that the Government considers the ETUF to be the most representative of the three organizations, but observes that it has provided no specific information to support this claim, which in addition is challenged by the objection on two grounds. Firstly, the precise mandate of the Temporary Committee for the Administration of the ETUF remains unclear: whereas the objecting organization considers it to be a mere caretaker committee primarily tasked with the dissolution of the remaining ETUF levels in accordance with court rulings, the Government quotes decisions by the Minister of Manpower and Migration according to which the Temporary Committee is exercising all powers vested in the ETUF Board until new elections, but did not provide a copy of the decisions to the Committee. Secondly, the implications of Supreme Constitutional Court Judgement No. 220/19 on the current ETUF structure remain unclear. Based solely on the text of the judgement and the Government's explanations according to which the judgement directly concerns only union elections in 1996, which have been followed by new elections, the Committee is unable to confirm the EFITU's understanding that the ETUF was dissolved. But it equally has doubts as regards the Government's contention that the judgement has no implications for the legitimacy of the current ETUF structure since the underlying facts concern a union committee election at enterprise level. In this regard, the Committee considers that it would have been for the Government to take urgent action to end the ambiguity of the current situation which was created by its unconstitutional decree.
43. Against this background, it is the Committee's view that the Government should have made greater efforts to obtain an agreement between all the most representative Workers' organizations before nominating the Workers' delegate from the ETUF without the agreement of the two others. The Committee observes that the Government's letter to the ETUF and the EFITU suggesting that they agree on a system of rotation was a step in this direction. Given that last year the delegate already came from the ETUF and the substitute delegate from the EFITU, such a system might have resulted in the nomination of a delegate coming from the EFITU. The Committee recalls, however, that a system of rotation can only serve as a method for nominating the Workers' delegation if the most representative organizations in the country have so decided in agreement among themselves. In this regard, the Government's letter may have come too late to be followed up usefully, as it was dated 27 May 2012, three days before the opening of the Conference.
44. The Committee recalls that, in the absence of an agreement between all most representative organizations, the Government has to establish and apply objective and verifiable criteria for determining their representativity. The Committee trusts that the application of such criteria after the entry into force of new legislation fully implementing the abolishment of the single trade union system and ensuring equality of treatment between workers' organizations will provide reliable information on the relative representativity of the organizations concerned. It recommends that the Government avails itself of technical cooperation which the ILO may provide in this respect.
45. As to the EFITU's allegation that the Government had informed it very late of the composition of the delegation in order to prevent its representatives from attending the Conference, the Committee recalls that allegations that an accredited delegate or adviser has been prevented from attending the session of the Conference due to an act or omission of a government, can be submitted to the Committee as a complaint under article 26ter, paragraph 2, of the Conference Standing Orders. However, in view of the explanations provided by the Government and the fact that, according to Conference records, four EFITU representatives were able to register in person at the Conference, respectively on

1, 5 and 8 June, the Committee considers that such a complaint would be devoid of merit in this case. The Committee nevertheless wishes to stress the importance of governments establishing the credentials of the delegation in a timely and transparent manner, so that all delegates and advisers can make the necessary travel arrangements to attend the Conference as from its opening day.

Objection concerning the nomination of the Workers' delegate of Egypt

46. The Committee received an objection regarding the nomination of the Workers' delegate of Egypt submitted by the Egyptian Democratic Labour Congress (EDLC).
47. *The Committee takes note that this objection is not signed, which is equivalent to the authors remaining anonymous. The objection is therefore irreceivable, by virtue of the provisions of article 26bis, paragraph 1(b), of the Conference Standing Orders.*

Objection concerning the nomination of the Workers' delegate of the United Arab Emirates

48. The Committee received an objection presented by the International Trade Union Confederation (ITUC) concerning the nomination of the Workers' delegate of the United Arab Emirates. The ITUC contended that the appointment of the Workers' delegate had not been made in accordance with article 3, paragraphs 1 and 5, of the ILO Constitution. According to the *Provisional List of Delegations*, Mr Mohamed Al Shamsi, Chairperson of the Board of Directors of the UAE Coordination Committee of Professional Associations Operating in the Country (CCPA), had been appointed Workers' delegate. In the absence of freedom of association in the country, the nomination of the Workers' delegate could not have been made by a representative workers' organization and therefore Mr Al Shamsi could not have been elected by workers. According to the ITUC, moreover, a decree had been signed on 2 May 2011 by the Minister of Social Affairs to dissolve the elected Board of Directors of the Teachers' Association as well as the Board of Directors of the Jurists' Association, in order to replace them with state appointees. The ITUC stated that it had lodged a similar objection against the nomination of the Workers' delegate to the Asia and Pacific Regional Meeting in December 2011; based on the Government's response to that objection, the ITUC contended that the Committee of Professional Associations represented merely 35,000 professionals or highly qualified workers, out of a national workforce of at least 1.85 million. As such, it could not be considered as representative. The ITUC also referred to the conclusions of the Credentials Committee in the objection lodged in December 2011, which called upon the Government to have more extensive consultations involving workers in other sectors and to ensure that the Workers' delegate at the 101st Session of the Conference be representative of the greatest possible number of workers in the country. It was that Credentials Committee's view that this could be achieved by allowing and encouraging the creation of independent and structured organizations of workers in all sectors of economic activity. The ITUC contended that the Government had not taken the necessary measures to fulfil these recommendations. It requested the Committee to call upon the Government to explain why this situation continued and to respect its constitutional obligations.
49. In a written communication addressed to the Committee at its request, Mr Humaid Bin Deemas, Assistant Undersecretary for Labour Affairs in the Ministry of Labour, and Government delegate at the Conference, stated that the CCPA grouped the registered professional associations operating in the United Arab Emirates and, as provided for in national legislation and government decrees, was mandated with the selection of the country's workers' representatives and delegates to all national, regional, and international

forums and conferences. The selection was carried out in accordance with the principles of free election and non-interference by employers or government agencies. Among the CCPA affiliates were the largest, most active and most representative individual associations. Following a request by the Ministry of Labour to the CCPA to provide the names of the Workers' delegation, the CCPA Board of Directors met on 23 May 2012 and selected the delegation from among elected officials of individual member associations. This information was immediately communicated to the Government, which in turn amended its credentials to include a fully tripartite delegation to the Conference. The Government added that the Constitution of the United Arab Emirates guaranteed the residents of the United Arab Emirates the right to assemble and form associations, and that in 2008, Federal Law No. 2 – governing the establishment of associations – was enacted to provide legal protection of the right to assemble. The number of member associations had grown from nine, in 2001, to 27 in 2012; these associations covered a growing variety of economic sectors and diverse categories of workers.

50. *The Committee notes that the facts underlying this objection are similar to those that gave rise to an objection concerning the nomination of the Workers' delegate of the United Arab Emirates at the 15th Asia and the Pacific Regional Meeting (Kyoto, Japan, 4–7 December 2011), and to those that were already the subject of an objection at the 89th Session (June 2001) of the International Labour Conference (see Provisional Record No. 17). On both occasions – as is the case at this session of the Conference – the Workers' delegate had been nominated by the CCPA, which was a coordinating body for 27 professional associations, including associations of jurists, social researchers, teachers, physicians, engineers, accountants, industrialists, bankers and contractors.*
51. *The Committee notes that, according to the Government's reply, the Constitution of the United Arab Emirates guarantees residents the right to assemble and form associations, which are governed by Federal Law 2 of 2008 concerning National Societies and Associations of Public Welfare. The Committee notes that, under that law, the founder members and staff of a society have to be nationals of the United Arab Emirates and non-nationals may only be "associate members" without the right to vote or to be elected at the society's General Assembly. Moreover, the societies and its members are prohibited from interfering in politics and may be represented at events such as conferences, forums, assemblies or meetings outside the country only with the approval of the Ministry of Social Affairs. The Committee considers that these limitations imposed by the 2008 law on the membership and activity of associations are not consistent with the concept of most representative workers' organizations encompassed by article 3, paragraph 5, of the Constitution. It thus confirms the finding of previous Credentials Committees that no most representative workers' organizations exist in the United Arab Emirates.*
52. *According to the case law of the Credentials Committee, in the absence of most representative organizations in a country, the Government still has an obligation to nominate delegates who truly represent respectively the employers and the workers of the Member, in accordance with article 3, paragraph 1, of the ILO Constitution. In such cases, governments have to satisfy three conditions: the nominated Workers' delegates should be true workers; they should have been chosen freely by workers; and they should be as representative as possible of the workers in the country concerned. On the basis of the information provided by the Government, the first two conditions may be considered to have been complied with, but the third has not been met. As according to information provided by the Government at the 15th Asia and the Pacific Regional Meeting the CCPA represents only about 35,000 professionals or highly qualified workers of a total workforce of at least 1.85 million (according to 2008 ILO figures), the Committee considers that in order to ensure that the Workers' delegate is as representative as possible of all the workers in the country, there should be more extensive consultations involving workers from other sectors of the country's economic activities.*

-
53. The Committee therefore urges the Government to take immediate steps to ensure that the Workers' delegate to future sessions of the International Labour Conference will be representative of the greatest possible number of workers in the country. The Committee is of the view that this can best be achieved by allowing and encouraging the creation of independent and structured organizations of workers in all sectors of economic activity of the country.

Late objection concerning the nomination of the Workers' delegation of Gabon

54. The Committee received an objection presented by the *Confédération syndicale des travailleurs du Gabon* (CSTG), concerning the nomination of the Workers' delegate and adviser of Gabon appearing on the list of delegations as coming from the *Confédération gabonaise des syndicats libres* (CGSL) and the *Union de travailleurs du Gabon* (UTG).
55. This objection, dated 31 May 2012, was received by the Registry of the International Labour Office on 5 June 2012, therefore well after the expiry of the 72-hour time limit provided by article 26bis, paragraph 1(a), of the Conference Standing Orders. The Committee notes that the names of the concerned delegate and adviser appeared already on the Provisional List of Delegations published as a Supplement to the Provisional Record of 30 May 2012 so that the additional new time limit of 48 hours following publication of the Revised Provisional List of Delegations does not apply. The Committee therefore considers that the objection is not receivable by virtue of the abovementioned provision of the Standing Orders.

Objection concerning the nomination of the Workers' delegation of Guatemala

56. The Committee received an objection presented by the *Confederación de Unidad Sindical de Guatemala* (CUSG), the *Confederación Central General de Trabajadores de Guatemala* (CGTG) and the *Unión Sindical de Trabajadores de Guatemala* (UNSITRAGUA) concerning the nomination of the Workers' delegation of Guatemala. On 28 March 2012, the Government had invited these organizations, among others, to submit proposals for the Workers' delegation to the Conference. On 11 April 2012, the CUSG, the CGTG and UNSITRAGUA sent their joint proposal for the composition of the Workers' delegation. They alleged that the Government had disregarded it and unilaterally nominated representatives from the *Central de Trabajadores del Campo* (CTC). The objecting organizations contended that the CTC was not the most representative workers' organization and that its affiliated federations were questionable. Indeed, the objecting organizations noted that on 12 April 2012, notwithstanding their joint proposal, the Government had transmitted another invitation extending the deadline for a reply until 18 April, which was extended again until 25 April 2012. The objecting organizations maintained their original proposal of 11 April 2012 and considered that their non-inclusion in the delegation contravened article 3 of the ILO Constitution as the delegation had not been established in agreement with the most representative workers' organizations. This was part of a broader strategy of interference and discrimination by the Government, including through violence and intimidation, which they had denounced nationally and internationally since 2008, as well as before the ILO supervisory bodies. The CUSG, CGTG and UNSITRAGUA were nationwide confederations that represented the different economic sectors, were affiliated to the International Trade Union Confederation (ITUC), as well as to its American regional organization (the Trade Union Confederation of the Americas), and had a longstanding relationship with the ILO. Moreover, the objecting organizations considered that a recent Ministerial Agreement (No. 126-2012), which served as the basis for determining the manner in which workers' and employers'

representatives are nominated to international conferences, was formulated in such a manner so as to determine representativity in a manipulative way and that technical information was lacking which had led to the exclusion of the most representative workers' organization. They argued that the CTC from which the Workers' delegation was nominated did not comply with the current labour code that required that confederations be comprised of at least four federations, since it was comprised of only three federations. Moreover, it could not be considered to be representative of workers since its affiliated federations were either inactive or abolished. The *Federación de Trabajadores de la Alimentación, Agroindustrias y Similares* (FESTRAS) was comprised of inactive trade unions, since the SITRAPETEN had been abolished by the former administration, the SITRACERCA had only three affiliates and the SITRAINSOGUA had no affiliates. A similar situation occurred with the *Federación de Empleados Bancarios de Servicios del Estado* (FESEBS). In addition, the information relied upon by the Government for UNSITRAGUA HISTORICA erroneously referred to the unrelated UNISTRAGUA federation and therefore demonstrated the Government's bad faith. Consequently, they considered that the Workers' delegation was not representative of the country's workers and therefore they objected to the nomination of the Workers' delegation.

57. In a written communication addressed to the Committee at its request, submitted by the Vice-Minister for Labour and Social Protection, Mr Carlos Doménico Ulbán Lopez, the Government provided the Committee with a list of registered workers' organizations that possessed a legal personality along with the number of their respective affiliates, as well as those that were consulted for the purpose of nominating the Workers' delegation to the Conference. In this regard, the Government advised that it had solicited written proposals on 27 March 2012 from the registered workers' organizations by 13 April and that this deadline was extended on 18 April until 25 April 2012, so as to permit all of the registered workers' organizations to put forth their proposals. The Government considered that it had complied with the recommendations issued by the Committee of Experts on the Application of Conventions and Recommendations with respect to conducting nominations on the basis of criteria on representativity through the recent Ministerial Agreement. Concerning the contested Workers' delegation, while the Government conceded that the CTC was only comprised of three federations, it explained that the CTC had been formed and registered under the pre-existing law and therefore the labour reform requiring that it be comprised of at least four federations did not apply to the CTC. The Government informed the Committee that SITRAPETEN was an active workers' organization that had 41 members, that SITRACERCA had diminishing membership but that the Ministry of Labour and Social Protection could not dissolve it as this was not within its power and that SITRAINSOGUA had not reported any affiliates since it did not have a legal personality. The Government added that it did not have detailed information pertaining to UNSITRAGUA HISTORICA, as it was not legally registered and that the information in the registry corresponded to the UNSITRAGUA federation. The Government considered that it respected both national and international laws.
58. In a further written communication addressed to the Committee at its request, the Government submitted a list of organizations that had supported the CTC; the number of members added up to 49,856, as compared to those of the objecting organizations that added up to 13,483. The Ministerial Agreement was presented to the Tripartite Committee for International Affairs on 15 March 2012, during which the Minister of Labour allegedly sought and received tripartite approval. Regarding the application of the Ministerial Agreement and, in particular, the application of the criteria set out in articles 5 and 6, the Government stated that on the basis of the joint proposal signed by the representatives of FESTRAS, STEG, FESEBS and STINDE, as well as the fact that they were the most representative on the basis of the number of affiliates and were legally registered, the proposed individuals were included in the Workers' delegation. The Government indicated that the contested Workers' delegate was a member of the CTC Executive Board and that

he was a delegate of the Tripartite Committee. The Government considered that it had acted in conformity with the Ministerial Agreement as well as in conformity with the proposal it had received from FESTRAS, STEG, FESEBS and STINDE. The Government stated that the Ministerial Agreement did not foresee a different application between workers and employers.

59. *The Committee notes that it has received an objection for the third consecutive year concerning the nomination of the Workers' delegation of Guatemala. It regrets the absence of any significant progress, despite measures the Government indicates to have taken in an effort to respond to the requirements set out by the supervisory bodies of the ILO. It notes with grave concern the allegations regarding a climate of violence and intimidation that are the object of continuous examination by its supervisory bodies.*
60. *The Committee notes that the information that has been brought to its attention, by the objecting organizations as well as by the Government, do not furnish sufficient and clear information regarding the number of members of the concerned organizations nor the existence of transparent, objective and verifiable criteria permitting it to establish the representativity of the workers' organizations. The Committee observes for example that in the documents furnished by the Government, the number of members of the CTC – from which the contested Workers' delegate is a representative, as well as his adviser and substitute delegate – remains unclear and not of significant importance. It notes also, that in light of the conclusions of the high-level mission to the country that took place in 2009, the objecting organizations represent “an important sector of the trade union movement” in Guatemala (see the observation adopted in 2011 by the Committee of Experts on the Application of Conventions and Recommendations, regarding the Convention on the Freedom of Association and Protection of the Right to Organise, 1948 (No. 87)). The Committee also notes that the process of nomination is now made pursuant to Ministerial Agreement No. 126-2012 and is based on a weighting system that appears to rest on quantitative and qualitative criteria (for example, the nature of the organization and whether it has any link with the theme of the question for which representation is required), but which did not allow it to attain the expected results. The Committee observes that information provided by the Government in its reply is insufficient for it to comprehend the method of calculation that was utilized for the purpose of nominating the Workers' delegation. It also appears that the adoption of the Ministerial Agreement has been contested by several workers' organizations.*
61. *The Committee considers that the Government, faced with different proposals by the workers' organizations as indicated in the minutes of the meeting of 26 April, could have undertaken further consultations with a view to achieving a nomination by consensus by the largest possible number of representative workers' organizations. The Committee wishes to recall in this regard that a method of arriving at such an agreement could be a system of rotation, which as the Committee has previously indicated, is a method that could permit the most representative workers' organizations to come to an agreement with respect to Workers' delegations. The Committee expects that the Government will take into consideration its conclusions and that it will assure that the nomination of the Workers' delegation to the Conference shall be done in conformity with article 3, paragraph 5, of the ILO Constitution, in a climate of respect for dialogue among all the concerned parties.*

Objection concerning the nomination of the Workers' delegation of Guatemala

62. *The Committee received an objection presented by the Movimiento Sindical, Indígena y Campesino Guatemalteco (MSICG) concerning the nomination of the Workers' delegation of Guatemala. The objecting organization alleged that the Government had, without consultations, nominated a Workers' delegation that was not representative of workers.*

The objecting organization considered that the Ministerial Agreement (No. 126-2012) that was the basis for determining the delegation for this year's Conference had been established without consulting the workers' organizations and that it had created inequalities between workers' and employers' organizations in that it applied the national law rigidly to workers' organizations and not to employers' organizations. Specifically, it required that for an organization to be included as a representative of a workers' organization in a national or international conference, it must first be registered with the Ministry of Labour and Social Protection, which contravenes the principles on freedom of association. The objecting organization considered that its exclusion, in truth, was related to its continuous denunciation of the Government before the Committee on Freedom of Association of the Governing Body. Indeed, it had offered to be included in the delegation at its own expense. Therefore, it considered that the Government's statement of budgetary constraints as stated in the Government's original invitation seeking nominations to be disingenuous; especially, in view that the Government itself had accredited 12 participants at Government expense.

63. In a written communication addressed to the Committee at its request, submitted by the Vice-Minister for Labour and Social Protection, Mr Carlos Doménico Ulbán Lopez, the Government informed the Committee that while the MSICG had put forth the names of individuals to represent it at the Conference, it had not requested their accreditation as either delegate or advisers. The Government also supplied the Committee with a list of registered workers' organizations that possessed a legal personality along with the number of their respective affiliates, as well as those that were consulted for the purpose of nominating the Workers' delegation to the Conference. The Government considered that it had complied with the recommendations issued by the Committee of Experts on the Application of Conventions and Recommendations with respect to conducting nominations on the basis of representative criteria through a recent Ministerial Agreement that had been issued for this purpose. Concerning the contested Workers' delegation, the Government considered that it had respected both national and international laws.
64. *The Committee considers that it does not possess sufficient information from which it can draw conclusions with respect to the relative size of the MSICG and that it cannot confirm the Government's assertions. The Committee notes that the MSICG is not included on the list of consulted organizations, which would appear to confirm the assertions that the Government continues to exclude non-registered organizations and at the same time it does not furnish clear criteria that would permit the representativity of the workers' organizations to be assessed. The Committee considers that the Government is not justified in setting aside the proposal submitted by the MSICG with the sole rationale that MSICG has not indicated the capacity in which its representatives should be integrated into the Workers' delegation. Moreover, the Committee notes that the MSICG has proposed to cover the expenses of the representatives emanating from its ranks. The Committee refers to its conclusions contained in the first objection (see paragraphs 56–61).*

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

65. The Committee received an objection presented by the International Trade Union Confederation (ITUC) concerning the failure to deposit credentials of an Employers' and a Workers' delegate by the Government of Kyrgyzstan. The ITUC submitted that the Government had not fulfilled its obligation under article 3, paragraph 1, of the ILO Constitution. It requested the Committee to call upon the Government to explain why the delegation was incomplete and to recommend that its constitutional obligations be fulfilled.

-
66. In a written communication to the Committee at its request, the Government stated that it had not failed to fulfil its constitutional obligations. It had invited the National Confederation of Employers of Kyrgyzstan and the Federation of Trade Unions of Kyrgyzstan to nominate their respective representatives but both informed the Government that they were unable to send delegates due to financial constraints. The Government stated that it did not have the financial capacity to sponsor the social partners.
67. *The Committee notes that the Government representatives both come from the Permanent Mission in Geneva and that over the past decade Kyrgyzstan has only accredited a delegation three times, and each was exclusively governmental. It expresses its concern that the country is not represented by a delegation that includes Employer and Worker representatives. It emphasizes that whereas a government has the ability to assure its representation through a diplomatic mission, the same cannot be said for employers' or workers' organizations. While noting the explanation of the Government, the Committee reminds member States of their obligations under article 3, paragraph 1, of the ILO Constitution to nominate tripartite delegations to the Conference. By sending a delegation that is exclusively governmental, or by not sending one at all as in the past, the Government deprives the employers and workers of the country of their right of being represented in the highest policy-making body of the ILO and to participate in its work. Without the participation of Government, Employer and Worker representatives, the Conference cannot function properly or attain its objectives. While recognizing the country's financial difficulties, the Committee nevertheless trusts that Kyrgyzstan will know how to give priority in its budget for participation in the work of the Conference by assuring the payment of travel and subsistence expenses for a fully tripartite delegation.*

Objection concerning the nomination of the Workers' delegation of Mauritania

68. The Committee received an objection, dated 2 June 2012, concerning the nomination of the Workers' delegation of Mauritania submitted by the *Confédération nationale des travailleurs de Mauritanie* (CNTM). The objecting organization considered that the nomination was made to the detriment of the CNTM, without any consultation, was based on patronage, and breached article 3, paragraph 5, of the ILO Constitution. It further alleged that the CNTM, which it considered to be among the most representative workers' organizations, had been subject to systematic attacks by the Government, which can be seen by its exclusion, not only from official delegations, but also from national bodies with workers' representation. Therefore the objecting organization requested the suspension of the Workers' delegation.
69. In a written communication addressed to the Committee at its request, the Government contended that the allegations of the CNTM were baseless. The Government stated that it had made a commitment to organize, with the assistance of the ILO, union elections in 2012 allowing it establish the representativity of the confederations. At the moment, none of the 20 confederations in the country could claim to be the most representative workers' organization. Concerning the fact that the CNTM was not included in the Workers' delegation, the Government stated that in the past it had always ensured that confederation's participation in the Conference by paying the travel and subsistence expenses of its Secretary-General. But the latter seemed to refuse the principle of rotation established by fairness to all confederations, pending the organization of union elections. Thus, for the present session of the Conference, the Government said that it had complied with the choice of the Workers and that it did not choose the confederations on the basis of submission to the Government, as could be seen from the payment of expenses for the Secretary-General of the *Confédération générale des travailleurs de Mauritanie* (CGTM). The Government emphasized that the confederations were treated in an equitable manner; this included the amount of the annual subsidy. As for the exclusion of the CNTM in

national bodies with workers' representatives, the Government contended that as for the National Council of Labour, Employment and Social Welfare, the decision concerning selection of members lay with the confederations and that the CNTM was a signatory to the relevant minutes.

70. *The Committee notes that the non-inclusion of the CNTM in the Workers' delegation had already been the subject of an objection by that organization in 2011 and it regrets the absence of any significant evolution on this issue. The Committee observes that the Workers' delegate this year once again comes from the ranks of the Union des travailleurs de Mauritanie (UTM), just as it did the past two years, despite information from the Government that it applies a system of rotation. It wishes to recall in this regard that a system of rotation can only serve as a method for nominating the Workers' delegation if the most representative organizations in the country have so decided in agreement among themselves. In any event, the Government still has not taken steps to evaluate the respective numerical importance of the organizations concerned. The Committee notes that the information brought to its attention, by both the objecting organization and the Government, do not provide it with sufficient data, in particular on the number of members in the organizations concerned, allowing it to come to any conclusions on their representativity. In these circumstances, the Committee can only recall the importance of rapidly clarifying the situation of union representativity in the country. While regretting the delay in the organization of professional elections, the Committee expects that the information brought to its attention will be acted upon and that the Government will take the necessary measures to ensure the implementation of objective and transparent criteria for determining the most representative organizations, in agreement with all parties concerned. The Committee expects, therefore, that the nomination of the Workers' delegation to future sessions of the Conference will be made in compliance with article 3, paragraph 5, of the ILO Constitution.*

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

71. The Committee received an objection concerning the nomination of the Workers' delegate of Mauritania submitted by the CGTM.
72. *The Committee notes that this objection was first submitted by electronic mail on 1 June 2012, without being signed, with the indication that it was a draft of an objection. It was signed on 4 June, which is after the expiry of the 72-hour time limit provided by article 26bis, paragraph 1(a), of the Conference Standing Orders. The objection is therefore irreceivable, by virtue of the provisions of article 26bis, paragraph 1(a) and (b).*

Objection concerning the nomination of a Workers' adviser of the Philippines

73. The Committee received an objection presented by the Trade Union Congress of the Philippines (TUCP) concerning the nomination of Mr Victorino Balais as adviser in the Workers' delegation of the Philippines, whose title appearing on the *Provisional List of Delegates* was Vice-President and General Secretary of the TUCP. On 17 May 2012, Mr Ernesto Herrera, signing as the President of the TUCP, wrote to the Department of Labor and Employment claiming that the nominations were contrary to those submitted by the TUCP and reiterating that Mr Alejandro C. Villaviza should be the Workers' delegate and the other persons his organization proposed should be accredited as advisers, and that Mr Balais could no longer hold any elective or appointive position in the TUCP pursuant to a resolution adopted on 16 March 2012. The Secretary of Labor and Employment replied on 21 May, stating that Mr Villaviza was being endorsed as adviser, and that the

other names submitted by Mr Herrera were being submitted as observers. The latter wrote again to the Secretary of Labor and Employment, demanding rectification to the nomination submitted by the Government. The objecting organization submitted that it did not in any way contest the nomination of the titular delegate but that it vehemently opposed the inclusion in the delegation of Mr Balais as representing the TUCP and that his inclusion amounted to clear interference against the wishes of the TUCP. In its view, the action of the Government, to nominate a person who was not an elected officer and at the same time to indicate the office held to be Vice-President and General Secretary, was clearly an affront to the leadership, membership, and Constitution of the TUCP. These actions violated the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The objecting organization requested the invalidation of Mr Balais' credentials as well as the elevation of this objection as an official complaint against the Government for violating ILO Convention No. 87.

74. In a written communication addressed to the Committee at its request, Mr Danilo P. Cruz, Undersecretary of the Department of Labor and Employment and Head of the Philippine delegation, stated that the Workers' representatives came from the three labour organizations with the "most representative status" – namely the TUCP, the Federation of Free Workers (FFW) and the Alliance of Progressive Labor (APL). The Government denied the allegations in the objection. This year's designation of the Workers' delegate had differed from past practices due to the context of unfolding major developments in the Philippine trade union movement. In particular, there was an ongoing internal issue in the TUCP which was pending before the Philippine Department of Labor and Employment for determination on its merits. Pending final determination of the issue before it, fairness dictated that the Government maintain the right balance in the designation of the titular delegate. To appoint the Workers' delegate from either of the two competing groups would have tainted the impartiality and fairness of the ongoing resolution process; consequently, the Workers' delegate this year came from the FFW, the third largest federation of workers, and each group of the TUCP had been given one slot. The Government contended that the designation of Mr Balais as the TUCP General Secretary on the initial credentials was an honest oversight which the Government immediately corrected in its final and official submission of credentials on 21 May 2012, where it had indicated Mr Balais' position as "President, Philippine Transport and General Workers Organization – TUCP" and not as General Secretary of the TUCP. This correction having been overlooked, the Secretary of the Department of Labor and Employment wrote to the ILO Legal Adviser on 1 June asking for the titles of two advisers – including that of Mr Balais – to be corrected. The Government wished to emphasize that the criterion of "most representative status" in the Philippines had been expanded so as to not be based solely on numbers, in order to prevent any form of discrimination from ensuing. The Government accorded just and equitable opportunity for all trade union organizations to participate in the policy and decision-making process, which included attendance at the Conference.
75. The Committee received an unsolicited submission from Mr Democrito T. Mendoza which consisted of copies of information he provided to the Secretary of the Department of Labor and Employment as well as a document entitled "Briefing on the Trade Union Congress of the Philippines (TUCP) as of 29 May 2012" in which the facts as presented by the authors of the objection were largely contested.
76. *The Committee considers that the representativity of the TUCP is not questioned, but rather the person representing it, in this case Mr Victorino Balais, registered as adviser. The Committee notes that what it has before it is an internal conflict within the TUCP, which does not come under its mandate and which is being resolved nationally. It notes, however, that in the meantime the Government does not seem to have taken sides between Mr Balais and Mr Villaviza, having nominated both of them as advisers and nominating the Workers' delegate from the ranks of another organization; this is not contested by the*

authors of the objection. The Committee also notes the statement of the Government, that by designating Mr Balais as General Secretary of the TUCP in the credentials initially established, it had made an error, which it later corrected. In a communication addressed to the Legal Adviser of the Office, dated 1 June and received on 8 June 2012, Mr Balais appeared as “President of Philippine Transport and General Workers Organization – TUCP” and no longer as Vice-President and General Secretary of the TUCP. This correction was made to the Final List of Delegations published as a Supplement to the Provisional Record. In the light of the above, as well as on the information before it, the Committee decides not to uphold the objection.

**Objection concerning the nomination
of an Employers’ adviser of Romania**

77. The Committee received an objection presented by Mr Ioan Cezar Corâci of UGIR 1903, concerning the nomination of Mr Marius Eugen Opran as Employers’ adviser and on the credentials as coming from the ranks of UGIR 1903. He alleged that Mr Opran is not the President of UGIR 1903 and that last year he had lost his membership according to a decision of the members. He submitted that Mr Opran is not entitled to participate in the Conference as a representative of UGIR 1903 and that all efforts made to correct this designation have been ignored by the Government. According to Romanian law, the president of a confederation must be registered at the Ministry of Justice.
78. In a written communication addressed to the Committee at its request, the Government contended that the procedure for designating the Employers’ delegation had been carried out according to normal procedure: the most representative employers’ organizations at the national level were convened by the Government to a meeting, during which the participants were invited to communicate to the Government, by 19 March, their common agreement on the nomination of the Employers’ delegation to the Conference; signed minutes of that meeting were produced. Additional consultations among the employers’ organizations, without the participation or involvement of the Government, were carried out on 20 March. A copy of the minutes of that meeting, including the nominations of the Employers’ delegation, were provided to the Ministry of Work, Family and Social Protection; Mr Opran as President of UGIR 1903 was included in the delegation. The Government pointed out that these minutes had been signed, without any objections indicated, by the participants at that meeting and it is for that reason that Mr Opran was included in the Employers’ delegation as adviser. The Government also pointed out that it had not received any written objections from the participating organizations concerning the nominations. The Government submitted that for some time now there had been issues between Mr Corâci and Mr Opran, with attacks and counterattacks coming from both sides. According to the official registration of UGIR 1903, since 2006 Mr Corâci held the post of President and Mr Opran the post of Executive President.
79. In an additional communication addressed to the Committee on 8 June 2012, the Government requested, in the name of the Employers’ delegation, that the name of Mr Opran be removed from the credentials presented by Romania.
80. *The Committee takes note of the communication from the Government on 8 June 2012 removing the name of Mr Opran from the credentials presented by Romania. Under these conditions, the objection has become moot and requires no further action by the Committee.*

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

81. The Committee received an objection presented by the International Trade Union Confederation (ITUC) concerning the failure to deposit credentials of an Employers' and a Workers' delegate by the Government of Tajikistan. The ITUC submitted that the Government had not fulfilled its obligation under article 3, paragraph 1, of the ILO Constitution. It requested the Committee to call upon the Government to explain why the delegation was incomplete and to recommend that its constitutional obligations be fulfilled.
82. *The Committee deeply regrets that the Government has, once again, not responded to its request for information nor has it accredited a fully tripartite delegation. Such lack of cooperation curtails the Committee's ability to discharge its mandate under article 5, paragraph 2(a), of the Conference Standing Orders. The Committee reminds member States of their obligation under article 3, paragraph 1, of the ILO Constitution, to nominate tripartite delegations to the Conference. By sending a delegation that is exclusively governmental the Government deprives the employers and workers of the country of their right of being represented in the highest policy-making body of the ILO and to participate in its work. Without the participation of Government, Employer and Worker representatives, the Conference cannot function properly or attain its objectives.*
83. *The Committee expects that next year the Government will send a fully tripartite delegation to the Conference.*

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

84. The Committee received an objection presented by the International Trade Union Confederation (ITUC) concerning the failure to deposit credentials of an Employers' and a Workers' delegate by the Government of Turkmenistan. The ITUC submitted that the Government had not fulfilled its obligation under article 3, paragraph 1, of the ILO Constitution. It requested the Committee to call upon the Government to explain why the delegation was incomplete and to recommend that its constitutional obligations be fulfilled.
85. *The Committee regrets that the Government has not responded to its request for information nor has it accredited a fully tripartite delegation. It notes that Turkmenistan has only one other time accredited a delegation, in 2011, and that delegation too was exclusively governmental. The Committee reminds member States of their obligation under article 3, paragraph 1, of the ILO Constitution to nominate tripartite delegations to the Conference. By sending a delegation that is exclusively governmental, or by not sending one at all as in the past, the Government deprives the employers and workers of the country of their right of being represented in the highest policy-making body of the ILO and to participate in its work. Without the participation of Government, Employer and Worker representatives, the Conference cannot function properly or attain its objectives.*
86. *The Committee expects that next year the Government will send a fully tripartite delegation to the Conference.*

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 argued that the Government had failed to observe the Credentials Committee's recommendations that were issued during the 100th Session of the Conference (June 2011) and should not have included Mr Miguel Valderrama and Mr Simón Leal, both of the *Federación de Artesanos, Micros, Pequeños y Medianos Industriales* (FEDEINDUSTRIA), Mr Alfredo Cabrera of the *Confederación de Agricultores y Ganaderos de Venezuela* (CONFAGAN), Mrs Keila De la Rosa of *Empresarios por Venezuela* (EMPREVEN), and Ms Fanny Suarez of the *Consejo Bolivariano de Industriales, Empresarios y Microempresarios* (COBOIEM) as advisers in the delegation since their organizations could not be considered representative employers' organizations according to criteria recognized by the ILO (free, independent organizations without government interference). The Employers' group alleged that FEDEINDUSTRIA retained its close ties to the Government as evidenced by its President being named in certain independent state bodies. The nomination of the Vice-President of FEDEINDUSTRIA, Mr Valderrama, to serve as an adviser to the Employers' delegation to the Conference further confirmed this favouritism. The Employers' group reiterated its previous year's allegations that CONFAGAN, in addition to being linked to the Government, had substantially fewer members than the organization that was truly representative of the rural sector, the *Federación Nacional de Ganaderos* (FEDENAGA) and COBOIEM was an unknown organization in Bolivarian Republic of Venezuela that did not represent the business world. Moreover, these advisers had received financial support from the Government. The Employers' group stressed that the nominations of these advisers had not been accepted by the *Federación de Cámaras y Asociaciones de Comercio y Producción de Venezuela* (FEDECAMARAS), the organization from which the titular delegate came and the most representative employers' organization in the country, as recognized in the past by this Committee. At most, FEDECAMARAS considered that the contested advisers could be included as observers or in the Government's delegation. This was the position taken by FEDECAMARAS at the meeting that was held on 8 May 2012, convoked by the Government for the purposes of nominating this year's delegation. Moreover, if in previous years the Government had implicitly recognized FEDECAMARAS as the most representative employers' organization, this year the Government initially appointed as delegate a representative from FEDEINDUSTRIA. Only after this individual from FEDEINDUSTRIA had declined the nomination, was the person put forth by FEDECAMARAS nominated as Employers' delegate. The Employers' group also submitted that in March 2009, the Committee on Freedom of Association had stressed the importance of non-interference by the Government in employers' organizations and the need to respect FEDECAMARAS as the most representative employers' organization. Furthermore, the Government had not availed itself of the technical assistance of the Office, recommended by the Credentials Committee, and a high-level tripartite mission assisted by the ILO to assess the allegations concerning interference and favouritism, as proposed by the Committee on Freedom of Association in March 2010, had yet to take place. Notwithstanding this, the Government had changed the proposed composition and imposed advisers from semi-public bodies that were neither independent nor representative, thus contravening article 3, paragraph 5, of the ILO Constitution. Moreover, while the Government agreed to finance the participation of the imposed advisers, it had only paid for the participation costs of two FEDECAMARAS representatives – Ms Albis Muñoz and Mr Gilberto Sánchez.
88. In a written communication addressed to the Committee at its request, the Government denied the allegations that it had failed to observe the recommendations of the Credentials Committee. To the contrary, the Government considered that it had reinforced the

consultative mechanism and had included the most representative employers' organizations. On 8 May 2012, the Government had held a meeting to this effect at which the representatives of the COBOIEM, EMPREVEN, CONFAGAN, FEDEINDUSTRIA and FEDECAMARAS were invited to discuss the nomination of the Employers' delegation that would attend at the Conference. The minutes of this meeting indicated that FEDECAMARAS had proposed its own members as delegate and advisers to the Conference. The other participating organizations had proposed that FEDEINDUSTRIA represent the employers, indicating that these organizations once again rejected FEDECAMARAS as being the most representative employers' organization. When FEDEINDUSTRIA declined to nominate the Employers' delegate and FEDECAMARAS maintained its claim, the Government proceeded to accredit a representative from the latter as the Employers' delegate. Taking into account the consultative process of 8 May 2012, the Government accredited the advisers that had been proposed without discrimination or exclusion, as can be seen from the credentials form transmitted by the Government. Moreover, the Government stressed that the minutes of the meeting of 8 May 2012, indicated that FEDECAMARAS did not object to other organizations being nominated as observers or in the Government's delegation. The Government, however, considered that it could not name the representatives of the other organizations as observers due to its understanding of article 2, paragraph 3(e), of the Conference Standing Orders that this possibility was available only to States not Members of the ILO nor for obvious reasons within its own delegation. Regarding the financing of the delegation, the Government considered that it had fulfilled its obligations by covering travel and subsistence expenses of one delegate and five advisers for the Employers and one delegate and six advisers for the Workers – thus permitting participation of the social partners in the Conference committees, as well as the participation of the most representative employers' and workers' organizations. The Government denied interfering or failing to respect national laws and ILO Conventions, as well as the allegations that certain organizations had received preferential treatment. The Government rejected the monopolizing and discriminatory behaviour of FEDECAMARAS, which it did not consider to be the only representative organization, since COBOIEM, CONFAGAN, FEDEINDUSTRIA, FEDECAMARAS and EMPREVEN were also representative employers' organizations. However, it could not provide details regarding their respective representativity since none were registered. This situation was expected to change as a new system of registration would come into force as of 1 January 2013. The Government also recalled that it had challenged the "historical" recognition of FEDECAMARAS as the most representative organization as mentioned in the Credential Committee's conclusions in 2010.

89. *The Committee notes that, once again, it has before it an objection concerning the Employers' delegation of the Bolivarian Republic of Venezuela that is due to a recurring situation. The Committee recalls that in the absence of an agreement between organizations, it is the Government's obligation to establish and implement objective and verifiable criteria on representativity, through a consultation process that respects the genuine character, autonomy and independence of employers' organizations. It cannot limit itself to note that all the abovementioned organizations are representative and to state that due to their non-registration it does not have membership data. It deeply regrets the Government's continuous failure concerning the lack of establishment and implementation of criteria on representativity. Concerning the challenge to FEDECAMARAS being the most representative employers' organization, the Committee notes that it has been consistently designated by the Government as Employers' delegate of the Bolivarian Republic of Venezuela, including this year, although the initial designation of the Government had been different. With respect to the other organizations, the Committee considers that the Government has still not provided objective information that convinces the Committee that these other organizations could be considered as most representative employers' organizations. The Committee trusts that with the announcement of a registration system that is to come into force as of 1 January 2013, the Government*

will, in the future, be in a position to establish and implement objective and verifiable criteria on representativity. Turning to the possibility of the inclusion in a delegation of persons in a capacity other than delegate or adviser, the Committee draws the Government's attention to the *Submission of Credentials to the International Labour Conference, 101st Session (30 May–14 June 2012): Explanatory note for national delegations* that is transmitted to all member States and, in particular, paragraph 6(h), which provides for a category of "other persons attending the Conference". In relation to the payment of expenses, the Committee wishes to recall that, in accordance with article 13, paragraph 2(a), of the ILO Constitution, Members must pay the travel and subsistence expenses of their full delegation; when the Government decides to pay for only part of the delegation, the agreement with the most representative organizations on the nomination of delegates and advisers has to include the question as to whose costs are borne by the Government. In view of the above and the need to advance in the impartial establishment of objective and verifiable criteria on representativity and the means to implement them that respect the freedom of association of organizations, the Committee expects that the Government will take full advantage of the high-level tripartite mission that is now scheduled to take place in the fall of 2012, and that has been approved by the Governing Body of the International Labour Office at its 310th Session (March 2011). The Committee expects that the Government will ensure that the nomination of the non-governmental delegations at future sessions of the Conference will be in full compliance with article 3, paragraph 5, of the ILO Constitution.

Objections concerning the nomination of the Workers' delegate of the Bolivarian Republic of Venezuela

90. The Committee received an objection presented by Mr José Elias Torres, Executive Secretary of the *Confederación de Trabajadores de Venezuela* (CTV) concerning the nomination of the Workers' delegate, Mr Carlos López, *Central Bolivariana Socialista de Trabajadores* (CBST). The author of the objection alleged that the nomination of the Workers' delegate contravened the criteria and recommendations of the Credentials Committee. A meeting for this purpose had been convoked by the Government on 8 May 2012, at which the CTV and the *Confederación General de Trabajadores* (CGT) had jointly proposed Ms Juana Maria Chireno as Workers' delegate. An agreement concerning the nomination, however, had not been reached among the workers' organizations present at the meeting. According to the author of the objection, in the absence of such an agreement, the majority decision that had been proposed by the workers' organizations should have been respected by the Government. It questioned the reliability of the CBST's recent registration. The objecting organization requested the invalidation of the credentials of the Workers' delegate to the Conference.
91. Annexed to its objection, Mr Torres attached a letter dated 15 May 2012 from the Ministry of Labour notifying the CTV that he had been nominated as adviser. In response, the CTV sent a letter to the Government on 25 May 2012 signed by its Secretary-General, Mr Manuel Cova and Mr Torres himself, rejecting the nomination on the basis that the Government had interfered with the internal affairs of trade unions when it disregarded the outcome of the meeting held on 8 May 2012.
92. The Committee received a second objection presented by Mr Antonio M. Fernandez, President of the CGT and Ms Chireno, its Secretary-General, concerning the nomination of the Workers' delegate of the Bolivarian Republic of Venezuela. The authors of the objection stated that on 8 May 2012, a meeting was convoked by the Government for the purposes of nominating a Workers' delegation to the Conference. Present at the meeting were the CBST, the CTV, the CGT, the *Unión Nacional de Trabajadores* (UNETE), the *Central Unitaria de Trabajadores de Venezuela* (CUTV), and the *Confederación de Sindicatos Autónomos* (CODESA). The authors of the second objection stated that

Ms Chireno received three votes in favour from the CTV, the CGT and the CODESA. The contested Workers' delegate, Mr López, of the CBST received one vote. A third individual received two votes from the CUTV and the UNETE. Therefore, the authors of the second objection contended that Ms Chireno, having received the most support, was the true Workers' delegate to the Conference. As the Government had disregarded this proposition, the objecting organization likewise requested the invalidation of the credentials of the Workers' delegate to the Conference.

93. In a written communication addressed to the Committee at its request, the Government stated that the nomination of the Workers' delegation had been completed with the objecting organizations' participation. As the minutes of the 8 May 2012 meeting supported, the Ministry of Labour and Social Security had invited the six organizations mentioned above to discuss the different aspects related to the Conference. During the meeting, the CBST had stated that as of 11 November 2011 it had become the most representative workers' organization with 25 of the most important federations and national trade unions affiliated to it. In this regard, the Government specified that the registration information, dated 19 January 2012, for CBST, contained data with respect to the sectors it represented, its geographical scope, and number of members for each of its affiliated federations or national trade unions totaling 757,000. In its opinion, this demonstrated that the largest and most important federations were affiliated to it. Regarding the meeting of 8 May 2012, candidates were put forth by the objecting organizations as they had indicated and the Ministry had carried out its role of facilitator in this process of dialogue at the Workers' meeting and prepared the minutes of the meeting. These minutes indicated that there were discrepancies and a lack of consensus among the workers' organizations with respect to the nomination of a Worker's delegate to the Conference, as well as that CBST due to its recent creation and registration was able to demonstrate its ample numerical and sectoral representativity. The Ministry had no evidence to contradict CBST's claim of being the most representative workers' organization and on this basis proceeded to nominate a representative from its ranks. It rejected the CTV's allegations that the Government had interfered in the internal affairs of trade unions and rather considered that it had acted on the basis of the information provided by the CBST. It also rejected the questions surrounding the reliability of the CBST's registration and stated that the CBST had followed all the legal requirements necessary for it to be registered. It stated that there was no system of rotation. However, there was a new labour law that contained provisions for a national registry of unions to which all workers' and employers' organizations should be registered as from 1 January 2013, when the registry enters into force. The registry would create a database containing accurate and precise information that would permit the actual representativity of workers' and employers' organizations to be assessed, as had been repeatedly requested in the past by the Committee. Regarding Mr Torres' rejection of his nomination as a Workers' adviser, it stated that it had forwarded Mr Torres' letter to the Credentials Committee.
94. *The Committee notes that, once again, it has before it an objection concerning the Workers' delegation of the Bolivarian Republic of Venezuela.*
95. *At the outset, the Committee recalls that pursuant to 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 considers that the objection filed by Mr Torres concerning the designation of the Workers' delegate can be examined as Mr Torres has rejected his nomination as Workers' adviser in the delegation in writing. With respect to the second objection, the Credentials Committee considers it can examine it although it is signed by Ms Chireno who is accredited as an adviser to the Workers' delegate, since it is also signed by Mr Fernandez, President of the CGT who is not part of the delegation.*

-
96. *The Committee takes note of the fact that the Government chose six organizations to convoke to a meeting on 8 May 2012 for the purpose of nominating the Workers' delegation to the Conference. The Government does not deny that the proposal to nominate Ms Chireno as Workers' delegate was supported by three organizations (more than any other proposal), but that the Government rejected her nomination on the basis that the CBST had stated that it was the most representative organization. While the Government provides registry information about the representativity of this one organization, it is not in a position to provide the numbers regarding the other organizations. The Committee considers that the joint proposal therefore could not be ignored by the Government. In the absence of information for the other organizations, the Committee observes that conclusions cannot be drawn about the combined representative force of the objecting organizations. The Committee recalls that, in the absence of an agreement between all most representative organizations, the existence and application of objective and verifiable criteria for determining the representativity of workers' organizations is critical when designating Workers' delegations. In this regard, the Committee recalls that it has repeatedly, in the past, urged the Government to advance in the impartial establishment of objective and verifiable criteria on representativity and the means to implement them that respect freedom of association of organizations. It trusts that with the announcement of a registration system as of 1 January 2013, the Government will in the future be in a position to establish and implement such criteria. The Committee expects that the Government will ensure that the nomination of the non-governmental delegations at future sessions of the Conference will be in full compliance with article 3, paragraph 5, of the ILO Constitution.*

Complaints

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

Complaint concerning the non-payment of travel and subsistence expenses of a Workers' adviser by the Government of Brazil

98. On 6 June 2012, the Committee received a complaint presented by Ms Lucia Marcia Rodrigues Pimentel, Secretary, International Relations, *Central Geral de Trabalhadores do Brasil* (CGTB), a Workers' adviser of Brazil, stating that she had not received payment in respect of her travel or subsistence expenses for her participation at the Conference.
99. In a written communication addressed to the Committee in response to its request, the Government stated that as per its legislation the President had exclusive competency to authorize that the costs of participants in international missions be covered from the public treasury. The authorization to travel, as well as the travel and subsistence expenses had to be verified through publication of a decree in the country's Official Diary. This decree was published on 5 June 2012 and was attached to the Government's reply. It contained the name of the author of the complaint. With the publication of the decree, the Ministry of Labour and Employment proceeded to make the necessary transfer to Ms Rodrigues Pimentel's account in an amount corresponding to her travel and subsistence expenses for the period of 27 May to 10 June 2012. The Government stated that it would make every effort to avoid such a situation from recurring in the future.
100. *The Committee notes the explanation and documentation provided by the Government that it has paid the travel and subsistence expenses of the Workers' adviser. The Committee notes that, insofar as the Government has agreed to cover the necessary travel and*

subsistence expenses to enable the Workers' adviser to be present until the last day of the Conference, the complaint becomes moot and requires no further action by the Committee.

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

101. The Committee received a complaint presented by Ms Victoria Montero of the *Confederación Sindical de Comisiones Obreras* (CCOO) and Workers' adviser and substitute delegate, as well as by Mr Jaime Frades Pernas, of the *Unión General de Trabajadores* (UGT) and Workers' adviser. The authors of the complaint stated that until this year the Government had covered the expenses of the Workers' delegate and eight advisers to the Conference. On the basis of an agreement between the UGT and the CCOO, the Workers' delegate to the Conference alternated between these two workers' organizations as they were the most representative. In addition, three representatives from the UGT, three representatives from the CCOO, one representative from the *Solidaridad de Trabajadores Vascos* (ELA-STV) and one representative from the *Converxencia Intersindical Galega* (CIG) (both regional level workers' organizations) were nominated as advisers. In April 2012, the Ministry of Employment and Social Security informed the workers' organizations that in view of the economic situation it could only finance the Workers' delegate and two advisers. The Government also indicated that if a workers' organization wished to nominate additional advisers it would have to be at its own expense, which the authors of the complaint considered to be incompatible with article 13, paragraph 2(a), of the ILO Constitution taking into account the case law of the Credentials Committee. This reduction in financing impeded the Workers' delegation from adequately covering all Conference agenda items. The authors of the complaint indicated that, according to the *Revised Provisional List of Delegations* published as a Supplement to the *Provisional Record* of 5 June 2012, the Workers' delegation of Spain was comprised of one delegate and four advisers. This signified that two of the Workers' advisers, or the organizations to which they were affiliated, were required to cover their own travel and subsistence expenses. In view that there were four workers' organizations wishing to participate at the Conference, the Ministry of Labour had requested that the four organizations come to an agreement. In the absence of such an agreement, the Government informed the workers' organizations that it would not cover the travel or subsistence expenses of any of the Workers' representatives in the delegation. In an effort to ensure participation at the Conference, and under protest, the UGT and CCOO had come to an arrangement with the representatives of the two regional workers' organizations whereby the UGT and CCOO were allotted travel and subsistence expenses for two individuals and that the two regional organizations would alternate each year the third person's travel and subsistence expenses. The authors of the complaint objected to these financial limitations. Moreover, they alleged that there was a manifest imbalance between the number of Workers' and Government advisers in view that the Government's two delegates were accompanied by 14 advisers.

102. In a written communication addressed to the Committee at its request, the Government explained that due to the necessity to review public spending, the Ministry of Employment and Social Security had significantly reduced its travel and subsistence expenses related to delegates and advisers to the Conference. Consequently, it informed workers' and employers' organizations that, unlike in prior years, it would only cover the expenses for the delegates and two advisers. The Government also advised that the workers' and employers' organizations could nominate an additional eight advisers, if the costs were borne by their sending organizations. In reducing the size of the delegations for whose costs it assumed, the Government contended that it had utilized criteria that was proportional and balanced, as well as applied equitably to workers and employers. For its

own part, the Government stated that it had taken steps to reduce its own delegation and provided documentation to support the arrival and departure of Government delegation members that were present at the Conference on a rotational basis. It added that only three Government advisers would participate for the entire period of the Conference. The Government argued that it had considered it necessary that a consensus-based agreement among the four sending organizations be concluded (i.e., CCOO, UGT, CIG and ELA-STV), but that it had included in the credentials the names of all the representatives of the abovementioned workers' organizations. The Government stated that once it received a joint official communication from the workers' organizations then it would proceed to process the payments for three members of the Workers' delegation. The Government considered that its actions were legal, proportional and respected criteria, including paying for one delegate and two advisers, and were necessary in the context of a sharply reduced public budget.

- 103.** *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 Credentials Committee is conferred competence to examine complaints on the non-observance of that provision, in accordance with article 26ter, paragraph 1, of the Conference Standing Orders only on two different grounds: firstly, where it is alleged that the Government has failed to pay the travelling and subsistence expenses of one or more of the delegates that it has nominated; and, secondly, in alleged cases of serious and manifest imbalance as between the number of Employers' or Workers' advisers whose expenses have been covered in the delegation and the number of advisers appointed for the Government delegates. The purpose is 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.*
- 104.** *With respect to the obligation of Governments "to pay the travelling and subsistence expenses of one or more of the delegates that it has nominated", the Committee notes that the Government has insisted on an agreement before assuming the travel and subsistence expenses of any member of the Workers' delegation, including the Workers' delegate. The Committee considers that while the Government can seek a consensus-based agreement, it cannot refrain from meeting its minimal constitutional obligations to assume the travel and subsistence expenses of the Workers' delegate. The Government's decision to make the reimbursement of the expenses of the Workers' delegate contingent on an agreement between the workers' organizations concerned is, thus, not compatible with article 13, paragraph 2(a), of the ILO Constitution. The Committee trusts that the Government will remedy the situation quickly in this regard and comply with its minimal constitutional obligations to cover the expenses of a complete tripartite delegation.*
- 105.** *With respect to the claim of serious and manifest imbalance as between the number of Workers' advisers whose expenses have been covered in the delegation and the number of advisers appointed for the Government delegates, the Committee notes that, in the present case, according to the Revised Provisional List of Delegations, the Government has accredited 14 Government advisers, five Employers' advisers and four Workers' advisers. In accordance with its past practice, the Committee not only considers the number of Government advisers accredited, but also takes into account the actual attendance and level of participation of the Government in the work of the Conference. In this connection, the Committee notes the Government's statement that it covers the work of the five technical committees with only three advisers, which at the time of the examination of this complaint, on 9 June 2012, appears to be established in view of the corresponding documentation demonstrating that the participants are present on a rotational basis although eight are registered in committees according to the relevant records of the*

Conference. The Committee observes that the proportion of four Government advisers to two Workers' advisers, whose expenses are covered by the Government, corresponds to the proportion envisaged in the Constitution for the composition of delegations to the Conference; it finds, therefore, that it does not amount to a serious and manifest imbalance.

- 106.** *The Committee wishes nevertheless to recall that the ability for the social partners to actively participate in the work of the Conference depends to a large extent on the number of advisers that accompany their delegate to the Conference; to expect that those advisers attend the Conference at their own expense is incompatible with article 13, paragraph 2(a), of the ILO Constitution. The Conference in its current format is characterized by a condensation of the work in a much shorter period than before, which regularly results in simultaneous sittings of four or five technical committees and sometimes the plenary. While there is no constitutional obligation for a Government to nominate advisers, it must be recognized that the Conference can only work properly if there are a sufficient number of advisers present in the three groups of the Conference. The Committee takes note of the explanation provided by the Government that the situation that has led to a reduction in the number of advisers accredited was a consequence of budgetary restrictions due to the current financial crisis. Nevertheless, in view of the importance of the ILO's work in the context of the crisis, the Committee expects that all Members will continue to give sufficient budgetary priority to participation in the work of the Conference to allow for the payment of travelling and subsistence expenses of a sufficient number of advisers, equitably distributed between the three parts of the delegation. Lastly, it expects that the Government will act quickly with respect to the consensus agreement that the authors of the complaint indicate has been transmitted to the Government and cover the travelling and subsistence expenses of the two Workers' advisers as indicated by the workers' organizations.*

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

- 107.** The Committee received a complaint lodged by Ms Cecilia Brighi, Workers' delegate at the Conference, alleging a manifest imbalance between Government advisers and the number of Workers' advisers whose expenses have been covered by the Government. The complainant contended that, a few weeks before the Conference, the Ministry of Labour informed the workers' organizations that due to financial constraints the Government could only bear the expenses of the Workers' and Employers' delegate to the Conference, and that as in previous years, the Government would not be opposed to the presence of other persons provided that their expenses were not to be charged to the Government. Despite these financial restrictions, the Government delegation to the Conference was composed of two government delegates and six advisers from the Ministry of Labour and Social Policies. Despite the Government's indication that the advisers would be rotating through the Conference and therefore there would be no difference between its delegation and that of the social partners, she submitted that this not only guarantees a governmental presence in all Conference committees, but that the additional travel expenses would be much higher than those borne for just the Workers' delegate. The complainant added that Ms Cinzia Del Rio, Italian Worker Representative to the Governing Body, had to finance her own participation at the 314th Governing Body session on 28 May 2012, during which the elections of the Director-General were held, because the Government had refused to cover the costs of her participation.

-
108. In a written communication addressed to the Committee at its request, the Government indicated that it was in the process of settling the costs of the Employers' and Workers' delegates to the Conference. Concerning the Government delegation, these expenses would be limited insofar as one of the two delegates would participate in the Conference's work for only a very short period of time, while the other delegate was posted at the Permanent Mission in Geneva. As far as the advisers are concerned, the limitation or absence of bearing these costs continued to be linked to the economic and financial crisis. As it had already stated in previous sessions of the Conference, the cuts in the budget since 2009 have made it impossible to underwrite the costs of international missions for all the members of delegations of the social partners (delegates and advisers). The Government considered that the choice to alternate between Government advisers was a legitimate one, which should not be subject to review by the social partners, and which allowed it to reduce the number of days the Government advisers were in attendance at the Conference (by taking into consideration for example bank holidays or the days dedicated to drafting reports), while the advisers for the social partners tended to stay in Geneva for the whole duration of the Conference. As for the payment of expenses of Ms Del Rio, Worker representative to the Governing Body of the International Labour Office, for her participation in the Governing Body session of 28 May 2012, the Government stated that she had filed a request for reimbursement with the ILO, by virtue of paragraphs 17 and 31 of Annex IV of the *Compendium of Rules Applicable to the Governing Body*.
109. *The Committee observes that, for the fourth consecutive year, it has received a complaint concerning a serious and manifest imbalance between the number of Workers' and Government advisers whose expenses have been covered by the Government.*
110. *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 to examine complaints on the non-observance of that provision includes, in accordance with article 26ter, paragraph 1(b), of the Conference Standing Orders, cases of serious and manifest imbalance as between the number of Employers' or Workers' advisers whose expenses have been covered in the delegation and the number of advisers appointed for the Government delegates. The purpose is 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.*
111. *The Committee notes that the Government has recognized, again this year, that it will not bear the travel and subsistence expenses of the Workers' advisers, whereas there are government advisers in each technical committee of the Conference. In this respect, the Committee recalls that the ability for the social partners to actively participate in the work of the Conference depends to a large extent on the number of advisers that accompany the delegate to the Conference; to expect that those advisers attend the Conference at their own expense is incompatible with article 13, paragraph 2(a), of the ILO Constitution. While there is no constitutional obligation for a Government to nominate advisers, it must be recognized that the Conference can only work properly if there are a sufficient number of advisers present in the three groups of the Conference.*
112. *As already mentioned in the past, the Committee finds the budgetary reasons invoked by the Government to be rather unconvincing, all the more so since the country is one of the countries of chief industrial importance. The Committee expects that all the Members will know how to give priority in their budget for participation in the work of the Conference by assuring the payment of travel and subsistence expenses for a sufficient number of advisers for the delegation, distributed in an equitable manner between the three parties of the delegation.*

-
113. *With regard to the payment of expenses of members of the Governing Body attending meetings held in conjunction with the Conference, the Committee has no mandate to proceed with the examination of this question which falls within the purview of the Governing Body.*

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

114. The Committee received a complaint presented by the Employers' group at the Conference alleging the non-payment of travel and subsistence expenses of the Employers' delegate, Mr Freddy José Blandon, by the Government of Nicaragua, in breach of article 13, paragraph 2(a), of the ILO Constitution. The Government's failure to meet its constitutional obligation prevented the employers' of Nicaragua from participating fully in the important work of the Conference. It went against the resolution concerning the strengthening of tripartism in overall activities of the ILO, adopted by the Conference at its 56th Session (1971) and was contrary to the spirit of tripartism. The Employers' group alleged that this was the sixth consecutive year that the Government had not covered the travel and subsistence expenses of the Employers' delegate, though it only began lodging complaints four years ago. It would therefore like the Committee to obtain confirmation beyond the information contained in the form of credentials should the Government claim that it had already met its full constitutional obligations. It stated that the Committee had recalled in 2009, 2010, and 2011 that the decision not to cover the expenses of the Employers' delegate was 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 Employers' group asked the Committee to strongly urge the Government of Nicaragua to pay the full travelling and subsistence expenses of the Employers' delegate, which would in fact be a reimbursement to his employer organization for having already paid these costs, and, in the future, to comply with its constitutional obligations by paying the full travel and subsistence expenses well in advance of the Conference.
115. In a written communication addressed to the Committee in response to its request, the Government stated that since it assumed its mandate in 2007 it had stated publicly its policy of restitution of the rights of the Nicaraguan people in all forums, both at the national and international level. In trying to rationalize its modest resources, it had prioritized Nicaraguan human development. To this end, it was the staff of the Permanent Mission of Nicaragua in Geneva that represented the Government, since it could not itself be present at the Conference due to the high costs that such a presence would entail and since there was no budget foreseen to cover it. The Government, recognizing its international commitments owing to its membership and the ILO Constitution, stated that it had not acted in bad faith in failing to cover the expenses of the Employers' delegation and reiterated that it did not have the resources. The Government stressed that since it assumed its mandate in 2007, it had maintained a harmonious relationship with employers and workers, and that it had promoted social dialogue and achieved agreements based on consensus in all areas of tripartite concern, including negotiating minimum wages. Indeed, it had named the author of the complaint to the Executive Board of the Central Bank. The Government considered that the alliance among the employers, workers and government had been decisive in combating poverty and furthering its country's economic and social development, but that it was only possible through the correct utilization of the few resources it had at its disposal.
116. *The Committee notes that, once again, it has received a complaint presented by the Employers' group at the Conference alleging the non-payment of travel and subsistence expenses of the Employers' delegate. The Government has not denied the allegation that it has not met its minimum obligation under article 13, paragraph 2(a), of the ILO*

Constitution to cover the costs of a tripartite delegation. Rather, the Government submits that its budgetary priorities have not permitted it to participate at the Conference or to meet its minimal constitutional obligations. At odds with this decision is the Government's statements that it has sought to maintain a harmonious relationship with the employers and workers. Indeed, since the Government came into power in 2007 the Employers allege that they have not received payment of travel and subsistence expenses. The Committee acknowledges the difficult financial situation that member States may be facing and understands the financial burden that the participation of a full tripartite delegation to the Conference implies. However, while the Government of Nicaragua may continue to rely on its representatives from its Permanent Mission in Geneva to represent it at the Conference, the Committee must remind the Government that the social partners could not rely on such a system. As stated last year, the Committee notes that financial constraints have 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 is seriously concerned at the repeated breach by the Government of Nicaragua of its obligations under article 13, paragraph 2(a), of the ILO Constitution. The Committee, therefore, strongly urges that the Government 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. The Committee expects that all the Members know how to give priority in their budget for participation in the work of the Conference by assuring the payment of travel and subsistence expenses of a fully tripartite delegation.

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

117. The Committee received a complaint presented by the Employers' group at the Conference alleging the non-payment of travel and subsistence expenses of the Employers' delegate, Mr Olusegun Oshinowo and his adviser Mr Timothy Olawale, by the Government of Nigeria, in breach of article 13, paragraph 2(a), of the ILO Constitution. The Government's failure to meet its constitutional obligation prevented the employers of Nigeria from participating fully in the important work of the Conference. It went against the resolution concerning the strengthening of tripartism in overall activities of the ILO, adopted by the Conference at its 56th Session (1971) and was contrary to the spirit of tripartism. The Employers' group asked the Committee to strongly urge the Government of Nigeria to pay the full travelling and subsistence expenses of the Employers' delegate and his adviser and, in the future, to comply with its constitutional obligations well in advance of the Conference.
118. In a written communication addressed to the Committee at its request, the Government stated that it had always complied with its constitutional obligation to pay both the travel and subsistence expenses of the social partners. At this session of Conference, it paid the travel expenses of both the Employers' delegate and his adviser. In addition, it made a per diem payment for the accredited delegate and the technical adviser for an initial period of five days. To encourage attendance and full participation in the Conference, the final total amount to be paid would be based on the number of days in actual attendance.
119. The Committee notes that the Government says it has paid for the full travelling expenses and a part of the subsistence expenses of the Employers' delegate and his adviser. The Committee expects that the Government will honour its commitment to pay all the subsistence expenses. However, it wishes to recall that the obligation under article 13, paragraph 2(a), of the ILO Constitution requires governments not only to bear the expenses necessary for a member State's tripartite delegation to be present in Geneva for the whole duration of the Conference, but to make sure that the necessary financial means

are made available to the participants concerned sufficiently in advance, so that the participation of delegates who could not afford to advance expenses is not jeopardized.

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

120. The Committee received a complaint presented by Mr Tomasz Wójcik, Workers' delegate of Poland, concerning the non-payment of his travel and subsistence expenses. He contended that on 22 May 2012 he had received an email from the Ministry of Labour that delegates would receive allowances for the 101st Session of the Conference. He alleged that on 24 May he signed an agreement with the Ministry of Labour, but stated that he did not accept certain paragraphs of this agreement. The Ministry therefore refused to pay him the allowances owed. He stated that he registered at the Conference on 29 May, and that his continued participation was at his own cost. He requested the Committee to remind the Government of its obligations to pay his travel and subsistence expenses.
121. In a written communication addressed to the Committee at its request, the Government submitted that the costs of participation of the Polish social partners in the Conference were paid by the Ministry of Labour and Social Policy and that it covered the travel and subsistence costs on the basis of an agreement signed with the delegates. It stated that the agreement had been the subject of a legal opinion from the International Labour Office and that, on the basis of that opinion, the agreement had been amended to be limited to only what was necessary to ascertain that expenses had been incurred by the members of the delegation in connection with their participation in the Conference. There had been consultation with the social partners on the draft agreement, and Solidarność, the organization Mr Wójcik represented, had submitted one comment, which was later included in the agreement. The Government pointed out that the agreement not only set out the obligations on the delegates but also those of the Government, and that the agreement's sole aim was to set out the expenses the Ministry was obligated to cover. Mr Wójcik was the only member of the Polish delegation to challenge the necessity of the agreement or to make reservations on its content; because of his reservations the Ministry deemed that he had not signed the agreement. The Government provided its comments on the individual reservations made by the Workers' delegate, which concerned, among other things, the provisions stipulating the dates of attendance of the delegate, the need to submit a hotel invoice and the clause on the competent court. The Government contended that while respecting the independence of social partners, it had also to ensure that public funds were properly used.
122. *The Committee recalls that the minimum obligation of Governments, in respect of which the Committee is competent to examine complaints under article 26ter, paragraph 1(a), of the Conference Standing Orders, is to pay for the travel and subsistence expenses of titular delegates. While the right of the delegates to claim the reimbursement of such expenses may be subject to conditions, those should not go beyond what is necessary to ascertain that the expenses have actually been incurred by the delegates in connection with the participation in the Conference. The Committee notes that the current form of the agreement to be signed between the Government and the Workers' delegate and advisers has, according to the Government, been the subject of tripartite consultations and that it takes into account the legal opinion that was provided by the International Labour Office at the request of the Independent and Self-governing Trade Union Solidarność. The Committee considers that the requirement to sign the agreement in its current form is not incompatible with Article 13, paragraph 2(a), or other provisions of the ILO Constitution and that the Committee is not competent to examine this requirement in other respects. It therefore decides not to uphold the complaint.*

Communications

123. The Committee also received one communication.

Communication concerning the Workers' delegate of the Islamic Republic of Iran

124. The Committee received a communication dated 19 May 2012 from the Director-General for Internal Affairs in the Ministry of Cooperatives, Labour and Social Welfare of the Islamic Republic of Iran, containing a report on the procedure followed by the Government to nominate the Workers' delegate at this session of the Conference, including observations regarding the nominations from the High Coordination Centre of Workers' Representatives.
125. *The Committee takes note of the communication and considers that it does not call for any further action on its part.*

General observations

126. The Committee wishes to recall that the focus of its work concerns the respect by Governments of two obligations, on the one hand the obligation to nominate the Employers' and Workers' delegates and advisers in agreement with the most representative organizations of, respectively, employers and workers and, on the other hand, the obligation to pay the travelling and subsistence expenses of delegates and their advisers, including of the employers and workers, attending the meetings of the Conference. Those obligations are provided for respectively in article 3, paragraph 5, and article 13, paragraph 2(a), of the Constitution of the ILO and have thus been formally accepted by all member States upon becoming Members of the ILO. The Committee wishes to stress that only full respect for these obligations can ensure that tripartism in the International Labour Conference is not only formally achieved but permits the genuine representatives of government, employers and workers of member States to be brought together.
127. With respect to accreditation of delegations, the Committee notes with satisfaction that there is an increase in the number of member States that use the Online Credentials application made available by the Office this year; however, it observes that there remains 73.8 per cent of member States that have yet to use the Online Credentials application. While the Credentials Committee recognizes that not all member States may have the infrastructure to utilize the Online Credentials application, the Committee nevertheless encourages the remainder of member States to use it for future sessions of the Conference. Its use not only prevents transcription errors in the credentials, but it also allows the Organization to use better the resources provided to the Secretariat. The Committee encourages the International Labour Office to promote the use of the Online Credentials application, as well as to inquire with member States on areas of possible improvement of the Online Credentials application and to solicit reasons for their lack of use of the application, with a view to making it the preferred method for submitting credentials.

* * *

- 128.** 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 18 and 35.

Geneva, 12 June 2012

(Signed) Mr Kouka Célestin Sawadogo
Chairperson

Mr Jørgen Rønne

Ms Trine Lise Sundnes

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

- 4) Government advisers
5) Employers' advisers
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	1	1	7	2	1	Ecuador.....	2	1	1	2	1	-	Luxembourg.....	2	1	1	8	5	8	Seychelles.....	2	1	1	-	-	-
Albania.....	2	1	1	9	1	1	Egypt.....	2	-	1	5	2	4	Madagascar.....	2	-	-	4	-	-	Sierra Leone.....	2	1	1	-	-	-
Algeria.....	2	1	1	8	5	8	El Salvador.....	2	1	1	-	-	-	Malawi.....	2	1	1	-	1	1	Singapore.....	2	1	1	12	3	8
Angola.....	2	-	1	1	2	1	Equatorial Guinea.....	2	-	-	-	-	-	Malaysia.....	2	1	1	8	2	7	Slovakia.....	2	1	1	5	3	3
Antigua and Barbuda.....	-	-	-	-	-	-	Eritrea.....	2	1	1	2	-	1	Maldives.....	2	1	1	5	-	1	Slovenia.....	2	1	1	3	1	1
Argentina.....	2	1	1	6	8	9	Estonia.....	2	-	1	3	1	-	Mali.....	2	-	1	14	1	3	Solomon Islands.....	2	-	-	-	-	-
Armenia.....	-	-	-	-	-	-	Ethiopia.....	2	1	1	3	1	1	Malta.....	2	1	-	3	5	7	Somalia.....	-	-	-	-	-	-
Australia.....	2	-	1	7	2	3	Fiji.....	2	1	1	1	-	-	Marshall Islands.....	-	-	-	-	-	-	South Africa.....	2	1	1	5	5	6
Austria.....	2	1	1	7	2	5	Finland.....	2	1	1	6	3	4	Mauritania.....	2	1	1	7	-	4	Spain.....	2	1	1	14	4	4
Azerbaijan.....	2	1	1	5	1	6	France.....	2	1	1	20	3	9	Mauritius.....	2	1	1	4	3	-	Sri Lanka.....	2	1	1	6	-	5
Bahamas.....	2	1	1	-	-	-	Gabon.....	2	1	1	17	4	6	Mexico.....	2	1	1	7	8	8	Sudan.....	2	1	1	9	-	8
Bahrain.....	2	1	1	5	2	2	Gambia.....	-	1	1	2	-	-	Republic of Moldova.....	2	1	1	-	-	-	Suriname.....	2	1	1	-	-	-
Bangladesh.....	2	1	1	8	2	1	Georgia.....	2	1	1	6	1	3	Mongolia.....	2	1	1	8	1	4	Swaziland.....	2	1	1	7	3	2
Barbados.....	2	1	1	2	-	1	Germany.....	2	-	1	8	5	10	Montenegro.....	2	1	1	2	-	2	Sweden.....	2	-	1	4	4	4
Belarus.....	2	1	1	9	2	10	Ghana.....	2	1	-	17	8	8	Morocco.....	2	1	1	8	3	9	Switzerland.....	2	1	1	12	3	6
Belgium.....	2	1	1	12	6	8	Greece.....	2	-	1	6	3	4	Mozambique.....	2	1	1	4	2	4	South Sudan.....	2	1	1	2	-	-
Belize.....	-	-	-	-	-	-	Grenada.....	-	-	-	-	-	-	Myanmar.....	2	1	1	5	-	-	Syrian Arab Republic.....	2	-	-	1	-	-
Benin.....	2	1	1	8	1	8	Guatemala.....	2	1	1	9	5	1	Namibia.....	1	1	1	5	3	2	Tajikistan.....	1	-	-	-	-	-
Bolivia (Plurinational State).....	2	1	1	4	-	-	Guinea.....	2	1	1	13	3	8	Nepal.....	2	1	1	4	-	6	United Republic of Tanzania.....	2	1	1	10	8	2
Bosnia and Herzegovina.....	1	-	-	1	-	-	Guinea-Bissau.....	-	-	-	-	-	-	Netherlands.....	1	1	1	15	5	8	Thailand.....	2	1	1	15	3	8
Botswana.....	2	1	1	4	-	1	Guyana.....	1	1	-	-	-	-	New Zealand.....	2	1	1	6	1	1	The former Yug. Rep. Macedonia.....	2	1	1	1	-	1
Brazil.....	2	1	1	17	10	10	Haiti.....	2	-	1	2	-	-	Nicaragua.....	2	1	1	1	-	1	Timor-Leste.....	2	1	1	3	-	-
Brunei Darussalam.....	2	1	1	6	-	-	Honduras.....	2	1	1	5	-	1	Niger.....	2	-	1	7	3	7	Togo.....	2	1	1	13	5	8
Bulgaria.....	2	1	1	8	1	2	Hungary.....	2	1	1	7	5	6	Nigeria.....	2	1	1	14	8	8	Trinidad and Tobago.....	2	1	1	8	1	-
Burkina Faso.....	2	1	1	20	3	5	Iceland.....	2	1	1	2	1	1	Norway.....	2	1	1	8	4	6	Tunisia.....	2	1	1	9	3	8
Burundi.....	2	1	1	1	-	-	India.....	2	1	1	8	7	8	Oman.....	2	1	1	10	5	6	Turkey.....	2	1	1	16	7	7
Cambodia.....	2	1	1	4	-	-	Indonesia.....	2	1	1	17	10	1	Pakistan.....	2	1	1	6	-	1	Turkmenistan.....	2	-	-	-	-	-
Cameroon.....	2	1	1	11	6	8	Islamic Republic of Iran.....	2	1	1	13	5	6	Panama.....	2	1	1	6	2	4	Tuvalu.....	-	-	-	-	-	-
Canada.....	2	1	1	10	4	5	Iraq.....	2	1	-	11	-	-	Papua New Guinea.....	2	1	1	10	-	-	Uganda.....	2	1	1	-	7	4
Cape Verde.....	2	1	1	2	-	-	Ireland.....	2	1	1	9	1	-	Paraguay.....	2	1	1	4	1	1	Ukraine.....	2	1	1	3	7	5
Central African Republic.....	2	1	1	7	-	-	Israel.....	2	1	1	6	2	2	Peru.....	2	1	1	9	1	2	United Arab Emirates.....	2	1	1	9	2	2
Chad.....	2	1	1	11	1	1	Italy.....	1	1	1	6	2	3	Philippines.....	2	1	1	4	3	3	United Kingdom.....	2	1	1	9	3	4
Chile.....	2	-	1	11	8	8	Jamaica.....	2	1	1	5	1	-	Palau.....	-	-	-	-	-	-	United States.....	2	1	-	16	5	9
China.....	2	1	1	17	7	8	Japan.....	2	1	1	14	4	10	Poland.....	2	1	1	9	5	4	Uruguay.....	2	-	1	4	3	3
Colombia.....	2	-	1	9	7	9	Jordan.....	2	1	1	5	-	5	Portugal.....	2	1	1	4	5	7	Uzbekistan.....	2	1	1	3	-	-
Comoros.....	2	1	1	-	-	1	Kazakhstan.....	2	1	1	3	-	1	Qatar.....	2	1	1	4	1	1	Vanuatu.....	-	-	-	-	-	-
Congo.....	2	1	1	16	8	9	Kenya.....	2	1	1	7	3	5	Romania.....	2	1	1	4	3	6	Venezuela (Bolivarian Republic).....	2	1	1	6	9	7
Costa Rica.....	2	1	1	4	1	-	Kiribati.....	2	1	1	1	1	-	Russian Federation.....	2	1	1	19	3	8	Viet Nam.....	2	1	1	2	-	2
Côte d'Ivoire.....	2	1	1	13	6	2	Republic of Korea.....	2	1	1	16	8	5	Rwanda.....	2	-	1	2	-	-	Yemen.....	2	1	1	1	-	6
Croatia.....	2	-	1	5	3	-	Kuwait.....	2	1	1	15	4	4	Saint Kitts and Nevis.....	-	-	-	-	-	-	Zambia.....	2	1	1	8	5	3
Cuba.....	2	1	1	2	1	1	Kyrgyzstan.....	2	-	-	-	-	-	Saint Lucia.....	-	-	-	-	-	-	Zimbabwe.....	2	1	1	13	1	2
Cyprus.....	1	1	1	6	4	7	Lao People's Democratic Rep.....	2	1	1	3	1	2	Saint Vincent and the Grenadines.....	-	-	-	-	-	-							
Czech Republic.....	2	1	1	8	3	4	Latvia.....	2	1	1	1	-	1	Samoa.....	-	-	-	-	-	-							
Democratic Republic of the Congo.....	2	1	1	16	6	4	Lebanon.....	2	1	1	4	4	3	San Marino.....	2	1	1	-	2	4							
Denmark.....	2	1	1	15	3	6	Lesotho.....	2	1	1	5	-	-	Sao Tome and Principe.....	-	1	1	-	-	-							
Djibouti.....	2	-	1	3	-	-	Liberia.....	2	1	1	2	2	4	Saudi Arabia.....	2	1	1	15	3	5							
Dominica.....	-	-	-	-	-	-	Libya.....	2	1	1	3	1	3	Senegal.....	2	1	1	12	1	8							
Dominican Republic.....	2	1	1	10	3	8	Lithuania.....	2	1	1	3	-	-	Serbia.....	2	1	1	3	1	4							

	1)	2)	3)	4)	5)	6)
Total	329	146	157	1125	409	582

CONTENTS

	<i>Page</i>
<i>Reports on credentials</i>	
Second report of the Credentials Committee	1
Composition of the Conference.....	1
Monitoring	1
Objections	4
Complaints	27
Communications	35
General observations.....	35

.....
: This document is printed in limited numbers to minimize the environmental impact of the ILO's activities and :
: contribute to climate neutrality. Delegates and observers are kindly requested to bring their copies to meetings :
: and to avoid asking for additional ones. All ILC documents are available on the Internet at www.ilo.org. :
.....