



## FIRST ITEM ON THE AGENDA

**Standing Orders of the International Labour Conference: Evaluation of *Interim provisions* concerning the verification of credentials**

1. This document presents some elements to enable the Governing Body to evaluate the system established by the *Interim provisions of the Standing Orders of the International Labour Conference concerning verification of credentials* (“*Interim provisions*”).

**Procedural history**

2. The *Interim provisions* were adopted by the International Labour Conference at its 92nd Session (June 2004).<sup>1</sup> They became effective at the 93rd Session (June 2005) of the Conference and were originally supposed to remain in force until the end of its 96th Session (May–June 2007), but their validity was extended until the end of the 97th Session (2008).<sup>2</sup>
3. The adoption of the *Interim provisions* by the Conference came as a result of several discussions during which the Committee on Legal Issues and International Labour Standards (LILS Committee) of the Governing Body examined a number of proposals aimed at improving the functioning of the Credentials Committee and making it more efficient. These discussions are reflected in the documents of the 286th (March 2003), the 288th (November 2003), and the 289th (March 2004) Sessions of the Governing Body.<sup>3</sup>
4. The debate about the functioning of the Credentials Committee was actually initiated by the Credentials Committee of the 90th Session of the Conference (June 2002). Through the

<sup>1</sup> See *Provisional Records* Nos 2, 16 and 23, International Labour Conference, 92nd Session, 2004.

<sup>2</sup> The *Resolution concerning the extension of the validity of the Interim provisions concerning the verification of credentials*, *Provisional Records* 2-1 and 10, International Labour Conference, 96th Session, 2007. The Conference was acting upon the proposal of the Governing Body. See GB.298/LILS/2 and GB.298/9(Rev.).

<sup>3</sup> GB.286/LILS/3 and GB.286/13/1; GB.288/LILS/4 and GB.288/10/1; GB.289/LILS/1/1 and GB.289/11.

Conference, it had requested the Governing Body to examine as a matter of urgency the question of the effectiveness of the mechanism under which the Committee was required to exercise its mandate. The initial proposals outlining the possible solutions, which included amendments to the ILO Constitution, strengthening the control and monitoring functions of the Credentials Committee, and adjustment of existing means of action, had evolved during the discussions in the LILS Committee and the Governing Body into the solutions reflected in the *Interim provisions*.

5. The Governing Body considered that the reform reflected in the *Interim provisions* should be carried out on a temporary basis for a “probationary” period of three years (now extended for one more year). At the end of this period, the provisions will automatically lapse unless the Conference takes a decision to renew them. In order to underline their temporary character, it had also been decided to publish the *Interim provisions* in a separate publication and not to integrate them in the existing version of the Conference Standing Orders.
6. The record of the discussion at the 92nd Session of the Conference (2004) reflects a conclusion that the Governing Body would need to evaluate the system established by the *Interim provisions* following the end of the 96th Session (2007) of the Conference, with a view to reporting to the Conference in June 2008.<sup>4</sup>

## **Content of the *Interim provisions* and their application by the Credentials Committee**

7. The *Interim provisions* added several new elements to the competence of the Credentials Committee.
8. The first new element introduced the possibility for the Credentials Committee to examine objections relating to failure by a government to deposit the credentials of an Employers’ or a Workers’ delegate (article 5.2(a) of the *Interim provisions*). This new mandate enables the Conference to supplement in an effective manner the survey that the Director-General was requested to conduct pursuant to the resolution concerning the strengthening of tripartism in the overall activities of the Organization that the Conference adopted at its 56th Session (1971). The Credentials Committee therefore became competent to examine objections alleging that a Member had failed to respect the obligation under article 3, paragraph 1, of the Constitution to nominate a complete tripartite delegation to each session of the Conference.
9. The Credentials Committee has made use of this element of its new mandate on several occasions. In 2005, the Committee dealt with two objections concerning the failure to nominate non-governmental delegates from Belize and Gambia.<sup>5</sup> In 2007, similar objections were lodged in relation to Gambia, Haiti, Saint Kitts and Nevis, and Saint Vincent and the Grenadines.<sup>6</sup> The review of these objections permitted the Credentials Committee to emphasize some general principles, such as that the Conference could not function properly or attain its objectives without the participation of full tripartite delegations.

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<sup>4</sup> *Provisional Record* No. 2, para. 14, and *Provisional Record* No. 23, p. 23/23, International Labour Conference, 92nd Session, 2004.

<sup>5</sup> *Provisional Records* Nos 4C and 4D, International Labour Conference, 93rd Session, 2005.

<sup>6</sup> *Provisional Record* No. 4C, International Labour Conference, 96th Session, 2007.

10. The second element of the new mandate covers the possibility to monitor particularly complex situations. This is applicable to both objections and complaints (articles 26bis, para. 7, and 26ter, para. 4 of the *Interim provisions*). The Credentials Committee has used this new mandate on several occasions. In 2005, in light of several objections lodged with the Committee regarding the nomination of both Employer and Worker representatives of Burundi, the Committee decided to recommend to the Conference that it request the Government to submit to the following session of the Conference, at the same time that it submitted its credentials, a detailed report on the procedure utilized to nominate the Employers' and Workers' delegates and advisers.<sup>7</sup> This report was to indicate in particular the organizations that were consulted on the matter; the date and place of these consultations as well as the names of the individuals nominated by the organizations during these consultations. In this first exercise of the mandate, the Committee enjoyed the full cooperation of the Government of Burundi.<sup>8</sup>
11. In 2006, the Credentials Committee proposed a similar monitoring measure regarding the situation in Djibouti. The Government of Djibouti provided some documents concerning the nomination of non-governmental delegates only after a reminder from the Committee, and the Committee considered that the level of information furnished did not correspond to the request made by the Conference. Therefore the Committee made a recommendation, which the Conference accepted, to renew the same request for monitoring measures for the 2008 Conference.<sup>9</sup>
12. Also in 2007, the Committee considered an objection regarding the nomination of the Workers' delegate of Myanmar. The Committee proposed, inter alia, a monitoring measure consisting of a detailed report that the Government of Myanmar is expected to submit for the 97th Session of the Conference (2008), at the same time that it submits its credentials. The report is to include the procedure utilized to nominate the Workers' delegate and advisers, the organizations consulted on the matter, the criteria according to which the percentage of the workforce was measured in relation to the representation of the organizations consulted, as well as the date and place of these consultations, the names of the individuals nominated during these consultations and the positions they hold within the organizations consulted. The application of this measure should enable the Credentials Committee to be seized of the matter automatically and to act more effectively during the Conference.
13. The third element of the new mandate of the Credentials Committee, i.e., the possibility to refer a question raised by an objection as to the composition of a delegation to the Governing Body Committee on Freedom of Association (CFA) (article 26bis, paragraph 6 of the *Interim provisions*) has not yet been used by the Credentials Committee. One of the reasons is that many questions raised in objections result from situations that have already been brought to the attention of the CFA. However, the Credentials Committee has made a clear link on several occasions between freedom of association and the way in which delegates and advisers have been nominated,<sup>10</sup> and it has referred to the conclusions of the

<sup>7</sup> *Provisional Record* No. 4D, International Labour Conference, 93rd Session, 2005, paras 8 and 12.

<sup>8</sup> *Provisional Record* No. 5C, International Labour Conference, 95th Session, 2006, paras 7–10.

<sup>9</sup> *Provisional Record* No. 4C, International Labour Conference, 96th Session, 2007, paras 6–8.

<sup>10</sup> For example, *Provisional Record* No. 5C, International Labour Conference, 95th Session, 2006, para. 19; *Provisional Record* 4C, International Labour Conference, 96th Session, 2007, paras 8, 33–34, and 47–48.

CFA in its own reports.<sup>11</sup> In light of this link, it may well be that Credentials Committee will make use of the possibility to refer a question to the CFA at a future session of the Conference.

14. The Credentials Committee itself, recalling that the new mandate had been introduced upon its own initiative, has already evaluated the *Interim provisions*. The Committee found the new mandate to be a very useful tool in dealing with issues of credentials of delegates and considered that the *Interim provisions* had fully justified their existence. Consequently, the Committee respectfully requested the Governing Body and the Conference to introduce the *Interim provisions* on a permanent basis as amendments to the Conference Standing Orders.<sup>12</sup>

## Editorial modifications

15. As the original text of the *Interim provisions* had been drafted in French, some editorial modifications are suggested in the English and Spanish versions to align the two texts. These modifications are indicated in the appendix to the English and Spanish versions of the present document.

## Practical measures accompanying *Interim provisions*

16. It is useful to recall that some practical measures accompanied the implementation of the *Interim provisions*. These measures included an early publication of a list of delegations as well as the establishment of a database containing the reports of the Credentials Committee of the recent sessions of the Conference.
17. As a matter of practice in the past three years, the Office has made electronically available several preliminary lists of delegations prior to the print publication of the Provisional List of Delegations on the opening day of the Conference. The first such preliminary list reflects the names of all accredited members of the delegations of member States that deposited their credentials with the Office at least 15 days before the opening date of the Conference, as required under article 26 of the Conference Standing Orders. The second such list is made available one day before the opening of registration of participants.<sup>13</sup> The availability of these lists enables all interested persons to inspect the credentials of member States and, in some cases, to act accordingly by preparing the objections; it also facilitates the process of applying for visas to enter Switzerland and the verification of the accuracy of the data entry of the credentials information by the Members themselves.

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<sup>11</sup> For example, *Provisional Record* No. 5C, International Labour Conference, 95th Session, 2006, para. 20; *Provisional Record* No. 4C, International Labour Conference, 96th Session, 2007, para. 62.

<sup>12</sup> *Provisional Record* No. 4C, International Labour Conference, 96th Session, 2007, para. 129.

<sup>13</sup> It is important to recall that these lists reflect the names included in the credentials received by the Office, and not the actual presence of delegates.

18. The ILO's database on the verification of credentials is available electronically<sup>14</sup> through the web site of the Office of the Legal Adviser (JUR).<sup>15</sup> The database covers both the verification of credentials at the International Labour Conference and at ILO Regional Meetings. It currently reflects 31 sessions of the Conference (i.e., 26 years<sup>16</sup>) and eight Regional Meetings. Almost all entries are indexed and the database therefore allows not only a full-text search, but also a search by keyword, by session and by member State. The database also contains rules relevant to the verification of credentials and the composition of the Credentials Committee back to the 68th Session of the Conference (1982). The database is updated regularly following each session of the Conference. Additional resources would be needed to complete the database to include all previous sessions of the Conference. The Credentials Committee, through its President, has noted on several occasions the usefulness of the database and invited all those concerned to take full advantage of it.<sup>17</sup>

19. *In light of the above, the Committee may wish to recommend to the Governing Body that it:*

- (a) *invite the Conference, at its 97th Session (2008), to approve amendments of the Standing Orders of the Conference by including the text contained in the appendix to this document as an integral part of the Conference Standing Orders, taking into account a possible need to renumber the provisions;*
- (b) *call upon the Office to continue to add entries to the database on the verification of credentials, as permitted by resources made available for this purpose.*

Geneva, 20 September 2007.

*Point for decision:* Paragraph 19.

<sup>14</sup> [http://www.ilo.org/dyn/creds/credsbrowse.home?p\\_lang=en](http://www.ilo.org/dyn/creds/credsbrowse.home?p_lang=en).

<sup>15</sup> <http://www.ilo.org/public/english/bureau/leg/>.

<sup>16</sup> The discrepancy between the number of sessions and the years is due to holding more than one session of the Conference during the same year, such as in years when the Maritime Session of the Conference was organized separately from the General Conference.

<sup>17</sup> See *Provisional Record* No. 25, International Labour Conference, 96th Session, 2007.

## Appendix

### Proposed amendments to the Standing Orders of the International Labour Conference

#### ARTICLE 5

##### *Credentials Committee*

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

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

- (a) the credentials as well as any objection relating to the credentials of delegates and their advisers or to the failure to deposit credentials of an Employers' or Workers' delegate;
- (b) any complaint of non-observance of paragraph 2(a) of article 13 of the Constitution;
- (c) the monitoring of any situation with regard to the observance of the provisions of article 3 or article 13, paragraph 2(a), of the Constitution about which the Conference has requested a report.

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#### PART II

##### *Standing Orders concerning special subjects*

#### SECTION B

##### *Verification of credentials*

#### ARTICLE 26

##### *Examination of credentials*

1. The credentials of delegates and their advisers and of all other accredited members of the delegation of a member State shall be deposited with the International Labour Office at least 15 days before the date fixed for the opening of the session of the Conference.

2. A brief report upon these credentials shall be drawn up by the Chairman of the Governing Body. It shall, with the credentials, be made available for inspection on the day before the opening of the session of the Conference and shall be published on the day of the opening of the session.

3. The Credentials Committee appointed by the Conference in pursuance of article 5 of the Standing Orders of the Conference shall consider the credentials, as well as any ~~appeal~~, objection, complaint or report concerning them.

## ARTICLE 26BIS

*Objections*

1. An objection in pursuance of article 5, paragraph 2(a), shall not be receivable in the following cases:

- (a) if the objection is not lodged with the Secretary-General within 72 hours from 10 a.m. of the first day of the Conference, the date of publication in the *Provisional Record* of the official list of delegations on the basis of the presence of a person's name or functions on this list, or its absence, which the objection to the inclusion or exclusion of the name and function of a person is submitted. If the objection is based on a revised list, the time limit shall be reduced to 48 hours;
- (b) if the authors of the objection remain anonymous;
- (c) if the author of the objection is serving as adviser to the delegate to whose nomination objection is taken;
- (d) if the objection is based upon facts or allegations which the Conference, by a debate and a decision referring to identical facts or allegations, has already discussed and recognized to be irrelevant or devoid of substance.

2. The procedure for the determination of whether an objection is receivable shall be as follows:

- (a) the Credentials Committee shall consider in respect of each objection whether on any of the grounds set forth in paragraph 1 the objection is irreceivable;
- (b) if the Committee reaches a unanimous conclusion concerning the receivability of the objection, its decision shall be final;
- (c) if the Credentials Committee does not reach a unanimous conclusion concerning the receivability of the objection, it shall refer the matter to the Conference which shall, on being furnished with a record of the Committee's discussions and with a report setting forth the opinion of the majority and minority of its members, decide without further discussion whether the objection is receivable.

3. The Credentials Committee shall consider whether every objection deemed to be receivable is well founded and shall as a matter of urgency submit a report thereon to the Conference.

4. If the Credentials Committee or any member thereof submits a report advising that the Conference should refuse to admit any delegate or adviser, the President shall submit this proposal to the Conference for decision, and the Conference, if it deems that the delegate or adviser has not been nominated in conformity with the requirements of the Constitution, may, in accordance with paragraph 9 of article 3 thereof, refuse by two-thirds of the votes cast by the delegates present to admit the delegate or adviser. Delegates who are in favour of refusing to admit the delegate or adviser shall vote "Yes"; delegates who are opposed to refusing to admit the delegate or adviser shall vote "No".

5. Pending final decision of the question of his admission, any delegate or adviser to whose nomination objection has been taken shall have the same rights as other delegates and advisers.

6. If the Credentials Committee considers unanimously that the issues raised by an objection relate to a violation of the principles of freedom of association which has not already been examined by the Governing Body's Committee on Freedom of Association, it

may propose referral of the question to that Committee. The Conference shall decide, without discussion, on such proposals for referral.

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

## ARTICLE 26TER

### *Complaints*

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

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

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

- (a) if the complaint is not lodged with the Secretary-General of the Conference before 10 a.m. on the seventh day following the opening of the Conference and the Committee considers that there is insufficient time to deal with it properly; or
- (b) if the complaint is not lodged by an accredited delegate or adviser alleging non-payment of travel and subsistence expenses in the circumstances set out under (a) or (b) of paragraph 1 or by an organization or person acting on his or her behalf.

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

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

## ARTICLE 26QUATER

### *Monitoring*

The Credentials Committee also monitors any situation relating to respect by a member State for the provisions of articles 3 or 13, paragraph 2(a), of the Constitution with regard to which the Conference has requested the government concerned to report. With this objective, the Committee shall report to the Conference on the evolution of the situation. It may unanimously propose any one of the measures contained in paragraphs 4 to 7 of article 26bis or paragraphs 3 and 4 of article 26ter. The Conference shall decide, without discussion, on such proposals.