

Provisional Record

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3C



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Reports on credentials

Second report of the Credentials Committee

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Composition of the Conference

1. Since 30 May 2018, when the Credentials Committee adopted its first report (*Provisional Record* No. 3B), there have been changes in the composition of the Conference and, therefore, at present a total of 168 member States are accredited (Republic of Maldives) at the International Labour Conference. In addition, since the adoption of its first report, Cabo Verde has regained the right to vote.
2. To date, there are 6,438 persons accredited to the Conference (as compared to 6,092 in 2017, 5,982 in 2016, 5,912 in 2015, 5,254 in 2014, and 5,593 in 2013), of whom 5,238 are registered (as compared to 4,941 in 2017, 4,875 in 2016, 4,842 in 2015, 4,457 in 2014 and 4,569 in 2013). The attached lists contain more details on the number of delegates and advisers accredited and registered.
3. The Committee wishes to indicate that 147 ministers, vice-ministers, and deputy ministers have been accredited to the Conference.

Monitoring

4. The Committee was seized of three monitoring cases, pursuant to article 26quater of the Standing Orders of the International Labour Conference, by virtue of a decision of the Conference taken at its 106th Session (2017).

Djibouti

5. At its 106th Session (2017), the Conference decided, by virtue of article 26quater and 26bis(7) of the Conference Standing Orders, and upon the unanimous recommendation of the Credentials Committee, to renew the monitoring of the situation raised in an objection concerning the nomination of the Workers' delegation (*Provisional Record* No. 5C, 106th Session, 2017, paragraph 9), and consequently, it requested the Government to submit for the next session of the Conference, at the same time that it submitted its credentials for its delegation, a detailed report substantiated with relevant documentation:
 - (a) concerning the concrete measures undertaken with respect to the establishment of criteria for the independent representation of workers in the country, in conformity with freedom of association principles; and
 - (b) on the procedure followed for the nomination of the Workers' delegate and advisers, in consultation with representative workers' organizations, specifying the organizations consulted and according to which criteria, their numerical importance, the date and place of these consultations, the names of the individuals nominated by the organizations during these consultations and the positions they hold within those organizations.
6. The credentials of Djibouti for the current session of the Conference were submitted online on 6 May 2018. On 7 May 2018, the Office acknowledged receipt of the credentials submitted by the Government and reminded it of the reinforced monitoring measures decided in 2015 and of its obligation to submit a detailed report. Another reminder was sent on 24 May 2018. On 30 May 2018, a brief report, dated 27 May 2018, was delivered in person to the secretariat of the Committee, together with the original of the credentials.

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7. In the report, and similarly to the information provided by the Government last year, the Government indicated that it remained engaged in the revision of the Labour Code of 2006 with a view to introducing new provisions on “trade unions representativeness” and to elaborating thereafter the corresponding implementing regulations. The Government indicated that the rotation mechanism agreed upon by the four main organizations of employers and workers – allowing social partners to be represented at the Conference through alternating the designation of either the delegate or the adviser – remained in effect.
 8. The Government reiterated that these four organizations – the *Union Générale des Travailleurs Djiboutiens* (UGTD), the *Union Djiboutienne du Travail* (UDT), the *Confédération Nationale des Employeurs de Djibouti* (CNED) and the *Fédération des Entreprises de Djibouti* (FED) – had all been consulted before the credentials of the delegation of Djibouti were submitted. The Government stated that formal invitations to designate their representatives within the delegation were sent to all workers’ and employers’ organizations by letters dated 19 February 2018. In a communication dated 11 March 2018, the UDT designated its President, Mr Mohamed Youssouf Mohamed, as titular delegate within the Workers’ delegation, while in a communication dated 15 March 2018, the UGTD nominated its Secretary-General, Mr Said Yonis Waberi, as adviser.
 9. The Government concluded its report soliciting the ILO’s technical assistance in implementing the necessary reforms concerning the question of trade union representativity.
 10. *The Committee regrets that the detailed report requested by the Conference was only provided after the Government had submitted its credentials. The Committee notes that the Government’s report is largely similar to its report submitted last year. The Committee notes with concern that no progress has been made with regard to the reform of the national legislation on the representativeness of workers’ and employers’ organizations.*
 11. *The Committee notes that the Government, in its reports submitted to the Committee of Experts on the Application of Conventions and Recommendations in 2017, indicates that it will take all necessary measures to allow for an evaluation of the trade union situation in Djibouti, with the technical assistance of the Office. The Committee notes that this indication is reiterated in the Government’s report. Therefore, the Committee calls upon the Office to give due consideration to the Government’s request for technical assistance. The Committee hopes that this would permit the establishment of an institutional framework for setting the issue of representativeness, thus permitting the achievement of a reliable, comprehensive and up-to-date assessment of the situation of trade union movements and freedom of association in Djibouti.*
 12. *Taking into account the examination of the objection (see paragraphs 45 to 50 below), 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. Consequently, by virtue of articles 26quater and 26bis(7) of the Conference Standing Orders, the Committee unanimously proposes that the Conference request the Government of Djibouti to 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 information:*
 - (a) *concerning the concrete measures undertaken with respect to the establishment of criteria for the independent representation of workers in the country, in conformity with freedom of association principles; and*

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- (b) *on the procedure followed for the nomination of the Workers' delegate and advisers, in consultation with representative workers' organizations, specifying the organizations consulted and according to which criteria, their numerical importance, the date and place of these consultations, the names of the individuals nominated by the organizations during these consultations and the positions they hold within those organizations.*

Somalia

13. At its 106th Session (2017), the Conference decided, by virtue of article 26quater and 26bis(7) of the Conference Standing Orders, and upon the unanimous recommendation of the Credentials Committee, to renew the monitoring of the situation raised in an objection concerning the nomination of the Workers' delegation (*Provisional Record* No. 5C, 106th Session, 2017, paragraph 20). Consequently, it requested the Government to submit for the next session of the Conference, at the same time that it submits its credentials for its delegation, a detailed report substantiated with relevant information on:
- (a) the names of the representative workers' organizations in Somalia, together with figures indicating their comparative importance;
 - (b) information as to which of those organizations were consulted on the designation of the Workers' delegation, as well as the dates, places and outcomes of such consultations; and
 - (c) the names of the individuals nominated by the organizations during these consultations and the positions they hold within those organizations.
14. The credentials of Somalia for the present session of the Conference were submitted on 9 May 2018 through the *Online accreditation system* without a monitoring report. Following a written and verbal reminder, a concise monitoring report comment was submitted on 1 June 2018 by the Government delegate, Mr Hassan Shariff Osman, Permanent Secretary, Ministry of Labor and Social Affairs.
15. The Workers' delegate, as reflected on the 9 May 2018 list, was Mr Haji Ali Mohamed Osman, Chairman of the Somali Congress of Trade Unions (SOCOTU), accompanied by four advisers from SOCOTU (Mr Omer Ahmed Hassan, Secretary; Mr Mohamed Said Ali, Secretary-General of the Somali Fisheries Workers Union and Executive Committee Member; Mr Moalim Yaqub Ali, Vice-President of the Somali National Teachers Union; and Mr Mohamud Abdikadir Awil, Head of Education and Training Departments) and one adviser from the Federation of Somali Trade Unions (FESTU) (Mr Nur Mohamed Ibrahim).
16. In the 1 June 2018 report, it was recalled that the country was in a process of recovery following many years of internal conflict and institutions were emerging without institutional memory or continuity. With respect to consultations for the purposes of designating the Workers' delegation to the present session of the Conference, it was explained that due to difficult circumstances the Ministry of Labour and Social Affairs had been unable to conduct consultations with the different trade unions. Concerning the verification of membership figures of workers' organizations, joined to the report was a certification statement dated 28 December 2014. It was signed by the then Labor Minister Luqman Ismail Mohamed and stated therein that following a month-long inspection and study of membership in many places in the country, FESTU was determined to be the largest and most representative umbrella organization of trade unions. FESTU had 59,240 regular dues paying members and 78,920 members that pay irregularly or are unable to pay membership fees. Concerning the composition of the Workers' delegation, the 1 June 2018 report conveyed a new composition with respect to the Workers' delegation as a result of a

Memorandum of Understanding between the Ministry of Labor and Social Affairs and FESTU on Tripartite Participation of International Labour Conferences, dated 30 May 2018. The adjustments were as follows: Mr Omar Faruk Osman Nur, General Secretary of FESTU, as Workers' delegate and Mr Mohamed Musse Mohamud, Treasurer, FESTU, as Workers' adviser and substitute delegate. Removed from the list was Mr Mohamed Osman Haji Ali, Workers' delegate. In addition, Mr Mohamed Ibrahim Nur, Workers' adviser, was removed on the basis that following consultations with FESTU, it had confirmed that he was neither a FESTU member nor their representative.

17. The Committee was also furnished with a copy of the Memorandum of Understanding between the Ministry of Labor and Social Affairs and FESTU on Tripartite Participation of International Labour Conferences, dated 30 May 2018. In relevant part, it stated therein that the parties had “agreed to develop an enforceable set of principles and understandings with a view to reducing the tension and conflicts between tripartite social partners in Somalia within the context of the International Labour Organization (ILO)”. It recalled several key principles and recommendations embodied in the ILO’s Constitution and international labour standards (i.e., Conventions Nos 87, 98, 144), as well as the principles of consultations with the most representative employers’ and workers’ organizations. The Memorandum of Understanding further states that the FESTU “is the most representative national trade union organization in Somalia in view of its membership in terms of numbers and sectoral spread” and that “until the most representative status of FESTU changes through a transparent and objective consultative processes the Workers’ delegate of the Federal Republic of Somalia to the sessions of the International Labour Conference, starting from 2018, was Mr Omar Faruk Osman Nur, General Secretary of FESTU or as otherwise stated by FESTU”. It further stated that it represented the “full commitment of the Government of the Federal Republic of Somalia towards respecting all its obligations under the ILO including resolving all outstanding issues with FESTU, in particular, for a peaceful and harmonious industrial relations atmosphere for peace and national development”. FESTU in return committed to “refrain from all hostilities and support and cooperate with the Government of Somalia in accordance with the principles and resolutions of the ILO and other UN Human Rights Bodies”.
18. *The Committee regrets that a concise report was only provided after the Government had submitted its credentials and not the detailed report at the time of their deposit, as had been requested by the Conference. Notwithstanding, the Committee notes that the Government’s report furnishes important new elements, mainly by drawing the Committee’s attention to a Memorandum of Understanding between the Government and FESTU and a 2014 certification statement recognizing FESTU as the largest and most representative umbrella workers’ organization. In addition, the Committee notes that both the report and Memorandum of Understanding indicate that the Workers’ delegate to the present session of the Conference should derive from FESTU rather than SOCOTU, contrary to what figured on the Government’s original credentials submitted on 9 May 2018. Therefore, as of 2 June 2018, Mr Omar Faruk Osman Nur has been accredited as the Workers’ delegate.*
19. *The Committee observes the Government’s commitment to resolve the issues that led to the renewal of the monitoring of the situation, by virtue of article 26quater and 26bis(7) of the Conference Standing Orders, and trusts that the commitments contained in the Memorandum of Understanding will be implemented. Nevertheless, the Committee wishes to reiterate the importance of possessing sufficiently objective and verifiable criteria, and in this regard, wishes to recall the following principles. As stated in Advisory Opinion No. 1 of 1922 of the Permanent Court of International Justice (PCIJ) and subsequent case law of the Committee, several most representative organizations may exist in one country and, in such cases, the Government must, pursuant to the terms of article 3(5) of the ILO Constitution, aim to effect an agreement among them. If there is no agreement among most representative*

organizations, the Government must assess, based on objective and verifiable criteria, which organization is the most representative.

20. The Committee therefore urges the Government to complete the steps set out in the Memorandum of Understanding and trusts that this process will soon be completed, so as to permit it to ensure a nomination process to the next session of the Conference that is in full compliance with article 3(5) of the ILO Constitution. In this light, the Committee is encouraged with the recent developments and, in particular, the Government's commitment to address those issues that have been brought to the attention of the Committee in recent years. The Committee therefore decides not to recommend to the Conference the renewal of the monitoring.

The Bolivarian Republic of Venezuela

21. At its 106th Session (2017), the Conference decided, by virtue of article 26quater and 26bis(7) of the Conference Standing Orders, and upon the unanimous recommendation of the Credentials Committee, to renew the monitoring of the situation raised in an objection concerning the nomination of the Workers' delegation (*Provisional Record* No. 5C, 106th Session, 2017, paragraph 27), and consequently, it requested the Government to submit for the next session of the Conference, at the same time that it submitted its credentials for its delegation, a detailed report substantiated with relevant documentation on:
- (a) objective evidence regarding the representativeness of all workers' organizations in the country, including copies of all up-to-date information available from the National Trade Union Registry (NTUR) regarding affiliation of the various workers' confederations and membership of their respective trade unions, including the number of workers affiliated; and
 - (b) the procedure followed to attempt to reach an agreement among the most representative workers' organizations and, if such an agreement was not reached, the objective and verifiable criteria established for the nomination of the Workers' delegation.
22. The credentials of the Bolivarian Republic of Venezuela for the present session of the Conference were submitted on 7 May 2018 through the *Online accreditation system* and the original the following day, 8 May 2018, along with the monitoring report.
23. In its report the Government submitted copies of information available from the NTUR pertaining to six workers' organizations: the *Central Bolivariana Socialista de Trabajadores y Trabajadoras de la Ciudad, el Campo y la Pesca* (CBST), the *Confederación de Sindicatos Autónomos de Venezuela* (CODESA), the *Central Unitaria de Trabajadores de Venezuela* (CUTV), the *Confederación de Trabajadores de Venezuela* (CTV), the *Confederación General de Trabajadores* (CGT) and the *Unión Nacional de Trabajadores de Venezuela* (UNETE).
24. The information provided included affiliation of the various workers' confederations and membership of their respective trade unions, as well as the number of their workers affiliates. With the exception of CTV's and CBST's information, the Government conceded that the data contained in the NTUR was not up to date. In this regard, the Government stated that most organizations did not comply with article 388 of the Organic Labour Law, which established that each workers' organization must submit within the first three months of each calendar year a completed list of its workers' affiliates and information related to its internal administration. This year, in order to ensure the update of the NTUR, the Government had extended the deadline for submission of said information on two occasions. Notwithstanding, the Government indicated that the CBST was the most representative organization with 26 affiliates (federations and trade unions) and was comprised of

1,011,866 workers, as indicated by the NTUR, last updated on 20 April 2018. It was followed by the CODESA with ten affiliates (federations and trade unions) and 1,829 workers, last updated on 19 May 2006; the CUTV with 11 affiliates (federations and trade unions) and 1,569 workers, last updated on 21 January 1987; the CTV with 25 affiliates (federations and trade unions) and 574 workers, last updated on 31 March 2017; the CGT with six affiliates (federations and trade unions) with 37 workers, last updated on 29 April 2005; and, the UNETE with one affiliate (a federation) with seven workers, last updated on 5 April 2003.

25. In its report, the Government also detailed the different initiatives undertaken for the purposes of designating the Workers' delegation to the present session of the Conference. It provided copies of its request of 2 April 2018 to the CBST seeking an agreement among the most representatives workers' organizations in the country, and its subsequent communication of 16 April 2018 informing the CBST that if despite its efforts an agreement could not be reached, the Government would be inviting the organizations to a meeting to be held by the Government. A copy of the invitations dated 30 April 2018 sent to the CTV, the UNETE, the CGT, the CODESA, the CUTV and the CBST were provided in the report. The Government stated that the meeting for the purpose of designating a Workers' delegation to the present session took place on 3 May 2018 with the participation of the CUTV and the CBST. The CTV and the CGT informed the Government by electronic communications that they could not be in attendance due to conflicting schedules that could not be rearranged in view of the short notice provided by the Government. The Government also provided copies of communications dated 30 April 2018 that were transmitted by the CBST to the CODESA, the CTV, the CUTV, the CGT inviting the concerned organizations to a meeting to be held on 2 May 2018, and subsequent communications of 3 May 2018 postponing the meeting to 8 May 2018, further to the request of the majority of the organizations invited. However, the *Central de Trabajadores y Trabajadoras Alianza Sindical Independiente* (ASI) was not invited because it was not registered in the NTUR. The report does not mention if said meeting took place.
26. The report also contains copies of the communications to the Government of 15 April 2018 by the CGT and 4 May 2018 by the CBST and the CODESA, which contained their designated representatives for the purpose of attending the Conference this year. As a consequence and in full conformity with its constitutional obligations, the Government limited itself to nominating the Workers' delegation on the basis of the designations made by the CBST and refrained from including representatives from less representative workers' organizations, since it conceded that the Government may not impose advisers whether in Employers' or Workers' delegations. It further noted that the delegation was comprised of at least a representative from each of the workers' organizations that had submitted their nominations.
27. In its report, the Government mentioned that, in addition to the information contained in the NTUR and in order to determine the representativeness of the workers' organizations in the country, it took into consideration the number of those participating in collective bargaining agreements and mass actions. Supporting documentation was attached to the report.
28. *The Committee deeply regrets that once again the Government's report confirms that the composition of the Workers' delegation is not the result of a consensus among all the workers' organizations consulted, but the final decision of one organization. The Committee also regrets that in the absence of such an agreement, the Government did not establish objective and concrete criteria for determining precisely the representativeness of each of the workers' organizations concerned for the purposes of the nomination of the Workers' delegation. The Committee notes that although the Government has provided NTUR's tables containing information about six workers' organization, apart from CBST data of 20 April 2018, the information relating to the other organizations is outdated. While the Committee*

notes the obligation of each workers' organizations to provide the Government with updated information, it recalls that the Government has also a responsibility in the updating of the NTUR, in particular, as already recommended last year by the Committee. In this regard, the Committee also notes that the existence of an organization cannot be doubted just because it is not registered in the NTUR.

29. *In light of the foregoing and that a Committee of Inquiry is soon to be launched pursuant to article 26 of the ILO Constitution, the Committee considers that it is necessary to renew the monitoring measures pending the outcome of that process; consequently, it unanimously recommends to the Conference that it requests the Government of the Bolivarian Republic of Venezuela, by virtue of article 26quater and 26bis(7) of the Conference Standing Orders, to submit for the next session of the Conference, at the same time that it submits its credentials for its delegation, a detailed report substantiated with relevant documentation on:*

- (a) objective evidence regarding the representativeness of all workers' organizations in the country, including copies of all up-to-date information available from the NTUR regarding affiliation of the various workers' confederations and membership of their respective trade unions, including the number of workers affiliated; and*
- (b) the procedure followed to attempt to reach an agreement among the most representative workers' organizations and, if such an agreement was not reached, the objective and verifiable criteria established for the nomination of the Workers' delegation.*

Objections

30. The Committee has received 27 objections this year. These relate both to the credentials of delegates and their advisers who were accredited to the Conference, as reflected in the *Provisional List of Delegations* published as a *Supplement to the Provisional Record* of 30 May 2018 and the *Revised Provisional List of Delegations* published on 1 June 2018, as well as to incomplete delegations. The Committee has completed the examination of all objections, which are listed below.

Objection concerning the nomination of the Workers' delegation of Albania

31. The Committee received an objection presented by the International Trade Union Confederation (ITUC) concerning the nomination of the Workers' delegation. The ITUC submitted that the Government had not fulfilled its obligations pursuant to article 3(5) of the ILO Constitution, in that it had nominated a Workers' delegate and substitute delegate from the Independent Trade Unions of Albania and an adviser from the Confederation of Trade Unions without properly consulting the latter, which is the most representative organization. It submitted that should a system of rotation have been put in place between the two aforementioned organizations, it should have been discussed and agreed upon with the involvement of the most representative workers' organization rather than imposed unilaterally by the Government. The objecting organization further submitted that the Government had covered the participation costs of the Workers' delegate and substitute delegate of the Independent Trade Unions of Albania, but not those of the adviser of the Confederation of Trade Unions and that, as a result, the latter had not been able to attend the present session of the Conference. The objecting organization requested the Committee to call upon the Government to provide explanations on this matter and to fulfil its constitutional obligations, in particular those relating to consultation.

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32. *The Committee deeply regrets that the Government neither furnished the information requested nor provided an explanation of its inability to do so. As the Committee has often recalled, in the absence of a reply, the Committee can decide to examine the objection and to give credence to the allegations of the objecting organization.*
33. *While the Committee does not possess any figure pertaining to the trade union situation in Albania, the Committee observes that after 15 years of alternating the delegate and its substitutes among the Confederation of Trade Unions, the Independent Trade Unions of Albania and other workers' organizations, the Workers' delegate for the three preceding sessions derived from the Confederation of Trade Unions. In the absence of any explanation by the Government as to a change of situation as regards the representativeness of the two organizations, this may be seen as a strong confirmation that the Confederation of Trade Unions is the most representative workers' organization, as alleged by the objecting organization. The Committee therefore considers that the Government should have consulted the Confederation of Trade Unions and sought its agreement on the appointment of the Workers' delegation to the Conference.*
34. *In the absence of additional information, the Committee can only recall that the nomination of the Workers' delegation to the Conference must be carried out in agreement with the most representative workers' organizations. If there is no agreement among the most representative organizations, the Government must assess, based on objective and verifiable criteria, which organization is the most representative. Concerning a rotation system, the Committee further recalls that it cannot be imposed unilaterally by governments and can only serve as a criterion for the nomination of the Workers' delegation where the most representative organizations are in agreement. The Committee trusts that for the next session of the Conference, the Government will ensure a nomination process that is fully in line with the foregoing principles, in compliance with article 3(5) of the ILO Constitution.*
35. *With respect to the alleged non-payment of the travel and subsistence expenses of the Workers' adviser, the Committee recalls that article 13(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. However, the competence conferred to the Committee to examine complaints on the non-respect of that provision is limited to the situations envisaged in article 26ter(1)(a) and (b) of the Conference Standing Orders, that is, failure to cover the expenses of at least a tripartite delegation comprising two Government delegates, an Employers' delegate and a Workers' delegate; and 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 case at hand does not seem to fall under any of these situations.*
36. *Notwithstanding, and noting that the non-payment had prevented the Workers' adviser from attending the present session of the Conference, as well as that two previous complaints were lodged against the Government in 2015 and 2017, the Committee is concerned about the repeated failure of the Government to cover the travel and subsistence expenses of the Workers' advisers. In this regard, the Committee wishes 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. 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 is a sufficient number of advisers present in the three groups of the Conference.*

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

37. The Committee received two objections presented separately by the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC) concerning the failure to deposit credentials of an Employers' and a Workers' delegate by the Government of Armenia. The IOE and the ITUC submitted that the Government had not fulfilled its obligation under article 3(1) of the ILO Constitution to accredit a complete delegation to the Conference. They requested the Committee to call upon the Government to provide explanations about this situation and that it recommend to the Government that it fulfil its constitutional obligations.
38. In a written communication addressed to the Committee at its request, the Government stated that due to the political changes that had taken place in the country during the preceding month (May 2018), the new Government was in the process of being formed. As a result, since neither the social partners nor other Government representative could attend, only two Government representatives from the Permanent Mission in Geneva had been accredited to the present session of the Conference.
39. *The Committee observes that for a second consecutive year, the Government has accredited an exclusively governmental delegation with individuals from the Permanent Mission. The Committee recalls that whereas a government has the ability to assure its representation through a diplomatic mission, the same cannot be said for employers' and workers' organizations. The Committee reminds member States of their obligation under article 3(1) of the ILO Constitution, specifically that they are required to nominate tripartite delegations to the Conference. The Government has not therefore met its obligations by sending a delegation that is exclusively governmental. In so doing, 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.*
40. *The Committee reiterates to the Government the necessity to meet its constitutional obligations and urges it to send a fully tripartite delegation to the Conference next year.*

Objections concerning the failure to deposit credentials of an Employers' and a Workers' delegate by the Government of Brunei Darussalam

41. The Committee received two objections presented separately by the International Organization of Employers (IOE) and the International Trade Union Confederation (ITUC) concerning the nomination of an incomplete delegation on the employers' and workers' side by the Government of Brunei Darussalam. The IOE and ITUC submitted that the Government had not fulfilled its obligation under article 3(1) of the ILO Constitution to accredit a complete delegation to the Conference. They requested the Committee to call upon the Government to provide explanations regarding this situation and that it recommend to the Government that it fulfil its constitutional obligations.
42. In a written communication addressed to the Committee at its request, the Government explained that the President of the Brunei Darussalam National Chambers of Commerce and the interim head of the Seafarers' Association who had been regularly nominated, respectively, as the Employers' delegate and the Workers' delegate to the Conference, had

been unable to attend this year's Conference due to conflicting work-related commitments. The Government further indicated that consultations involving both organizations had taken place on 14 May 2018. The Government regretted that the social partners had been unable to attend the present session of the Conference and confirmed that it would endeavour to again send a full tripartite delegation to future sessions of the Conference, as it had been the case for previous sessions.

43. *The Committee notes that, while for the past ten years, the Government has indeed accredited a fully tripartite delegation, the country is currently represented by an exclusively governmental delegation. The Committee reminds member States of their obligation under article 3(1) of the ILO Constitution, specifically that they are required to nominate tripartite delegations to the Conference. The Government has, therefore, not met its obligations by sending a delegation that is exclusively governmental. In so doing, the Government deprives the employers and workers of the country of their right to be 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.*
44. *The Committee trusts that the Government will meet its constitutional obligations and send a fully tripartite delegation to the Conference next year.*

Objection concerning the nomination of the Workers' delegation of Djibouti

45. 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, nominated representatives from "clone unions" to participate in the present session of the Conference and, thus, the Government continued to usurp the name of the UDT and the UGTD. They argued that this situation demonstrated the Government's continued defiance despite the Committee's repeated conclusions. They also referred to an engagement that had yet to be respected, made by the Ministry of Employment, Insertion and Vocational Training to the Committee and to the Office concerning the respect of trade union rights, the reintegration of trade unionists and the payment of their wage arrears. They requested the Committee to take an effective and definitive decision with respect to the Workers' delegation of Djibouti.
46. The UDT and UGTD annexed to their objection their report concerning the trade union situation in Djibouti. The report provided, inter alia, that a mission to Djibouti had been organized by the Government for one representative of the International Trade Union Confederation (ITUC), and that the objecting organizations were not initially informed of the mission. The report provided that the mission had been cancelled by the Government when the number of invited representatives went from one ITUC representative to additional trade unions' representatives. The report further indicated that the holding of congresses by the UDT and the UGTD had been forbidden by the Government, and that their affiliate unions were relentlessly repressed, leaving many to close down. Annexed to the objection was the Report of the Office of the United Nations High Commissioner for Human Rights (both the Summary of Stakeholders' submissions and the Compilation), presented in the context of the universal periodic review of Djibouti, in support of their contentions of anti-trade union activities (e.g. politicization of trade union activities, repression of trade union members and striking workers).
47. *The Committee regrets that the Government neither furnished the information requested nor provided an explanation as to its inability to do so. Such a lack of cooperation curtails the*

Committee's ability to discharge its mandate under article 5(2)(a) of the Conference Standing Orders. As the Committee has often recalled, in the absence of a reply, the Committee can decide to examine the objection and to give credence to the allegations of the objecting organizations.

- 48.** *The Committee observes with serious concern that, notwithstanding its consistent conclusions and the monitoring measures renewed by the Conference at its previous session, for the 16th consecutive year, an objection was lodged against the Government of Djibouti by the UDT and the UGTD concerning the nomination of the Workers' delegation. The Committee notes with serious concern that confusion continues to reign over the trade union landscape in Djibouti and, particularly, that the phenomenon of "clone unions" continues to persist.*
- 49.** *The Committee further notes with serious concern that the objecting organizations portray a trade union situation that seems to be deteriorating, including interference of the Government in the congresses of the UDT and the UGTD, as well as repression over primary unions. Therefore, the Committee once again expresses very serious doubts as to the independent nature of the nomination of the representatives of the UDT and the UGTD, as well as the representative nature of the Workers' delegation to the present session of the Conference. The Committee deeply regrets that the proposed in-country mission organized by the ITUC had been cancelled by the Government. As a consequence, the Committee does not possess the necessary up-to-date information in Djibouti that would permit it to recommend with absolute confidence the invalidation of the credentials of the Worker' delegation at the present session of the Conference.*
- 50.** *Taking into account the examination of the monitoring case (see paragraphs 5 to 12 above), the Committee calls upon the Government to facilitate a new in-country mission, led by the ILO, in the near future. The Committee refers to the ILO supervisory bodies to continue monitoring, within the limits of their mandates, the trade union situation in Djibouti. The Committee stresses that the only manner to remove any doubt regarding the trade union situation is the provision of information, either through the detailed monitoring report, or through a future mission in Djibouti. In this regard, the Committee calls upon the Conference to invite the Office, through the Governing Body, to lead such a mission. Without the provision of the necessary up-to-date information, the Committee would have no choice than to seriously consider all appropriate measures at the next session of the Conference, including recommending invalidation of the credentials of the Workers' delegation.*

Objection concerning the nomination of the Workers' delegate of Ecuador

- 51.** *The Committee received an objection presented by the Confederación Ecuatoriana de Organizaciones Sindicales Libres (CEOSL), Confederación Ecuatoriana de Organizaciones Clasistas Unitarias de Trabajadores (CEDOCUT), Unión General de Trabajadores del Ecuador (UGTE), Confederación de Trabajadores del Ecuador (CTE), Unión Nacional de Educadores (UNE), Federación Nacional de Obreros de los Gobiernos Provinciales del Ecuador (FENOGOPRE) and Federación Ecuatoriana de Trabajadores Municipales y Provinciales (FETMYP), members of the Frente Unitario de Trabajadores (FUT), alleging that the Government had, unilaterally and without consultation with the most representative organizations, nominated Mr Richard Gómez as the Workers' delegate to the present session of the Conference in violation of its constitutional obligations. The objecting organizations submitted that Mr Gómez did not represent any national trade union centre, whereas FUT represented 80 per cent of the workers in the country.*

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52. *The Committee first examined the receivability of the objection. It recalls that the mandate of the Credentials Committee is set out in article 5 of the Conference Standing Orders. Objections may be lodged in relation to credentials of delegates and their advisers or to the failure to deposit credentials of an Employers' or Workers' delegate. The Committee notes that while on 17 May 2018, the Government accredited Mr Richard Gómez, President of the Federación Unitaria de Trabajadores de la Industria Eléctrica del Ecuador (FEDELEC), as the Workers' delegate to the present session of the Conference, he was nevertheless subsequently replaced on 23 May 2018 in that capacity by Mr Mario Molina Benavidez, Secretario de Defensa Jurídica de la Central Unitario de Trabajadores del Ecuador (CUT). The Committee notes that Mr Gómez is no longer part of the Workers' delegation of Ecuador. The Committee considers therefore that the objection is irreceivable.*

**Objection concerning the nomination
of a Workers' adviser of Eswatini
(formerly known as Swaziland)**

53. The Committee received an objection from Mr Quinton Dlamini, Workers' delegate and President of the Trade Union Congress of Swaziland (TUCOSWA), stating that the Government had nominated the Workers' adviser and substitute delegate, Mr Mashumi Shongwe, President of the Federation of Swaziland Trade Unions (FESWATU), without consulting TUCOSWA – although it was the most representative of the two workers' organizations. The objecting organization further submitted that while the FESWATU's participation costs had been funded by the Swaziland National Provident Fund by order of the Government, TUCOSWA had had to bear the travel and subsistence expenses of its two advisers. It considered that this demonstrated that FESWATU was favoured by the Government. TUCOSWA also stressed that while the nomination of the tripartite delegation to the present session of the Conference had been raised on numerous occasions in the context of social dialogue, the Government had refused to share the list of the accredited delegation beforehand and it was only when the list was made available to the public online that it had learned of the composition of the Workers' delegation.
54. The objecting organization explained that due to circumstances beyond its control (i.e., the inability to retrieve from an official diplomatic vehicle a computer battery left inside luggage), it requested that its late submission be declared receivable by the Committee. Turning to the substance of the objection, TUCOSWA requested that the Committee instruct the Government to nominate all workers' representatives in agreement with the most representative workers' organization as provided in the ILO Constitution and that it order any relief it may deem appropriate.
55. In a written communication addressed to the Committee at its request, the Government stated that the objection could not be receivable since it had been filed after the time limit set at 10 a.m., on Wednesday, 30 May 2018. It submitted that the Standing Orders of the Conference did not provide for any exceptions to the observance of time limits nor conferred any discretionary power on the Committee to allow such exceptions. It further considered that the justification for the late submission of the objection was devoid of merit in so far as the ILO provided sufficient access to computers and printing services during the Conference and as the driver was at all times available to enable TUCOSWA representatives to collect their luggage from the official vehicle. The Government requested the Committee to dismiss the objection as irreceivable.
56. Turning to the substance of the objection, the Government submitted that consultations with the social partners had taken place and an agreement had been reached with regard to the nomination of the Workers' delegation to the present session of the Conference. In particular, it noted that TUCOSWA had attended the 26 April 2018 consultation meeting held on this matter. At that time, the Government had indicated that, due to financial constraints, it would

only pay the travel and subsistence expenses of one Workers' delegate from TUCOSWA and of one Employers' delegate from the Federation of Swaziland Trade Unions (FSE/CC). The Government further submitted that in response to its written invitation of 17 April 2018, TUCOSWA had provided on 26 April 2018 the name of the Workers' delegate whose travel and subsistence expenses were to be funded by the Government, as well as the names of three other people whose participation costs were to be funded by TUCOSWA. At that time, TUCOSWA had not raised any objections in its letter. The Government further submitted that it had indicated during the consultation meeting that two public enterprises, the Swaziland National Provident Fund and the Public Service Pension Fund, had requested to send at their own expense officials to the present session of the Conference. The Government noted the social partners had not objected to that request, and had only recommended that nominations from these enterprises be done in consultation with their tripartite stakeholders. The Government indicated that the nomination of Mr Shongwe, a Board member of the Swaziland National Provident Fund, as a Workers' adviser and substitute delegate responded to the request of that entity.

57. Furthermore, as regards representativeness of employers' and workers' organizations, the Government submitted that the numerical importance of TUCOSWA and FSE/CC over FESWATU and the Federation of the Swaziland Business Community, respectively, was not based on statistical data but on the Government's own estimation and assumption that the former two organizations were the most representative workers' and employers' organizations in the country. It further indicated that, in an effort to follow-up the Committee's conclusions from last year's session of the Conference, discussions regarding the representative nature of workers' and employers' organizations had been ongoing since August 2017 within the National Steering Committee on Social Dialogue for Swaziland (NSCSD). It indicated that while the employers' organizations had reached agreement concerning nominations to regional international meetings, the workers' representatives had indicated that negotiations had not yet commenced. The Government submitted that discussions on this matter would resume shortly and expressed the hope that agreement would be reached at least before the next session of the Conference.
58. *The Committee notes that in accordance with paragraph 7 of Provisional Record No. 1A(Rev.) concerning the Proposed suspension of provisions of the Standing Orders of the International Labour Conference and other proposed decisions regarding formalities to be taken at the opening sitting, the time limit for lodging objections was, for the duration of the present session of the Conference, reduced from 72 to 48 hours from the opening session of the Conference (48 hours from 10 a.m. of the opening session of the Conference – 30 May 2018, 10 a.m.), with the possibility for the Committee to make exceptions. In view that the Proposed suspension of the Standing Orders was confirmed during the opening session of the Conference (Provisional Record No. 11A, page 6), the Committee therefore considers that, if the circumstances of the case so warrant, it is indeed within its discretion to grant an exception to the time limits. In this regard, it considers that the explanations provided by the objecting organization are sufficient.*
59. *The Committee observes that it is seized for the second consecutive year with an objection alleging that the Government had failed to nominate the Workers' delegation in agreement with the most representative workers' organization. It notes, in particular, that while the Government had indeed requested the objecting organization to appoint the Workers' delegate and advisers to the present session of the Conference, it had not consulted TUCOSWA with regard to the other nominations in the Workers' delegation. In this respect, it recalls that article 3(5) of the ILO Constitution refers to the nomination of the Workers' delegation to the Conference being made "in agreement with the industrial organisations which are the most representative of employers or workpeople". It further recalls that in accordance with Advisory Opinion No. 1 of 1922 of the Permanent Court of International Justice and subsequent case law of the Committee, where several representative*

organizations exist – as seems to be the case in Eswatini – governments must take them all into consideration when proceeding to the nomination of a delegation and, ideally, obtain the agreement of all the most representative among them. Failing an agreement among the most representative organizations, the Government must assess, based on objective and verifiable criteria, which organization is the most representative.

60. *The Committee notes that in relation to last year’s objection, it had urged the Government to “put in place a clear, secure, written, transparent and documented procedure for the designations of delegates and advisers, and any subsequent changes thereto, so that the Government will be in a position to meet its constitutional obligations”. The Committee notes the Government’s explanations regarding the follow-up given to its conclusions in the form of ongoing discussions within the NSCSD. However, it notes with concern that no clear procedure for the nomination of the Workers’ delegation has yet been established. The Committee s again urges the Government to ensure, seeking if required the assistance of the Office, that the nomination of the entire Workers’ delegation at future sessions of the Conference is done in agreement with the most representative workers’ organizations, as required by article 3(5) of the ILO Constitution.*

Objection concerning the nomination of the Workers’ delegation of India

61. The Committee received an objection presented by Mr Chandrasekharan Vice-President of the Indian National Trade Union Congress (INTUC) and an ILO Governing Body member, concerning the nomination of the Workers’ delegation. The objecting organization submitted that the Government had failed to fulfil its obligations pursuant to article 3(1) and (5) of the ILO Constitution. In this regard, it submitted that it had been unilaterally excluded from participating in the present session of the Conference, similar to what had occurred during the prior Conference session in 2017; that no consultative process had taken place prior to the nomination of this year’s delegation – despite the fact that the INTUC represented a membership of 33.3 million individuals and, as such, was the largest trade union organization in the country; and, that the Government had continued to delay the verification process necessary to determine the strength of trade unions in the country.
62. Concerning the membership verification processes, the objecting organization stressed that while its status as most representative organization had been confirmed in 1980, the organization from which the Workers’ delegate derived, Bhartiya Mazdoor Sangh (BMS), had manipulated the results during the 1989 and 2002 verification processes. Notwithstanding, the objecting organization emphasized that its status as second most representative organization had been confirmed on these two latter occasions. Turning to the fourth verification process, commenced in 2011, the objecting organization reiterated that it had submitted a membership figure of 33.3 million, with the necessary supporting documents, as against BMS’ 16 million. The objecting organization submitted that the Government’s delay was a deliberate attempt to manipulate the outcome of the 2011 verification process. The objecting organization also submitted that the inclusion of four individuals from the BMS in the Workers’ delegation without any set criteria, was disproportional to its membership base. The objecting organization requested that the Committee call upon the Government to take the necessary steps in order to correct the selection system of the delegates of India to the International Labour Conference.
63. In a written communication addressed to the Committee at its request, the Government recalled that the matter of the non-inclusion of INTUC in the Workers’ delegation had also been raised during the previous session of the Conference. It further recalled that the Committee had concluded after examining the facts that the internal leadership issues within workers’ organizations did not fall within the scope of its mandate, but instead within the jurisdiction of national courts. Additionally, the Government stated that, as last year, the

matter concerning factional disputes within the INTUC was still for judicial review and was scheduled for 1 August 2018 before the High Court of Delhi.

64. *The Committee observes that this is the second objection lodged against the Government on the same matter and regrets that the representativeness of the workers' organizations has still not been clarified, in particular since the last information provided on membership strength, was produced in 2002 and is still the only source on this matter. The Committee takes note that the legal process regarding the internal leadership of INTUC is still ongoing. However, it wishes to highlight that even in the absence of a final decision on the matter, the constitutional obligations of the Government must still be fulfilled. In this regard, the Committee wishes to reiterate the importance of possessing sufficiently clear and objective criteria, as well as up-to-date data on representativeness. Therefore, the Committee urges the Government to complete this process and wishes to recall the following principles.*
65. *As stated in Advisory Opinion No. 1 of 1922 of the Permanent Court of International Justice (PCIJ) and subsequent case law of the Committee, several most representative organizations may exist in one country and, in such cases, the Government must, pursuant to the terms of article 3(5) of the ILO Constitution, aim to effect an agreement among them. If there is no agreement among the most representative organizations, the Government must assess, based on objective and verifiable criteria and updated information, which organization is the most representative.*
66. *The Committee notes the reasons provided by the Government for the exclusion of INTUC from participation in any tripartite bodies, including international forums. Considering that internal leadership issues within workers' organizations do not fall within the scope of the Committee's mandate, and instead fall within the jurisdiction of the national courts, the Committee hopes that the ongoing legal process can be resolved this year and that it will provide the necessary clarity on the situation. The Committee trusts that the Government will ensure that the nomination of the Workers' delegation to future sessions of the Conference will be in full compliance with article 3(5) of the ILO Constitution.*

Objection concerning the nomination of the Workers' delegation of Kenya

67. The Committee received an objection presented by the International Trade Union Confederation (ITUC) concerning the nomination of the Workers' delegation. The objecting organization submitted that the Government had failed to comply with article 3(5) of the ILO Constitution in that it had included in the Workers' delegation three individuals without consulting the Central Organization of Trade Unions of Kenya (COTU (K)), which was the most representative workers' organization in the country. The persons accredited were: (i) Mr Charles Mukhwaya, Deputy Secretary-General of the Trade Union Congress of Kenya (TUC), as adviser; (ii) Mr James Makori, Deputy Secretary-General of the TUC, as a person appointed in accordance with article 2(3)(i) of the Conference Standing Orders; and (iii) Mr Ignatius Kanyabamba, Executive Officer of the TUC, as other persons attending the Conference. The objecting organization submitted that the COTU (K) had conveyed to the Government on 19 April 2018 the names of three individuals that it had designated to be included in the Workers' delegation to the present session of the Conference. However, the *Provisional list of delegations* published on 28 May 2018 contained the names of the three aforementioned individuals and not those it had originally proposed. In light of this situation, the ITUC requested that the Committee call upon the Government to provide explanations on this matter and to fulfil its constitutional obligations.
68. In response to its request for information, the Government forwarded the Committee its reply dated 30 May 2018 to the COTU (K), as well as a response to the Committee's questions dated 2 June 2018. In its replies, the Government denied the allegation presented by COTU

on the basis that they were untrue, not based on any facts and lacked merit. The Government submitted that, while constituting the Workers' delegation, multiple consultations had been conducted from the outset both in writing and in person with Mr Atwoli, Secretary-General, Mr Okwaro, Deputy Secretary-General, and Mr Nadome, Deputy Secretary-General of COTU. However, the forum depended on the availability of the persons and was mostly by telephone and based on "mutual trust and good faith". The Government stated that COTU was the most representative workers' organization in Kenya and that TUC was second. However, TUC frequently contested that it was not consulted by COTU on issues "even when they were best suited to make representations on their own". The Government stated that COTU had been consulted on various occasions and this led to COTU submitting a revised list of 20 workers of which 17 were "presumably drawn" from COTU and three from TUC. The Government stated that the composition of this list was changed by it without making any reduction or substitution in the number of nominees representing TUC. The Government had limited itself to increase the number of workers from three to six to accommodate the interest of TUC, who had complained of having not been consulted by COTU and that the nominees listed were not representative of TUC, as all three were members of only one affiliate union, Kenya National Union of Teachers (KNUT), which excluded other major key public sector trade unions. Finally, the Government specified that in a letter dated 27 March 2018, TUC had forwarded a list of seven names for inclusion in the Workers' delegation. This list was consulted widely with Mr Atwoli. Therefore, it considered that the inclusion of the three additional TUC members had been done in good faith and in an attempt to safeguard the right to freedom of association of all workers, while not undermining or prejudicing COTU's position as the most representative workers' organization.

69. On 4 June 2018, the Committee received an unsolicited communication from COTU in response to the points raised by the Government in its letter of 30 May 2018. In its communication, COTU stated that the Government had not brought the disputed names on the list of Workers' delegates and advisers to COTU's attention, and characterized the information provided by the Government as "absolutely untrue and misleading".
70. *The Committee observes that in accordance with article 5(2)(a) of the Standing Orders of the Conference, the Credentials Committee has the mandate to examine objections relating to the credentials of delegates and their advisers, but not of other delegation members. Since Mr James Makori appears in the credentials as "persons appointed in accordance with article 2, paragraph 3(1)" and Mr Ignatius Kanyamba, appears under the category "other persons attending the Conference", the objection is not receivable in respect of their credentials. The Committee can, however, proceed with the examination of the objection relating to the credentials of Mr Mukhwaya, who is accredited as adviser.*
71. *The Committee considers that it does not possess sufficient information from which it can draw conclusions with respect to whether COTU was consulted on the nomination of the three Workers' delegates of TUC. The Committee notes that the Government has not questioned the representativeness of COTU or its obligation to carry out the nomination of the Workers' delegation to the Conference in agreement with the most representative workers' organizations. However, the Committee cannot but express deep concern over the contradictory statements provided by the Government and COTU about the nomination of the Workers' delegation, as what is in contention is whether the Government unilaterally replaced an adviser, which, if founded, would constitute serious interference.*
72. *In these circumstances, the Committee expects that in the future the Government will nominate the Workers' delegates in consultation with the most representative workers' organizations in the country recognized as such, in accordance with article 3(5) of the Constitution of the ILO.*

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

73. The committee received an objection presented by the General Federation of Libyan Trade Unions (Nermin Al-Sharif). The objecting organization alleged that the Government had failed to nominate the most representative workers' organizations, including itself, to the Workers' delegation and rather that government officials may have been included instead. The objecting organization indicated that it had consistently been included in the Workers' delegation until the 106th Session (2017) of the Conference.
74. *This objection, dated 1 June 2018, was received by the Credentials Committee on the same date at 12.09 p.m., after the expiry of the time limit established for the present session of the Conference (48 hours from 10 a.m. of the opening day of the Conference – 30 May 2018, 10 a.m.). The Committee notes that the objection would have been late even had the usual 72-hour time limit established by article 26bis(1)(a) of the Standing Orders of the Conference had been applicable (this deadline would have expired on 31 May at 10 a.m.). The Committee therefore considers that the objection is not receivable by virtue of the deadline fixed for this year's Conference.*

Late objection concerning the nomination of a Workers' adviser of Madagascar

75. The Committee received an objection presented by the members of the *National Council of the Syndicat Général Maritime de Madagascar* (SYGMMA). The objecting organization alleged that the Workers' adviser, Mr Full soma Nomenjanahary, was no longer the Secretary-General of SYGMMA.
76. *This objection, dated 2 June 2018, was received by the Credentials Committee on the same date at 2.10 p.m., well after the expiry of the time limit established for the present session of the Conference (48 hours from 10 a.m. of the opening day of the Conference – 30 May 2018, 10 a.m.). The Committee notes that the objection would have been late even had the usual 72-hour time limit established by article 26bis(1)(a) of the Standing Orders of the Conference been applicable (this deadline would have expired on 31 May at 10 a.m.). The Committee therefore considers that the objection is not receivable by virtue of the deadline fixed for this year's Conference, as well as being unsigned and therefore equivalent to an anonymous objection.*

Objection concerning the nomination of the Workers' delegation of Mauritania

77. The Committee received an objection presented by the *Confédération Générale des Travailleurs de Mauritanie* (CGTM) concerning the nomination of the Workers' delegation. The CGTM submitted that the Government had not fulfilled its obligations pursuant to article 3(5) of the ILO Constitution, in that the nomination of the Workers' delegation had been made without agreement of the most representative workers' organizations, including the CGTM. Referring to previous objections lodged against Mauritania, the CGTM recalled that pending the establishment of criteria aimed at determining the most representative organizations, the Government's favoured system of rotation could only serve as a nomination method if it was agreed upon by the most representative workers' organizations. The CGTM also submitted that a roadmap pertaining to the determination of the representativeness criteria had been signed by the Government and workers' organizations on 6 March 2017, following an ILO mission to Mauritania in January 2017. The CGTM indicated that, in line with the roadmap, elections of union stewards and of members of administrative joint committees – as the means for determining representativeness – were

held in 2017. However, the CGTM submitted that many employers refused to renew the mandates of the union stewards and to recognize the outcome of the elections, on the basis of instructions given by the General Labour Directorate, pursuant to Circular No. 002/2014.

- 78.** In a written communication addressed to the Committee at its request, the Government confirmed that a roadmap pertaining to the determination of the representativeness had been agreed upon. However, it indicated that given the political context, including the constitutional referendum of 2017 as well as legislative, municipal and regional council elections that were due in 2018, the Government had decided to postpone the process with a view to achieving it by the end of the year or at the latest by the first trimester of 2019. The Government recalled that there had been a proliferation of trade unions and indicated that 34 workers' organizations currently operated freely in the country, and that they had all been consulted concerning the nomination of the Workers' delegation to the present session of the Conference. The Government further explained that as the workers' organizations did not agree on such nomination, and in the absence of criteria on representativeness, it proceeded to nominate the Workers' delegation.
- 79.** *The Committee observes that this is the fifth objection lodged against the Government of Mauritania on the same matter since 2011. The Committee is concerned that the representativeness of the workers' organizations has still not been clarified despite its previous conclusions and despite that an agreement for this purpose was signed on 6 March 2017. The Committee is further concerned that in the absence of consensus among all the workers' organizations consulted, the Government unilaterally nominated the Workers' delegation to the present session of the Conference.*
- 80.** *While the Committee trusts that the roadmap of 2017 will soon be completed, the Committee wishes to reiterate the importance of possessing sufficiently clear and objective criteria and data on representativeness, and in this regard, wishes to recall the following principles. As stated in Advisory Opinion No. 1 of 1922 of the Permanent Court of International Justice (PCIJ) and subsequent case law of the Committee, several most representative organizations may exist in one country and, in such cases, the Government must, pursuant to the terms of article 3(5) of the ILO Constitution, aim to effect an agreement among them. If there is no agreement among most representative organizations, the Government must assess, based on objective and verifiable criteria, which organization is the most representative. With respect to a rotation system, the Committee recalls that it cannot be imposed unilaterally by governments and can only serve as a criterion for the nomination of the Workers' delegation where the most representative organizations are in agreement.*
- 81.** *The Committee therefore urges the Government to complete the steps set out in the roadmap that will permit the determination of the clear, objective and verifiable criteria so as to enable a true picture of the trade union situation in the country on the basis of reliable figures and in order to remove existing doubts concerning the representative character of the workers' organizations in the country. The Committee trusts that this process will soon be completed and, depending on the outcome, that the Government will actively seek agreement among the most representative workers' organizations to ensure a nomination process for the next session of the Conference that is fulfilled in compliance with article 3(5) of the ILO Constitution.*
- 82.** *In light of the preceding, the Committee unanimously considers that the procedure relating to the composition of the Workers' delegation of Mauritania to the Conference should be monitored. By virtue of article 26bis(7) of the Conference Standing Orders, the Committee proposes that the Conference request that the Government of Mauritania submit for the next session of the Conference, at the same time that it submits its credentials for the delegation of Mauritania, a detailed report substantiated with relevant documentation on:*

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- (a) *the trade union situation in the country, including the name(s) of the representative workers' organizations, their coverage, their numerical membership, and other objective and verifiable criteria; and*
- (b) *the procedure utilized to nominate the Workers' delegation, specifically, the organizations that will have been consulted on the matter and according to which criteria; the date, time and place of these consultations; information as to the measures taken by the Government to facilitate an agreement among the representative workers' organizations; and the names of the individuals nominated by the organizations during these consultations.*

Objection concerning the nomination of the Workers' delegation of Morocco

83. The Committee received an objection from a representative, Mr Mohamed Kafi Cherrat, Secretary-General of the *Union Générale des Travailleurs du Maroc* (UGTM) concerning individuals within the Workers' delegation nominated to the present session of the Conference that purported to be representatives of the UGTM. In this connection, the author of the objection submitted that he was the genuine representative of the UGTM and that Mr Mayara Enaam could not be since he had been "elected" a member of an executive board on 17 May 2017 whose elections were conducted during an extraordinary congress that had been held in contravention of the UGTM's statutes and in the absence of the genuine Executive Board. The author of the objection further submitted that a legitimate Extraordinary Congress had been conducted by the UGTM on 21 May 2017, but that it had been the subject of undue interference by the Government. Notwithstanding, an Executive Board had been duly elected on 21 May in full conformity with the UGTM's statutes. However, the legitimate Executive Board had not yet been recognized by the Government. As a consequence, the author of the objection explained that although a judicial process was presently pending with the appeal court of Rabat, the Government had recognized Mr Enaam as the UGTM's interlocutor to the detriment of the author of the objection, Mr Cherrat, and despite the lower court's judgment in his favour.
84. In a written communication addressed to the Committee at its request, the Government indicated that it was aware of the conflict within the UGTM and that two executive boards were claiming to be its legitimate representatives. The Government stressed that it had not interfered in the internal business of any workers' organization and had simply limited itself to requesting that it be provided by each of the executive boards the relevant legal justification demonstrating their legitimacy. Mr Enaam had submitted a response, while Mr Cherrat had failed to do so. The Government explained that on this basis, it had invited to its regular consultation and coordination meeting Mr Enaam, as the new Secretary-General of UGTM. With respect to the allegations of undue interference, the Government indicated that it had always sought to respect freedom of association and the free election of trade union leaders. However, as the 21 May 2017 Congress had been organized without respect for the procedure pertaining to the holding of such events, it had been requested to comply with the laws and regulations in force. Finally, the Government indicated that it would take into consideration any final judgment from the competent jurisdiction on the matter.
85. *The Committee notes that the representativeness of the UGTM is not called into question, but the person representing it. The Committee notes that a similar objection concerning the UGTM was lodged last year, but by Mr Enaam, who was not included in last year's Workers' delegation. The Committee recalls that this situation constitutes an internal conflict within the UGTM, which has been brought before the relevant national authorities, including the judiciary, and therefore does not come within the Committee's mandate. The Committee therefore trusts that next year the nomination of the Workers' delegation will be made in full*

compliance with article 3(5) of the ILO Constitution. Under these circumstances, the Committee decides not to uphold the objection.

Objection concerning the nomination of the Employers' delegation of Slovenia

86. The Committee received an objection presented by the Employers' group of the Conference concerning the nomination of the Employers' delegation. The Employers' group submitted that the Government had unilaterally nominated the Employers' delegate who derived from the Chamber of Craft and Small Business of Slovenia, as well as an adviser and substitute delegate who derived from the Slovenian Chamber of Commerce. In so doing, the Government had ignored the Association of Employers of Slovenia (ZDS), which the Employers' group submitted was the most representative organization of independent employers on social and labour issues in Slovenia and which, along with the Slovenian Chamber of Commerce, had formed the Employers' delegation to the Conference for many years (notably in 2014, 2015 and 2017). The Employers' group submitted that the Government had acted unilaterally and had failed to consult the ZDS before deciding to replace it with another organization, the Chamber of Craft and Small Business of Slovenia, which although highly representative of its sector, represented only a small part of Slovenian enterprises. The Employers' group submitted that the Government had failed to fulfil its obligations set out in article 3(5) of the ILO Constitution and as such this constituted a serious violation of a member State's obligation to nominate non-Government delegates and advisers in agreement with the most representative industrial organizations in their respective countries.
87. In a written communication addressed to the Committee at its request, the Government strongly rejected the allegations made by the Employers' group. The Government indicated that it was firmly and sincerely committed to the principles and values of the ILO, in particular social dialogue and tripartite consultation processes on any relevant matter. It indicated that it had nominated the delegation in accordance with the ILO Constitution and followed established practice, applying transparent consultations with the most representative employers' and workers' organizations. It stressed that it had not intervened in the selection process, and that the decision was always left to the employers' and workers' organizations. With respect to the request for detailed information regarding the most representative employers' organizations, the Government indicated that they were members of the Economic and Social Council (ESC), within which tripartite consultations were held. ESC's members are appointed by each of the representatives of workers (trade union associations and confederations), employers (associations of employers and chambers) and the Government. It indicated that ZDS was a ESC member, and that its Secretary-General, Mr Jože Smole, was the ESC president during the period in question (October 2017 to October 2018). While the Government provided an ESC membership list, it indicated that it did not dispose of information regarding their numerical representativeness. The Government considered that all ESC's member organizations were equally relevant and important to the Government in the tripartite consultation process.
88. With respect to the consultation process, the Government provided detailed information indicating that ZDS had been invited to the ESC sessions during which the composition of the tripartite delegation was discussed, and that ZDS had been invited to nominate a representative, but had not done so. The Government indicated that on 30 March 2018, at the 311th session of the ESC, Mr Smole stated that the ZDS was the only representative employers' organization in Slovenia and that he did not agree with the procedure of appointment for the Conference. The Government did not agree with the statement of Mr Smole, and indicated that all the most representative employers' organizations, that are also members of the ESC, are equally entitled to attend the Conference. The Government stressed that it acted upon the decision of the other employers' organizations members of the

ESC. The Government further specified that the ZDS could have nevertheless nominated a representative, but that as the nomination would not have been supported by the ESC, the participation costs would not have been covered by the Government.

89. *The Committee notes the detailed information provided by the Government regarding the consultation process followed for the nomination of the tripartite delegation. However, this is in dispute in so far as the Committee received an objection. The Committee notes that in the past 15 years, the designation of the delegate and substitutes was alternated among the ZDS, the Chamber of Craft and Small Business of Slovenia and the Slovenian Chamber of Commerce. The Committee further notes the Government's indications that it nominated the Employers' delegation upon the decision of the other employers' organizations' members of the ESC, despite ZDS' disagreement. In this respect, the Committee considers it important to recall the following principles. Article 3(5) of the ILO Constitution refers to the nomination of the Workers' delegation to the Conference being made "in agreement with the industrial organisations which are the most representative of employers or workpeople".*
90. *In accordance with Advisory Opinion No. 1 of 1922 of the Permanent Court of International Justice (PCIJ) and subsequent jurisprudence of the Committee, where several representative organizations exist, governments must take them all into consideration when proceeding to the nomination of a delegation and, ideally, obtain the agreement of all the most representative among them. Failing an agreement among most representative organizations – as in the case at hand – the Government must assess, based on objective and verifiable criteria, which organization is the most representative. In this regard, while the numerical membership of the organizations should not be the only criteria, the Committee notes the Government's indications that it does not dispose of information regarding the numerical representativeness of the ESC's member organizations. The Committee regrets this situation and expects the Government to gather reliable figures based on objective and verifiable criteria in the near future. The Committee trusts that for the next session of the Conference, the Government will ensure a nomination process that is fully in line with the foregoing principles, in compliance with article 3(5) of the ILO Constitution.*
91. *Furthermore, noting the Government's indications that the expenses relating to a nomination that would not be supported by the ESC would not be covered by the Government, the Committee recalls that article 13(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.*

Objections concerning the failure to deposit credentials of an Employers' and a Workers' delegate by the Government of the Solomon Islands

92. The Committee received two objections presented separately by the International Organisation of Employers (IOE) and the International Trade Union Confederation (ITUC) concerning the failure to deposit credentials of an Employers' and a Workers' delegate by the Government of the Solomon Islands. The IOE and the ITUC submitted that the Government had not fulfilled its obligation under article 3(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.
93. *The Committee regrets that the Government neither furnished the information requested nor provided an explanation of its inability to do so. Such a lack of cooperation curtails the Committee's ability to discharge its mandate under article 5(2)(a) of the Conference Standing Orders. The Committee further regrets that for the first time in six years, when a delegation has been accredited, it has been an exclusively governmental delegation with*

individuals from the Permanent Mission being accredited. The Committee recalls that whereas a government has the ability to assure its representation through a diplomatic mission, the same cannot be said for employers' and workers' organizations. The Committee reminds member States of their obligation under article 3(1) of the ILO Constitution, specifically that they are required to nominate tripartite delegations to the Conference and regrets that the Government has not accredited a fully tripartite delegation. The Government has therefore not met its obligations by sending a delegation that is exclusively governmental. In so doing, 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.

94. *The Committee urges the Government to meet its constitutional obligations and to send a fully tripartite delegation to the Conference next year.*

Objection concerning the nomination of the Workers' delegation of Somalia

95. The Committee received an objection concerning the nomination of the Workers' delegation, presented by the International Trade Union Confederation (ITUC). It submitted that the Government had failed to comply with article 3(1) and (5) of the ILO Constitution and recalled that this was the fourth consecutive year that an objection had been filed. The objecting organization considered that the Government had persistently and openly ignored the Committee's recommendations, which as a result had led to the Committee's 2017 decision, by virtue of article 26quater and 26bis(7), to renew for this year the monitoring of the situation. It also cited the anti-trade union activities that had been occurring in the country, as documented in a complaint submitted to the Committee on Freedom of Association (CFA) (Case No. 3113).
96. The objecting organization stated that the Government had failed to consult the legitimate, independent and most representative national trade union organization, the Federation of Somali Trade Unions (FESTU), for the purposes of nominating the Workers' delegation to the present session of the Conference. Rather, on 5 May 2018, the Ministry of Labour and Social Affairs accredited Mr Mohamed Osman Haji Ali, Chairman of the Somali Congress of Trade Unions (SOCOTU), as Workers' delegate. This was despite written acknowledgement by the Government, that FESTU, as led by Mr Omar Faruk Osman, was the most representative workers' organization in the country and that he was the leader of the National Union of Somali Journalists (NUSOJ). In addition, a number of persons from SOCOTU had been accredited as advisers (Mr Omar Ahmed Hassan, Secretary-General; Mr Mohamed Said Ali, Secretary-General, Somali Fisheries Workers Union and Member of Executive Committee; Mr Moalim Yaqub Ali, Vice-President, Somali National Teachers Union; Mr Mohamud Abdikadir Awil, Head, Education and Training Departments; and Mr Nur Mohamed Ibrahim, Federation of Somali Trade Unions). It was submitted that SOCOTU was not an independent and representative workers' organization. The objecting organization submitted that these individuals were not genuine trade unionists and, therefore, the nomination of the Workers' delegation had not been made in accordance with the ILO Constitution. It requested that the Committee call upon the Government to furnish explanations.
97. In a written communication addressed to the Committee in the context of the monitoring case (see paragraphs 13 to 20 above), the Government recalled that the country was in a process of recovery following many years of internal conflict and institutions were emerging without institutional memory or continuity. With respect to consultations for the purposes of designating the Workers' delegation to the present session of the Conference, it was explained that due to difficult circumstances the Ministry of Labour and Social Affairs had

been unable to conduct consultations with the different trade unions. Concerning the verification of membership figures of workers' organizations, joined to the report was a certification statement dated 28 December 2014. It was signed by the then Labor Minister Luqman Ismail Mohamed and stated therein that following a month-long inspection and study of membership in many places in the country, FESTU was determined to be the largest and most representative umbrella organization of trade unions. FESTU had 59,240 regular dues paying members and 78,920 members that pay irregularly or are unable to pay membership fees. Concerning the composition of the Workers' delegation, the 1 June 2018 report conveyed a new composition with respect to the Workers' delegation as a result of a Memorandum of Understanding between the Ministry of Labor and Social Affairs and FESTU on Tripartite Participation of International Labour Conferences, dated 30 May 2018. The adjustments were as follows: Mr Omar Faruk Osman Nur, General Secretary of FESTU, as Workers' delegate and Mr Mohamed Musse Mohamud, Treasurer, FESTU, as Workers' adviser and substitute delegate. Removed from the list was Mr Mohamed Osman Haji Ali, Workers' delegate. In addition, Mr Mohamed Ibrahim Nur, Workers' adviser, was removed on the basis that following consultations with FESTU, it had confirmed that he was neither a FESTU member nor their representative.

- 98.** The Committee was also furnished with a copy of the Memorandum of Understanding between the Ministry of Labor and Social Affairs and FESTU on Tripartite Participation of International Labour Conferences, dated 30 May 2018. In relevant part, it stated therein that the parties had “agreed to develop an enforceable set of principles and understandings with a view to reducing the tension and conflicts between tripartite social partners in Somalia within the context of the International Labour Organization (ILO)”. It recalled several key principles and recommendations embodied in the ILO’s Constitution and international labour standards (i.e. Conventions Nos 87, 98, 144), as well as the principle of consultation with the most representative employers’ and workers’ organizations. The Memorandum of Understanding further states that the FESTU “is the most representative national trade union organization in Somalia in view of its membership in terms of numbers and sectoral spread” and that “until the most representative status of FESTU changes through a transparent and objective consultative processes the Workers’ delegate of the Federal Republic of Somalia to the sessions of the International Conference, starting from 2018, was Mr Omar Faruk Osman Nur, General Secretary of FESTU or as otherwise stated by FESTU”. It further stated that it represented the “full commitment of the Government of the Federal Republic of Somalia towards respecting all its obligations under the ILO including resolving all outstanding issues with FESTU, in particular, for a peaceful and harmonious industrial relations atmosphere for peace and national development”. FESTU in return committed to “refrain from all hostilities and support and cooperate with the Government of Somalia in accordance with the principles and resolutions of the ILO and other UN Human Rights Bodies.”
- 99.** *The Committee notes that for a fourth consecutive year an objection has been lodged against the Workers’ delegation. It further notes that the Government’s report furnishes important new elements, mainly by drawing the Committee’s attention to a Memorandum of Understanding between the Government and FESTU and a 2014 certification statement recognizing FESTU as the largest and most representative umbrella workers’ organization. In addition, the Committee notes that both the report and Memorandum of Understanding indicate that the Workers’ delegate to the present session of the Conference should derive from FESTU rather than SOCOTU, contrary to what figured on the Government’s original credentials submitted on 9 May 2018. Therefore, as of 2 June 2018, Mr Omar Faruk Osman Nur has been accredited as the Workers’ delegate.*
- 100.** *As the Workers’ delegate was changed on 2 June 2018, the Committee considers that the objection requires no further action on its part.*

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

101. The Committee received two objections presented separately by the International Organisation of Employers (IOE) and 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 IOE and the ITUC submitted that the Government had not fulfilled its obligation under article 3(1) of the ILO Constitution. It requested the Committee to call upon the Government to provide explanations about this situation and to recommend that its constitutional obligations be fulfilled in the future.
102. *The Committee regrets that the Government has not responded to its request for information nor has it accredited a fully tripartite delegation. The Committee recalls that at the 2006, 2008, 2009, 2011 and 2012 sessions of the Conference, Tajikistan was exclusively represented by the Government, while at the 2010, 2013, 2014, 2016 and 2017 sessions of the Conference, Tajikistan was not represented at all. At the present session of the Conference, Tajikistan is represented exclusively by two Government delegates from the Permanent Mission in Geneva. In this regard, the Committee recalls that, while a government has the ability to assure its representation through its diplomatic mission, this is not the case for its Employers' or Workers' delegations. While noting that in response to a previous objection (Provisional Record No. 5C, 104th Session, 2015, paragraph 69), the Government explained that it had failed to accredit a tripartite delegation due to financial constraints, the Committee regrets that the Government, year after year, does not demonstrate any interest in addressing the matter.*
103. *The Committee reminds member States of their obligation under article 3(1) of the ILO Constitution, to nominate tripartite delegations to the Conference. To this end, it calls on member States to make serious efforts to this end and to ensure that fully tripartite delegations are accredited to sessions of 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.*
104. *The Committee deplores the Government's continued failure to fulfil its constitutional obligations and expects it to send a fully tripartite delegation to the Conference next year.*

Objection concerning the nomination of the Workers' and the Employers' delegations of Tunisia

105. The Committee received an objection submitted jointly by the workers' organization *Confédération Générale Tunisienne du Travail* (CGTT) and the employers' organizations *Confédération des Entreprises Citoyennes de Tunisie* (CONNECT) and *Syndicat des Agriculteurs de Tunisie* (SYNAGI). The objecting organizations submitted that the Government had failed to fulfil its obligations pursuant to article 3(5) of the ILO Constitution by excluding them for an eighth consecutive year from the Workers' and Employers' delegations. In this regard, it submitted that no consultation process had taken place with their respective organizations. Notwithstanding, they stated that the CGTT had provided its designation to the Government on 28 March 2018, but had not received a reply. Furthermore, the objecting organizations joined several documents for the purposes of demonstrating that account should be taken of the views of the most representative organizations and to demonstrate the freedom of association issues currently existing within the country, including those surrounding trade union pluralism. The objecting organizations

called upon the Government to respect article 3(5) of the ILO Constitution and to nominate the delegates to the Conference in a transparent manner through a fully consultative process.

- 106.** In a written communication addressed to the Committee at its request, the Government submitted that there were eight representative workers' organizations (UGTT, UTT, CGTT, OTT, LTT, FT, USTT and UTJT) and ten representative employers' organizations (including SYNAGI). Concerning consultations, the Government stated that it had consulted the *Union Générale Tunisienne du Travail* (UGTT) and the *Union Tunisienne de l'Industrie du Commerce et de l'Artisanat* (UTICA), as those are the two signatory organizations of the social contract. Pending the adoption of a new law regarding trade union representativeness and in absence of consensus between the different workers' organizations regarding trade union representativeness, the Government had applied the principle of numerical strength to the organizations concerned and relied on the figures they had provided for this purpose (UGTT: 704,343 members in the public and private sectors in 24 administrative territorial divisions of Tunisia; UTT: less than 12,000 (contested) in the public and private sectors in 13 administrative territorial divisions; CGTT: 24,525 from five different professional sectors in eight administrative territorial divisions; OTT: 650 members mostly in the transport and services sector in six administrative territorial divisions; LTT: 45 members in two sectors and four administrative divisions; USTT: 7,000 members in six sectors in six administrative divisions, the other organization did not provide statistics). No information was submitted concerning the number of members of the employers' organizations.
- 107.** Regarding the measures taken by the Government for the establishment of clear criteria for the definition of trade union representativeness, the Government stated that the 1966 Labour Code in several provisions refers to the "most representative trade union organizations". However, the Code did not establish criteria for their definition. The Government recognized that as other workers' and employers' organizations exist alongside UGTT and UTICA, it had become urgent to define such criteria. Therefore, the Government was working with the social partners to develop a model of representativeness resulting from consensus with the support of the Office. In this regard, the Government recalled the project to promote social dialogue and labour governance carried out in cooperation with the Office in Tunis, following the signature of the Decent Work Country Programme in Tunisia in July 2017 and a tripartite commission charged with elaborating objective criteria for representativeness. The Government highlighted that at the last meeting held on 25 May 2018, a draft aimed at defining the criteria for trade union representativeness at national and sectoral levels was elaborated. This draft was sent to all the employers' and workers' organizations seeking their views and proposals by 12 June 2018, at the latest.
- 108.** *The Committee takes note of the information provided by the Government on measures taken to establish objective and verifiable criteria to determine representativeness and on the development of trade union pluralism in the country. However, the Committee stresses that the constitutional obligations of the Government must be fulfilled and reiterates the importance of utilizing sufficiently clear and objective criteria and data on representativeness. It wishes to recall that as stated in Advisory Opinion No. 1 of 1922 of the Permanent Court of International Justice (PCIJ) and subsequent case law of the Committee, several most representative organizations may exist in one country and, in such cases, the Government must, pursuant to the terms of article 3(5) of the ILO Constitution, aim to effect an agreement among them. If there is no agreement among most representative organizations, the Government must assess, based on objective and verifiable criteria, which organization is the most representative.*
- 109.** *The Committee notes the Government's statement that given the lack of legislation on representativeness and the lack of consensus among the different organizations, it consulted the workers' organization UGTT and the employers' organization UTICA based on two*

different criteria, namely, the signature of the social contract and the numerical strength of the organizations consulted. Concerning the first criterion, the Committee takes note that no explanation was submitted as to the reasons why UGTT and UTICA are parties of the social contract and, therefore, this does not necessarily support that they are the most representative organizations. Concerning the numerical strength of UGTT and UTICA, the Committee observes that the Government itself cast doubts on the figures due to the process, especially in light that the government recognizes the urgency of developing objective criteria for the determination of representativeness aside from numerical strength.

- 110.** *In the absence of such information, the Committee urges the Government to finish the process so as to permit it to remove all doubt regarding the question of representativeness, and to this end it expects the Government will take the steps necessary to ensure a nomination process for the next session of the Conference that is transparent and fully consultative, in compliance with article 3(5) of the ILO Constitution.*

Objection concerning the nomination of the Workers' delegate of Turkey

- 111.** The Committee received an objection submitted by the International Trade Union Confederation (ITUC) concerning the nomination of the Workers' delegate. The objecting organization alleged that the Government had failed to comply with article 3(5) of the ILO Constitution in that it had unilaterally nominated the Workers' delegate, Mr Ali Yalcin, President of the Confederation of Public Servants Trade Unions (MEMUR-SEN), without consulting the most representative workers' organizations. The objecting organization submitted that four workers' organizations – TÜRK-İŞ, DİSK, KESK and T. KAMU-SEN – which, taken together, are more representative than MEMUR-SEN, had voiced their disagreement with the nomination of the Workers' delegate at a meeting with the Government on 15 May 2018. The objecting organization recalled that the Workers' delegate had been traditionally appointed from TÜRK-İŞ in agreement with DİSK, KESK and T. KAMU-SEN. It further recalled that the employers' organization, TİSK, which had participated in the meeting with the Ministry of Labour, supported the nomination of the Workers' delegate from TÜRK-İŞ. The objecting organization explained that at the meeting, the Government had raised the possibility of a rotation system for the designation of the Workers' delegate between MEMUR-SEN and the most representative organizations. However, the latter refused, considering that, despite its rapidly growing membership, MEMUR-SEN was not a genuine and independent workers' organization as it supported government policies, and had remained silent over mass dismissals in the public sector and violations of trade union rights. Concerning its representative nature, MEMUR-SEN had been created in 1995 and organized workers in the public sector versus from across other industrial sectors. From 1995 to 2002, its membership grew gradually to 41,000. However, in 2003, coinciding with changes at the national level, its membership grew to 98,000 and reached 1 million members in 2018. Membership figures of the other national centres are as follows: TÜRK-İŞ – 925,000 deriving primarily from the private sector; DİSK – 149,000; KESK – 167,000 (public sector); T. KAMU-SEN – 395,000 (public sector). Taken together, the objecting organization submitted that these four organizations were more representative than MEMUR-SEN and thus should have been permitted to jointly designate the Workers' delegate to the present session of the Conference. Based on the foregoing, the four organizations refused to appoint advisers to the present session of the Conference. The objecting organization requested the Committee to call upon the Government to provide explanations regarding the situation and that it recommend to the Government that it fulfil its constitutional obligations.

- 112.** In a written communication addressed to the Committee at its request, the Government submitted a list of workers' organizations that it considered to be the most representative, together with official statistics indicating their relative numerical importance. The

Government listed six organizations: MEMUR-SEN with 997,089 members; TÜRK-İŞ with 925,039 members; HAK-İŞ with 615,301 members; T. KAMU-SEN with 395,250 members; KESK with 167,403 members; and DİSK with 149,187 members. The Government explained that, according to established practice, the Workers' delegate nominated to any particular session of the Conference derived from the largest workers' organization, unless an agreement regarding the nomination had been reached between the most representative organizations. While the Government acknowledges that TÜRK-İŞ had until 2017 nominated the Workers' delegation to sessions of the Conference, it explained that in 2017 MEMUR-SEN's membership exceeded that of TÜRK-İŞ. Consequently, MEMUR-SEN was considered the most representative organization and, as a result, the Government informed both MEMUR-SEN and TÜRK-İŞ that unless they arrived at an agreement regarding the designation of the Workers' delegation to the present session of the Conference, a representative of MEMUR-SEN would be nominated by the Government. The concerned organizations failed to agree upon a designation and, as a result, the Government deemed it appropriate to introduce a system of rotation in 2017, since the two groups were composed of organizations representing the public servants' unions on the one hand and the other workers on the other. Consequently, as the President of TÜRK-İŞ had been nominated as the Workers' delegate to the preceding session of the Conference (June 2017) along with his designated advisers (that included other confederation representatives), then the President of MEMUR-SEN was nominated as Workers' delegate with his designated advisers to the present session of the Conference. HAK-İŞ had been in agreement with both the introduction of a rotation system and the nomination of a representative of MEMUR-SEN as the Workers' delegate. For the present session of the Conference, objections were raised by TÜRK-İŞ and T. KAMU-SEN, which led the Government to hold consultations on 15 May 2018 with the most representative organizations (i.e., MEMUR-SEN, TÜRK-İŞ, HAK-İŞ, T. KAMU-SEN, KESK and DİSK), as well as TİSK. As no agreement could be reached at the meeting, the Government proceeded to nominate the President of MEMUR-SEN as the Workers' delegate based on its numerical importance. It considered that as there exists dual grouping, each representing a high number of workers, the Government had felt obliged to take into consideration this structure in nominating the Workers' delegate. The Government confirmed that apart from HAK-İŞ and MEMUR-SEN, no other workers' organizations had appointed advisers to the present session of the Conference. The Government regretted that the most representative organizations of workers were unable to reach a consensus between themselves and stated that it would continue its efforts as before to build consensus between the parties.

- 113.** *The Committee observes that the nomination of the Workers' delegate to the present session of the Conference has been unilaterally determined by the Government without the agreement of the most representative organizations. The Committee notes the explanations provided by the Government that as an agreement between the most representative organizations had not been achieved, the nomination of the Workers' delegate had been made on the basis of the application of a rotation system it had introduced in 2017. However, the Committee recalls that such a system cannot be imposed unilaterally by governments and can only serve as a criterion for the nomination of the Workers' delegation where the most representative organizations are in agreement.*
- 114.** *In this regard, the Committee wishes to recall that article 3(5) of the ILO Constitution, as interpreted by the Advisory Opinion No. 1 of the Permanent Court of International Justice (PCIJ) of 1922 and the consistent precedent of the Committee, imposes on governments not only the obligation to base their assessment of the representative character of employers' and workers' organizations on objective and verifiable criteria, but also the obligation to consult with them and to select the delegation in agreement with those organizations. It further recalls that according the Advisory Opinion of the PCIJ, "what is required of the Governments is that they should do their best to effect an agreement, which, in the circumstances, may be regarded as the best for the purpose of ensuring the representation*

of the workers of the country". As regards representativeness, the Committee notes that, according to the information provided by the Government, MEMUR-SEN, T. KAMU-SEN and KESK are the higher level organizations of trade unions representing public servants whereas TÜRK-İŞ, HAK-İŞ and DİSK are the higher level organizations of the trade unions representing workers in private and public sectors. It is therefore undisputed that these organizations are representative of workers of different sectors in the country and must accordingly be consulted.

115. As regards the Government's efforts to effect an agreement among the most representative workers' organizations with regard to the nomination of the Workers' delegation to the current session of the Conference, the Committee notes that a single consultation meeting held shortly before the Conference, only after objections to the nomination of the Workers' delegate had been raised by two organizations, clearly proved insufficient to forge the necessary agreement.
116. The Committee therefore expects that, for the nomination of the Workers' delegation at future sessions of the Conference, the Government will do its utmost to seek agreement of the most representative workers' organizations, in full compliance with article 3(5) of the ILO Constitution.
117. The Committee also notes the allegations of the objecting organization that MEMUR-SEN is not a genuine and independent workers' organization, given the rapid growth of its membership, its support for Government policies and silence over mass dismissals in the public sector and the violation of trade union rights. However, while aware of the general situation of trade unions in Turkey, including the effect of emergency decrees on their functioning, the Committee considers that no information has been provided to substantiate such allegations.
118. The Committee notes that it has in the past considered the link between freedom of association and the nomination of the non-government delegates and found that such a link was in keeping with the spirit of the ILO Constitution and the fundamental principle of tripartism. In this regard, the Committee recalls that the social partners from which non-governmental delegates are drawn must be independent, autonomous, controlled by social partners and democratic. Furthermore, the determination of the representativeness of workers' organizations should not be dictated by the Government but must be based on objective and verifiable criteria, in accordance with article 3(5) of the ILO Constitution.
119. The Committee recalls that matters relating to the independence of trade unions are within its mandate. It also notes that the Government has clearly stated in its reply to the Committee that it will continue its efforts to build consensus between the parties to achieve a representative delegation for future sessions of the International Labour Conference. The Committee therefore hopes that these efforts will be undertaken with commitment and will meet with success. However, should further objections be made relating to the independence or the representativeness of the Workers' delegation, corroborated by credible evidence, the Committee may need to give serious consideration to the options available to it under the Standing Orders.

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

120. The Committee received three objections concerning the nomination of the Workers' delegation. The objections were presented separately by the *Confederación General de Trabajadores* (CGT), the *Unión Nacional de Trabajadores de Venezuela* (UNETE) and the *Confederación de Trabajadores de Venezuela* (CTV). The objecting organizations alleged that the Government, without consultation with the other most representative workers'

organizations, nominated a representative of the Central Bolivariana Socialista de Trabajadores y Trabajadoras de la Ciudad, el Campo y de la Pesca (CBST) as the Workers' delegate.

- 121.** In its objection, the CGT stated that on 4 May 2018, together with the CTV, the UNETE and the *Confederación de Sindicatos Autónomos de Venezuela* (CODESA), submitted a communication to the Government expressing their disapproval of the manner in which the Government had handled the invitations concerning the meeting held for the purposes of designating the Workers' delegation to the present session of the Conference. The Government had not only omitted to invite the UNETE, but had also provided the invited organizations with very short notice; reason why some of these organizations could not attend said meeting.
- 122.** In its objection, the UNETE, in addition to the allegations raised by the CGT, submitted that, despite the Committee's recommendations requesting the Government to assess the representativeness of the organizations based on objective and verifiable criteria, it had not only excluded the UNETE from the consultation process but had disregarded the UNETE's communication of 25 April 2018, which contained their designated representatives. Without consulting the most representative workers' organizations, the Government had nominated the Workers' delegate and substitute from the CBST, an organization alleged to be composed of public sector workers wholly associated with and dependent upon the Government. By continuously accrediting representatives of CBST, the Government had restricted the right to speak of advisers from other accredited organizations, and without a process of rotation in place the composition of the delegation was unbalanced. The objecting organization further recalled the violation by the Government of its constitutional obligations as well as international labour standards, in particular Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize.
- 123.** In its objection, the CTV shared the concern of the other objecting organizations regarding the lack of consultations between the most representative workers' organizations, which was a violation of article 3(5) of the ILO Constitution and contravened the various recommendations issued by the Committee in the previous sessions of the Conference. The CTV further alleged that the accreditation of its General Secretary, Mr Elías Torres, as adviser in the Workers' delegation was made through a dishonest mechanism used by the Government to create an illusion of inclusiveness of the different workers' organizations and respect of labour rights in the country in view of the process launched pursuant to article 26 of the ILO Constitution. Therefore, the CTV urged the Committee to remove Mr Torres from the Workers' delegation list.
- 124.** In written communications addressed to the Committee at its request, the Government stated that in full conformity with its constitutional obligations, it had limited itself to seeking an agreement between the most representative workers' organizations. The CBST, the most representative organization in the country, had initially undertaken the necessary consultations for the purposes of designating the Workers' delegation. The Government clarified that some CBST's affiliates were workers from the national public administration (not from the Government) but that the type of affiliates was no reason for questioning its independence. Furthermore, the Government submitted that as indicated by CBST, the UNETE had not been invited to participate in the consultation process because the CBST did not find evidence from an operational viewpoint of UNETE union activity. The Government added that CBST's statement reflected the differences between these two organizations, affairs in which the Government did not wish and should not interfere. The Government further indicated that the National Trade Union Registry (NTUR) records showed that the UNETE had one affiliate, a federation with seven workers.

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- 125.** With regard to the alleged short notice of its invitations the Government submitted that, in accordance with the principle of non-interference and at CBST's request, the latter handled the consultation process, yet in view of the approaching deadline for submission of credentials it had decided to invite the most representative workers' organizations to a meeting for the purposes of designating the Workers' delegation. To this end, it had extended invitations to the CBST, the CGT, the CTV, the UNETE, the CODESA and the *Central Unitaria de Trabajadores de Venezuela* (CUTV), and provided copies of its electronic communications to these organizations. It further provided a copy of the minutes of the 3 May 2018 meeting with the CBST and the CUTV as participants. The CTV and the CGT excused themselves due to conflicting schedules. The UNETE and the CODESA did not confirm receipt of the invitation nor attended the meeting. Therefore, in view of the limited attendance at the meeting and held for the purposes of designating the Workers' delegation the meeting was adjourned. The Government further stated that it had received the nominations from the CGT, the UNETE and the CUTV, which it further conveyed to the CBST. The Government also indicated that further to CBST's verbal information, a meeting held by the CBST on 8 May 2018, included the participation of the CTV, the CODESA, the CUTV and the CGT. As a result of the consensus between these organizations, the CBST submitted to the Government their designated representatives which were accredited for the purpose of attending the present session of the Conference.
- 126.** As to the objection presented by CGT in particular, the Government mentioned that it was Ms Juana Chireno, who represented the CGT at the organization's own request. Mr Antonio Rodríguez, who had signed the objection as President of the CGT, did not appear as such in the NTUR. The Government, also questioned the good faith and receivability of the objection presented by the CTV, noting that it was signed by Mr Elías Torres (CTV's Secretary-General), an accredited adviser of the Workers' delegation. It stressed that the conflicting information provided by the CTV may be the result of the internal difficulties within the organization and submitted a copy of the national judgment of 16 April 2018 (issued by the Electoral Chamber of the Supreme Court of Justice) concerning the election of the executive bodies of the CTV. In closing, the Government denied that it had intervened in the composition of the Workers' delegation and reassured its respect of all workers' organizations in the country and that none of them had been excluded, and hence considered the objections unfounded.
- 127.** *Concerning the receivability of the objection presented by the CGT, in accordance with article 26bis(1)(c) of the Standing Orders of the Conference, the Committee considers that the objection can be examined as it was submitted by Mr Antonio Rodríguez, President of CGT, and not Ms Juana Chireno, Workers' adviser who also derives from the CGT. As to the allegations made by the Government about the legitimacy of the representation of CGT by Mr Rodríguez, the Committee notes that this is an internal matter which does not fall within the Committee's mandate.*
- 128.** *Concerning the receivability of the objection presented by the CTV, the Committee notes that in accordance with article 26bis(1)(c), it may appear in the first instance that the objection is not receivable since it was signed by Mr Elías Torres, CTV's Secretary-General and an accredited Workers' adviser. However, in the absence of sufficient and reliable written information about the alleged [lack of] consent of CTV to said accreditation, the Committee can come to no conclusion on this particular case.*
- 129.** *The Committee deeply regrets once again that, by providing outdated information from the NTUR with respect to the objecting organizations, the Government has failed to provide objective evidence regarding the representativeness of all the workers' organizations concerned. The absence of this information, repeatedly requested by the Committee, gives rise to deepening concerns regarding the conformity of the nomination of the Workers' delegation with the provisions of article 3(5) of the ILO Constitution. In those situations*

where there are two or more representative workers' organizations, the Government is obliged to actively seek an agreement between them for the purpose of nominating the Workers' delegation. This obligation is not fulfilled where a government extends as a mere formality an invitation to some of the largest organizations, nor can one organization claim for itself the right to establish the criteria for representativeness of the organizations in the country nor appoint the Workers' delegate without even attempting to reach an agreement with the other workers' organizations. Failing an agreement among the most representative organizations, the Government must actively assess, based on objective and verifiable criteria, which organization (or group of organizations that have agreed on a common proposal) is the most representative.

130. In light of the foregoing and that a commission of inquiry is soon to be launched pursuant to article 26 of the ILO Constitution, the Committee considers that it is necessary to renew the monitoring measures (see paragraphs 21 to 29 above) pending the outcome of that process and subject to compliance by the Government with its constitutional obligations.

Objection concerning the failure to deposit credentials of an Employers' delegate by the Government of Yemen

131. The Committee received an objection presented by the International Organisation of Employers (IOE) concerning the failure to deposit credentials of an Employers' delegate by the Government of Yemen. The IOE requested that the Committee call upon the Government to provide explanations about this situation and that it recommend to the Government that it fulfil its constitutional obligations in the future pursuant to article 3(1) of the ILO Constitution.
132. The Committee regrets that the Government has not responded to its request for information nor has it accredited a fully tripartite delegation. The Committee recalls that at the last three sessions of the Conference, Yemen has been exclusively represented by the Government. The Committee notes that at the present session of the Conference, a Workers' delegate has been accredited but has not registered. While noting that in response to two previous objections, the Government explained that it had failed to accredit a tripartite delegation as it had not received any nominations, either from the workers' or the employers' side, despite its request, and because of the armed conflict in the country (Provisional Record No. 5C, 106th Session, 2017, paragraph 147; Provisional Record No. 5C, 104th Session, 2015, paragraph 89), the Committee regrets that the Government had again failed to send a fully tripartite delegation to the present session of the Conference.
133. Notwithstanding, the Committee stresses that the Government, in accordance with article 3(1) of the ILO Constitution, remains obligated to nominate a tripartite delegation to the Conference. The Committee considers that the Government has not met this obligation. To this end, it calls on the Government to make serious efforts and to ensure that a fully tripartite delegation is accredited to the next sessions of 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. The Committee regrets the Government's continued failure to fulfil its constitutional obligations and expects it to send a fully tripartite delegation to the Conference next year.

Complaints

134. The Committee also received and dealt with ten complaints, which are listed below.

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

135. The Committee received a complaint, in accordance with article 26ter(1) of the Standing Orders of the Conference, submitted by the International Trade Union Confederation (ITUC) concerning the non-payment of travel and subsistence expenses of the Workers' delegate, Mr Maroof Qaderi, and his adviser, Ms Sweeta Azimi, both from the National Union of Afghanistan Workers and Employees (NUAWE). Mr Qaderi and Ms Azimi had not received any advance payment from the Government and had therefore incurred costs for their travel to Islamabad to obtain their visas, and subsequently Geneva to attend the present session of the Conference. Adding urgency to the matter, the Government had frozen NUAWE's bank account. Further, the complainant alleged a serious and manifest imbalance between the number of Government and Workers' advisers. It alleged that the Workers' delegation did not have enough advisers to cover the six items of the agenda. The complainant urged the Committee to call upon the Government to comply with its constitutional obligations further to article 13(2)(a) of the ILO Constitution and immediately cover the travel and subsistence expenses for the above individuals.

136. In a written communication addressed to the Committee at its request, the Government confirmed, that the funds for travel and subsistence expenses of the Workers' delegate for the entire duration of the Conference, had been released well in advance. It submitted that, further to an understanding with the Workers' group, it had always been the normal practice to cover the expenses of only the Workers' delegate. In relation to the alleged serious and manifest imbalance between the Government and Workers' advisers, the Government submitted that the number of members of the Government delegation was in line with this year's six point agenda. However, the Government expressed its commitment to exploring other ways to allocate additional resources to increase the representation of workers and employers in future years and that it was working on solving the issues relating to NUAWE's frozen bank account.

137. *The complaint states that there is a failure to pay the travel and subsistence expenses, but this allegation is disputed by the Government. The Committee considers that this information cannot be reconciled. However, both the complainant and the Government agree that the complainant's bank account has been frozen, which may account for this divergence. Should this be the case, the Committee considers that the Government could have been expected to take account of this fact and urges that this situation be resolved in the very near future. However, the Committee must recall that the obligation under article 13(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 cannot afford to advance expenses is not jeopardized. Therefore, if not done so yet, it urges the Government to act quickly in meeting its obligations.*

138. *The Committee recalls that the competence conferred to it to examine complaints on the non-observance of article 13(2)(a) of the Constitution also includes, in accordance with article 26ter(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 as compared to the number of advisers appointed for the Government delegates. The Committee notes that whereas the Government has the ability to*

assure its representation through a diplomatic mission (three persons have been nominated from the Permanent Mission), the same cannot be said for employers' or workers' organizations. Therefore, not only does the Committee recall the importance of respect for the principles of tripartism which requires a balanced representation of employers and workers so as to permit their effective participation at meetings, it urges the Government to ensure that its budget covers adequate funding for the full duration of the Conference, thus ensuring its compliance with its obligations as set out under articles 3(1) and 13(2)(a) of the ILO Constitution. Without the participation of Government, Employer and Worker representatives, the Conference cannot function properly or attain its objectives. Therefore, the Committee notes the Government's undertaking to increase the representation of workers and employers in future years and urges the Government to act accordingly so as to meet its constitutional obligations.

Complaint concerning a serious and manifest imbalance between the number of Government and Employers' advisers whose expenses have been covered by the Government of the Plurinational State of Bolivia

139. The Committee received a complaint presented by the Employers' group, in accordance with article 26ter(1)(b) of the Standing Orders of the Conference. The complainant stated that the Government delegation was composed of eight accredited members, whereas the Employers' delegation had two accredited members and the Workers' delegation had three accredited members. It alleged that the current composition of the delegation violated the principle of a balanced representation of the three groups. It further submitted that, even if not serious and manifest, there was an imbalance between the number of Employers' and Workers' delegates and advisers. The complainant also stated that the Government should guarantee a balanced composition in the groups to ensure their adequate representation and participation in the Conference.
140. In a written communication addressed to the Committee at its request, the Government stated that, in accordance with article 13(2)(a) of the ILO Constitution, it had fulfilled its constitutional obligations by accrediting and covering the travel and subsistence expenses of all members of the Workers' delegation (one delegate and two advisers) and of the Employers' delegation (one delegate and one adviser). The Government further submitted that for the present session of the Conference and as previously done for last year's session, the names of those individuals had been nominated entirely at the discretion of the employers' and workers' organizations, *Confederación de Empresarios Privados de Bolivia* (CEPB) and the *Central Obrera Bolivariana* (COB), respectively. In support, it attached copies of the relevant communications. Although those communications referred to the Government's request to CEPB and COB to nominate two members each, the Government further submitted that for last year's session of the Conference, it had accepted to cover the payment of travel and subsistence expenses for a total of three members of the Employers' delegation and that for the present session the same practice had been retained. However, for the present session of the Conference the Government stated that the CEPB only submitted two names. As for the Government delegation, the Government specified that for the present session of the Conference, it had accredited nine members (four from the capital and five from the Permanent Mission). For these reasons, the Government considered the complaint unfounded.
141. *The Committee wishes to recall that its mandate to examine complaints under article 26ter(1)(b) of the Standing Orders of the Conference is to assess whether there is a serious and manifest imbalance as between the number of advisers in the Government, Employers' and Workers' delegations whose expenses have been covered. Therefore, while*

the Government has explained that it has covered the expenses of four members of its delegation, three members of the Workers' delegation and two members of the Employers' delegation (as well as a third who could have implicitly been accredited), according to the Revised Provisional List of Delegations of 1 June 2018, the Government's delegation is composed of six advisers (three from the capital and three from the Permanent Mission).

- 142.** *While the participation of advisers from the Permanent Mission entails no additional cost to a government, it has little bearing in the determination of the imbalance between the number of Government advisers and those in the Employers' delegation whose expenses are fully funded. In the instant case, the Committee observes that whereas each Government delegate is accompanied by three advisers, the Employers' delegate was accompanied by one (even if they had the possibility of two) and the Workers' delegate was accompanied by two. While the Committee may consider that there is an imbalance between the number of Government advisers (three) as compared to either the Employers' advisers (one) and Workers' advisers (two) whose expenses are borne, it cannot be considered serious and manifest. Therefore, the complaint does not call for any action on its part. However, the Committee invites the Government to be clearer in its invitations about the number and status of the nominees (delegates and advisers) with the objective of maintaining an equal distribution within the delegation. The Committee recalls that the payment of travel and subsistence expenses is not at the entire discretion of the Government and cannot be considered as a favour. The Government must be careful to ensure that the financial means available for the participation of a tripartite delegation to the Conference 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.*

Complaint concerning the non-payment of travel and subsistence expenses of the Workers' delegation of Comoros

- 143.** The Committee received a complaint presented by the International Trade Union Confederation (ITUC) alleging the non-payment of travel and subsistence expenses for the Workers' delegation, in breach of article 13(2)(a) of the ILO Constitution and on the basis of article 26ter(1) of the Conference Standing Orders. The complainant organization submitted that the Workers' delegate, Mr Soulaïmana Salim, Secretary-General of the *Confédération des Travailleuses et Travailleurs des Comores* (CTTC), had been informed by the Government that, similarly to the rest of the Workers' delegation, his travelling and subsistence allowances would not be paid. As a result, they had been unable to travel to Geneva to attend the Conference. The complainant organization further alleged a serious and manifest imbalance in the composition of the Comoros' delegation. In this regard, it submitted that the Government delegation was composed of a total of 22 members, compared to four members in the Workers' delegation. The complainant organization specified that this was not enough for it to follow the six agenda items of the Conference. Therefore, it requested the Committee to call upon the Government to provide further clarifications on this matter and to fulfil its constitutional obligations.
- 144.** In a written communication addressed to the Committee at its request, the Government stated that the Workers' delegate, similarly to other members of the Comoros' delegation, had not been able to attend the Conference due to visa issues. The Government explained that Mr Salim had not obtained his visa as he was unable to present himself at the Swiss Embassy in Antananarivo, Madagascar, as required, to provide fingerprints. The Government indicated that it could not cover a mission that was not guaranteed, and specified that other members of the delegation travelled to Antananarivo for the same purpose at their own expenses. The latter individuals were presently awaiting response on their visa requests. The Government stressed that it had respected tripartism in the payment of the expenses, as

demonstrated in the documents attesting that Mr Salim's travelling and subsistence expenses had been duly budgeted.

145. *The Committee notes that there is a discrepancy in the information before it, which cannot be reconciled and challenges the work of the Committee. The Committee recalls that pursuant to article 13(2)(a) of the ILO Constitution, governments have an obligation to pay the travel and subsistence expenses of the delegates and their advisers nominated to the Conference. It considers that this obligation extends to assisting the non-governmental delegates in obtaining their visas for the purposes of attending the Conference. Pursuant to article 3(1) of the ILO Constitution, the non-governmental delegates are representatives of the member States to the same extent as the Government delegates. Accordingly, while the Committee notes that the Government accredited the delegation in a timely fashion (on 6 May 2018), it considers that the Government should have made the necessary arrangements to facilitate the issuance of visas for its tripartite delegation and in particular for the titular delegates (i.e. Mr Salim in the case at hand), especially since the visa processing facilities are not in-country. Indeed, the Committee notes that only two members of the delegation (i.e. the Minister and a Government's adviser) have registered.*
146. *With respect to the allegations of serious and manifest imbalance, the Committee recalls that the competence conferred on it to examine such complaints, in accordance with article 26ter(1)(b) of the Conference Standing Orders, refers to situations 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. While the Committee cannot confirm whether the expenses of the Workers' advisers would have been covered if they would have obtained visas, the Committee notes that the Workers' delegation contains three Workers' advisers compared to nine advisers for the two Government delegates. Although the Committee would not consider that this composition represents a serious and manifest imbalance, the Committee finds that the total number of members accredited to the Government delegation (i.e. 22, of which nine are advisers) compared to the four members accredited to the Workers' delegation does not follow the spirit of article 3 the ILO Constitution.*
147. *In this regard, the Committee wishes 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. The Conference in its current format is characterized by a condensation of the work in a much shorter period than before. This regularly results in simultaneous sittings of four or five technical committees and sometimes the plenary, such as at the present session of the Conference, that includes six agenda items. 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. Therefore, the Committee expects that the Government, in accordance with article 13(2)(a) of the ILO Constitution, will make sufficient budgetary provisions for the participation of advisers in the work of the Conference, thus encouraging the nomination of the effective participation of the social partners.*

Complaint concerning the non-payment of travel and subsistence expenses of the Employers' delegation by the Government of Eswatini (formerly known as Swaziland)

148. The Committee received a complaint from the Employers' group of the Conference alleging that the Government had breached its obligations under article 13(2)(a) of the ILO Constitution in that it had failed to pay the travel and subsistence expenses of the entire Employers' delegation. The Employers' group submitted that it had been informed by the

Federation of Swaziland Employers and Chamber of Commerce that, while the Government had paid the travel and subsistence expenses of the full Government delegation, it had only paid for the expenses of one of the three members of the Employers' delegation. The Employers' group considered that this constituted a serious and manifest imbalance as between the number of Employers' and Workers' advisers whose expenses have been covered in the delegation concerned and the number of advisers appointed for the Government delegates within the meaning of article 26ter(1)(b) of the Standing Orders of the Conference. It submitted that the Government's failure to meet its constitutional obligations directly undermined the ability of the employers of Eswatini to fully participate in the work of the Conference, in contradiction with the resolution concerning the strengthening of tripartism in the overall activities of the International Labour Organization, adopted by the Conference at its 56th Session (1971) as well as with the spirit of tripartism required of the Government required by virtue of its membership to the ILO.

- 149.** In a written communication addressed to the Committee at its request, the Government submitted that, in a consultation meeting regarding the nomination of the tripartite delegation to the present session of the Conference, held on 26 April 2018, it had clarified that due to financial constraints it could only pay the travel and subsistence expenses of one Employers' and of one Workers' delegate. It had further clarified that it would accredit other nominees from the employers' and workers' organizations only if their participation costs were to be covered by the nominating organizations. The Government considered that was prevalent practice among member States to send to the Conference delegations composed, in their majority, of Governments members, while only paying for the travel and subsistence expenses of one Employers' and one Workers' delegate. The Government considered that the practice, which rendered articles 3(2) and 13(2)(a) of the ILO Constitution obsolete, should be codified in the context of the current review of the Standing Orders of the Conference. It requested the Committee to be fair and objective in its determination of the matter.
- 150.** *The Committee notes that a similar complaint regarding the non-payment of travel and subsistence expenses of the full tripartite delegation has been filed separately by Trade Union Congress of Swaziland (TUCOSWA) for the third consecutive year.*
- 151.** *According to the Revised Provisional List of Delegations of 1 June 2018, the Committee notes that the Government has accredited an Employers' delegate with two advisers and substitute delegates as well as a Workers' delegate with five advisers and substitute delegates. However, it has only paid for the travel and subsistence expenses of the Employers' delegate and the Workers' delegate. The Committee notes that according to the Government, the non-payment of participation costs of the full delegation is due to financial constraints. However, the Committee observes that in the Government delegation there are, in addition to two delegates from the capital, nine accredited advisers of whom six are from the capital and three are from the Permanent Mission in Geneva. The Committee recalls that whereas a government has the ability to assure its representation through a diplomatic mission, the same cannot be said for employers' and workers' organizations.*
- 152.** *The Committee wishes to recall that the ability of 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(2)(a) of the ILO Constitution which requires member States to pay the travel and subsistence expenses of the delegates and their advisers nominated to the Conference.*
- 153.** *The Committee takes note of the explanation provided by the Government that the non-payment of travel and subsistence expenses of the Employers' and Workers' advisers was due to financial reasons. Nevertheless, the Committee expects that the Government will give*

sufficient budgetary priority to funding a balanced number of participants in the three parts of the delegation in order to facilitate their participation in the work of the Conference.

- 154.** *The Committee disagrees with the Government's assertion that because some member States send to the Conference delegations composed, in their majority, of Government members, this renders obsolete their obligation under article 13(2)(a) of the ILO Constitution (to pay the travel and subsistence expenses of the delegates and their advisers nominated to the Conference). The Committee also disagrees that this calls into question the need for the scrutiny exercised by the Committee in this matter under article 26ter(1) of the Standing Orders of the Conference.*
- 155.** *The Committee recalls that the Government has formally accepted the obligation to pay the travel and subsistence expenses of the delegates and their advisers nominated to the Conference upon becoming an ILO member State. It therefore urges that next year the Government will fully meet its constitutional obligations.*

Complaint concerning the non-payment of travel and subsistence expenses of the Workers' delegation by the Government of Eswatini (formerly known as Swaziland)

- 156.** The Committee received a complaint from the Trade Union Congress of Swaziland (TUCOSWA) alleging non-payment of travel and subsistence expenses for the entire Workers' delegation. It submitted that, while the Government had paid the travel and subsistence expenses of seven advisers of the Government delegation, it had only paid the expenses of one Workers' adviser. The complainant organization considered that the composition of the Workers' delegation, as compared to the Government delegation, was therefore unbalanced and not in conformity with the spirit and tenor of the ILO Constitution. TUCOSWA stated that the Government had justified the non-payment of the expenses of the entire Workers' delegation because of financial constraints. However, TUCOSWA recalled that it had filed two earlier complaints regarding the same matter during the 105th (2016) and 106th (2017) Sessions of the Conference. It was not until immediately before the present session of the Conference that the Government had proceeded with the reimbursement of the travel and subsistence expenses of the Workers' delegation to the two preceding sessions. This was notwithstanding the fact that the issue had been raised on numerous occasions in the context of social dialogue. TUCOSWA requested that the Committee order the Government to pay for a balanced number of advisers of the Workers' and Employers' delegation in compliance with the ILO Constitution.
- 157.** In a written communication addressed to the Committee at its request, the Government submitted that, in a consultation meeting for the nomination of the tripartite delegation to the present session of the Conference held on 26 April 2018, it had clarified that due to financial constraints, it would only pay the travel and subsistence expenses of one Workers' delegate from TUCOSWA and of one Employers' delegate from the Federation of Swaziland Trade Unions (FSE/CC). The Government further submitted that, upon its written invitation dated 17 April 2018, TUCOSWA had provided on 26 April 2018 the name of the Workers' delegate whose travel and subsistence expenses were to be funded. It also provided the names of three other people whose participation costs were to be funded by TUCOSWA. The Government stressed that it would not have accredited three other persons from the complainant organization had it not been expressly stated in its letter it would cover these individuals' participation costs. The Government considered that the complainant organization's claims regarding the payment of travel and subsistence expenses of the three additional members of the Workers' delegation from within its ranks was shocking. It submitted that the difficult financial conditions made it difficult, if not impossible, for it to pay the travel and subsistence expenses of the three additional persons nominated by

TUCOSWA. The Government also considered that it was prevalent practice among member States to send to the Conference delegations composed, in their majority, of Government members, while only paying for the travel and subsistence expenses of one Employers' and one Workers' delegate. The Government considered that the practice, which rendered articles 3(2) and 13(2)(a) of the ILO Constitution obsolete, should be codified in the context of the current review of the Standing Orders of the Conference. It requested the Committee to be fair and objective in its determination of the matter.

- 158.** *The Committee regrets that it is seized for a third consecutive with a complaint regarding the non-payment of travel and subsistence expenses of the Workers' delegation by the Government of Eswatini. In addition, this year, a separate complaint regarding the same matter has been lodged by the Employers' group of the Conference (see paragraphs 147 to 154).*
- 159.** *According to the Revised Provisional List of Delegations of 1 June 2018, the Committee notes that the Government has accredited an Employers' delegate with two advisers and substitute delegates as well as a Workers' delegate with five advisers and substitute delegates. However, it has only paid for the travel and subsistence expenses of one Employers' delegate and one Workers' delegate. The Committee notes that according to the Government, the non-payment of participation costs of the full delegation is due to financial constraints. However, the Committee observes that in the Government delegation there are, in addition to two delegates from the capital, nine accredited advisers of whom six are from the capital and three are from the Permanent Mission in Geneva. The Committee recalls that whereas a government has the ability to assure its representation through a diplomatic mission, the same cannot be said for employers' and workers' organizations.*
- 160.** *The Committee wishes 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(2)(a) of the ILO Constitution which requires member States to pay the travel and subsistence expenses of the delegates and their advisers nominated to the Conference*
- 161.** *The Committee takes note of the explanation provided by the Government that the non-payment of travel and subsistence expenses of the Employers' and Workers' advisers was due to financial reasons. Nevertheless, the Committee expects that the Government will give sufficient budgetary priority to funding a balanced number of participants in the three parts of the delegation in order to facilitate their participation in the work of the Conference.*
- 162.** *The Committee disagrees with the Government's assertion that because some member States send to the Conference delegations composed, in their majority, of Government members, this renders obsolete their obligation under article 13(2)(a) of the ILO Constitution (to pay the travel and subsistence expenses of the delegates and their advisers nominated to the Conference). The Committee also disagrees that this calls into question the need for the scrutiny exercised by the Committee in this matter under article 26ter(1) of the Standing Orders of the Conference.*
- 163.** *The Committee recalls that the Government has formally accepted the obligation to pay the travel and subsistence expenses of the delegates and their advisers nominated to the Conference upon becoming an ILO Member. It therefore urges that next year the Government will fully meet its constitutional obligations under article 13(2)(a) of the ILO Constitution.*

Complaint concerning an act or omission by the Government of Haiti by which an accredited delegate has been prevented from attending the Conference

164. The Committee received a complaint, based on article 26^{ter}(2) of the Conference Standing Orders, on 30 May 2018, presented by the International Trade Union Confederation (ITUC), stating that the Workers' delegate, Ms Schella Loreus of the Coordination Syndicale Haïtienne (CSH), had been prevented from attending the full session of the Conference. The ITUC submitted that the Ministry of Labour and Social Affairs had delivered an invitation letter to Ms Loreus only on 24 May 2018, and had advised her to contact the French Embassy, instead of the competent Spanish Embassy, in order to obtain her entry visa to Switzerland. The ITUC submitted that, due to the late invitation and erroneous information provided by the Government, Ms Loreus could not obtain her Swiss entry visa in time in order to permit her to attend the first week of the Conference including, in particular, the opening session of the Conference and the discussion concerning the case of Haiti in the Committee on the Application of Standards on 31 May 2018, since she would only arrive on 3 June 2018. The ITUC requested that the Committee call upon the Government to provide explanations about this situation and to recommend that the Government fulfil its constitutional obligations by ensuring that, in the future, the Workers' delegate receives the necessary travel documents in a timely manner so as to permit them to participate in the Conference from its opening and for its entire duration.
165. In a written communication addressed to the Committee at its request, the Government regretted the delay in processing of the Swiss entry visas for the members of the delegation from the capital, including Ms Loreus. However, the complaint came as a surprise to the Government as it had promptly accredited during the Conference another Workers' adviser and substitute delegate in order to ensure active participation of a Worker representative in the discussion concerning the case of Haiti in the Committee on the Application of Standards on 31 May 2018. The Government requested the Committee not to uphold the complaint.
166. *The Committee notes that, in view of the two-week format of the Conference, the time limit for the deposit of credentials was, for the fourth consecutive year, brought to 21 days prior to the opening session of the Conference rather than the minimum 15 days as foreseen in the Standing Orders of the Conference. For the present session of the Conference, this date was 7 May 2018. The Committee recalls that this adjustment was, in particular, aimed at allowing sufficient time to process the Swiss entry visas for tripartite delegations and thereby facilitating their attendance for the full duration of the Conference. The Committee notes with concern that the credentials of the delegation of Haiti were only deposited on 25 May 2018, thus preventing the Workers' delegate from obtaining her Swiss entry visa in good time in order to attend the Conference for its full duration. Therefore, while the Committee has been able to confirm that the Government did accredit an additional Workers' adviser and substitute delegate on 30 May 2018, it does not consider that this is sufficient for it to discharge its responsibility of timely accreditation. The Committee calls upon the Government to abide by the limit for the deposit of credentials so as to allow for the full participation of the tripartite delegation in the Conference for its entire length.*

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

167. The Committee received a complaint presented by the Workers' delegate, Mr Plinio Limata, of the Italian Confederation of Workers' Trade Unions (CISL), on his own behalf for the non-payment of travel and subsistence expenses, as well as on behalf of the Workers' adviser

and substitute delegate, Ms Silvana Cappuccio, of the Italian General Confederation of Labour (CGIL) and a Workers' adviser, Ms Bianca Cuciniello, of the Italian Union of Labour (UIL). The author of the complaint submitted that the Government's failure to cover the travel and subsistence expenses of the workers was a breach of article 13(2)(a) of the ILO Constitution. He further submitted that already in 2017, the Government had failed to honour its commitment to reimburse the expenses of the Workers' delegation. The complainants considered that the repeated failure of the Government to pay the travel and subsistence expenses of the Workers' delegation posed increasing obstacles to the adequate participation of the Workers' delegation to the Conference.

168. In a written communication addressed to the Committee at its request, the Government explained that during the ILO Tripartite Advisory Committee meeting held on 24 May 2018 for the purposes of preparing for the present session of Conference, it was clarified that the Ministry of Foreign Affairs and International Cooperation would reimburse the travel and subsistence expenses of the Employers' delegate, as well as the Workers' delegate and his three advisers. The Government further explained that during the 24 May meeting, it had also been specified that for the next session of the Conference, delegates and advisers of the social partners would be able to receive the travel and subsistence documents through the travel agency used by the Ministry for official missions. It further indicated that the delay in the payment of travel and subsistence expenses of the delegates and advisers of the social partners in respect of their participation in the last year's session of the Conference stemmed from the need to conduct a more in-depth examination of the supporting documentation provided.
169. *The Committee notes that this is the third time in the last decade that it has been seized with a complaint regarding the non-payment expenses of the entire Workers' delegation by the Government of Italy. A similar complaint had indeed been lodged with the Committee both at the 101st and 103rd Sessions of the Conference in 2012 and 2014 respectively.*
170. *The Committee recalls that article 13(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 Committee notes the Government's explanation that, on 24 May 2018 – merely two working days before the opening session of the Conference – it committed itself to the reimbursement of the travel and subsistence expenses of the Employers' delegate, as well as the Workers' delegate and his three advisers to the present session of the Conference. However, the Committee observes that despite a similar commitment made by the Government last year, the payment of travel and subsistence expenses of the delegates and advisers of the social partners in respect of their participation in the 106th Session of the Conference remains pending.*
171. *The Committee recalls that the timely payment of travel and subsistence expenses of the full tripartite delegation plays an important role in ensuring its actual participation in the Conference. The Committee expects that the Government of Italy, which is a member State of chief industrial importance, will take the necessary steps in the future to ensure that payments of travel and subsistence expenses of the delegation occur as early as possible, so as to permit participation by those nominated to serve as delegates and advisers for the full duration of the Conference.*

Complaint concerning the non-payment of the travel and subsistence expenses of the Workers' advisers by the Government of Peru

172. The Committee received a complaint submitted jointly by the *Confederación General de Trabajadores del Perú* (CGTP), the *Confederación Unitaria de Trabajadores del Perú* (CUT), the *Confederación de Trabajadores del Perú* (CTP) and the *Central Autónoma de*

Trabajadores del Perú (CATP). The complainants stated that the Government had failed to fulfil its obligations pursuant to article 13(2)(a) of the ILO Constitution. In this regard, they stated that only a few days prior to the opening of the present session of the Conference, the Government had convoked them to a meeting to inform them of its decision not to pay for the travel and subsistence expenses of the full delegation. Therefore, they were not provided with the minimum amount necessary that would permit a full Workers' delegation to participate at the present session of the Conference. Furthermore, the complainants alleged that the failure to pay for the expenses of the full delegation violated an agreement unanimously adopted in 2012 in the *Consejo Nacional de Trabajo y Promoción del Empleo del Estado Peruano*, which established that the Workers' delegation to future sessions of the International Labour Conference would include a delegate deriving from each of the four most representative organizations in the country, namely, CGTP, CUT, CTP and CATP. In protest, the complainants decided to withdraw their participation to the present session of the Conference and requested that the Committee call upon the Government to not only abide by its constitutional obligations, but the 2012 agreement.

173. In a written communication addressed to the Committee at its request, the Government explained that due to the promulgation of the *Decreto de Urgencia No. 005-2018*, which established extraordinary measures in public spending for the year 2018, it had to limit the payment of expenses to only two members per each group, including the Government delegation. The Government stated that on 10 May 2018, it had met with the representatives of the four complainant organizations to coordinate their participation to the present session of the Conference, in light of the financial restrictions imposed by said *Decreto de Urgencia*. In this meeting the complainant organizations manifested their disagreement and announced that unless the decision was reversed and the participation of all of them guaranteed, none of the complainant organizations would attend this year's Conference. On 24 May 2018, the Government announced to the General-Secretary of CGTP that the four representatives of the CGTP, CUT, CTP and CATP were accredited. However, the Government reiterated that it would only be able to cover the expenses of two members per group. Thus, it requested the names of the two representatives but the complainant organizations confirmed their decision to suspend their participation unless the expenses of all four representatives were covered. For its own part, the Government indicated that it had withdrawn from its own group, Mr Guillermo Martín Boza, Vice-minister of Labour and Employment Promotion and Mr Jorge Larrea de Rossi, Technical Secretary of the *Consejo Nacional del Trabajo y Promoción del Empleo* emphasizing the exceptional nature of the situation.
174. *The Committee notes that there is no dispute that there was a reduction in the number of individuals whose expenses would be funded due to the exceptional measures or that a 2012 agreement existed. The Committee also notes that the Government offered to pay for the expenses of two of the members of the Workers' and Employers' delegation. However, the Committee observes that in spite of the withdrawal of two members, the Government delegation still included seven members acting as delegates and advisers, four of which came from its Permanent Mission.*
175. *The Committee wishes 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(2)(a), of the ILO Constitution.*

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176. *The Committee takes note of the explanation provided by the Government that the non-payment of travel and subsistence expenses of the Employers' and Workers' advisers was due to exceptional financial reasons. Nevertheless, the Committee expects that the Government will give sufficient budgetary priority to future sessions of the Conference and fund a fully tripartite delegation in accordance with the obligations taken at the national level.*
177. *The Committee trusts that the exceptional measures will be resolved by next year's conference so as to permit the workers participation.*

Complaint concerning insufficient subsistence expenses of the Employers' delegation of Serbia

178. The Committee received a complaint concerning the insufficient subsistence expenses of the Employers' delegation of Serbia presented by the Employers' group of the Conference. The Employers' group submitted that the Government provided to each member of its tripartite delegation a daily subsistence allowance of €15 and recalled that it had presented a similar complaint at the previous session of the conference. The Employers' group recalled that the Committee had concluded last year that the subsistence expenses allocated by the Government were insufficient for attendance for the full duration of the Conference. Considering the cost of living and conditions required for decent accommodation and meals in Geneva, the Employers' group submitted that the Government had failed to comply with its obligations under article 13(2)(a) of the ILO Constitution and requested the Committee to formulate the recommendation it deemed appropriate.
179. In a written communication addressed to the Committee at its request, the Government stated that it had paid the costs of travel, accommodation and per diems for all the members of its tripartite delegation but that the per diem was the same for all. The Government also indicated that this year, unlike last year, it had proposed to pay for the entire tripartite delegation accommodation, full board, travel costs and per diem, which meant that the social partners would not have any additional costs to bear. However, this proposal to provide full board had not been accepted.
180. *The Committee notes that the Government has asserted that it has paid for the costs of transport, accommodation and per diem. The Committee takes further note of the Government's explanation that it offered to support the travel expenses, full board, accommodation and per diem, in an amount to guarantee the travel and subsistence expenses of the delegation and that this proposal was not accepted, the reasons of which were not stated.*
181. *The Committee recalls its conclusion from last year where it considered that a per diem of €15 was considered to be below a liveable minimum for Geneva and its vicinities. The Committee wishes to recall that, in accordance with article 13(2)(a) of the ILO Constitution, Members must pay the travel and subsistence expenses of their full delegation and, although, the Constitution does not specify the manner in which this obligation should be fulfilled, the Committee considers it is clear that the proposed arrangement does not meet the minimum level of subsistence expenses to permit the effective participation of the delegates at the Conference. Therefore, the Committee reiterates that the subsistence expenses allocated by the Government are insufficient for attendance for the full duration of the Conference, since those offered are evidently below a liveable minimum for Geneva, Switzerland and its surrounding vicinities.*

182. *Consequently the Committee, recalling the importance of respect for the principles of tripartism which requires a balanced representation of employers and workers so as to permit their effective participation at meetings, invites the Government to fulfil its obligation to provide for the travel and subsistence expenses of the delegation in a manner compatible with article 13(2)(a) of the Constitution. Without the participation of Government, Employer and Worker representatives, the Conference cannot function properly or attain its objective. Therefore, the Committee urges the Government to act accordingly so as to meet its obligations.*

Complaint concerning the non-payment of travel and subsistence expenses of the Employers' delegation by the Bolivarian Republic of Venezuela

183. The Committee received a complaint submitted by the Employers' group. The complainant alleged the violation of article 13(2)(a) of the ILO Constitution. It submitted the non-payment of travel and subsistence expenses for a portion of the Employers' delegation, namely the representatives of the *Federación de Cámaras y Asociaciones de Comercio y Producción de Venezuela* (FEDECAMARAS). It further submitted that since an agreement was signed in 2014 between different employers' organizations and the Government, FEDECAMARAS, the most representative, had accepted the inclusion in the Employers' delegation representatives of other employers' organizations, regardless of their lack of independence or minority representativeness. As a consequence, the Employers' delegation to the present session counted with three representatives of the *Federación de Artesanos, Micros, Pequeñas y Medianas Industrias y Empresas* (FEDEINDUSTRIA). Other requests for inclusion in the delegation from *Empresarios por Venezuela* (EMPREVEN) and *Consejo Bolivariano de Industriales, Empresarios y Microempresarios* (COBOIEM) were conveyed by the Government to FEDECAMARAS after the deadline for submission of credentials and hence were not included. Furthermore, the complainant confirmed that the list of accredited members of the Employers' delegation was in accordance with the nomination submitted by FEDECAMARAS. However, as of the date the complaint was filed on 1 June 2018, the Government had not yet covered the travel and subsistence expenses of the Employers' delegate and adviser. Furthermore, the complainant expressed its concern about this incident, in particular in view that a commission of inquiry is soon to be launched pursuant to article 26 of the ILO Constitution.

184. In a written communication addressed to the Committee at its request, the Government confirmed that by the date of submission of this communication (4 June 2018), the Government had covered the payment of the travel and subsistence expenses of the Employers' delegate and adviser, and that at present, they were attending the Conference. The Government stated that in view of the economic difficulties in the country, it had reduced the payment of travel and subsistence expenses to only two members (the delegate and one adviser) of each the Workers' and the Employers' delegation; and had reduced to two the number of Government delegation members from the capital. It explained that the overdue payment was caused by a delay in the monetary conversion in view of the financial situation in the country. Furthermore, in line with FEDECAMARAS's statement, the Government confirmed that the accreditation of the Employers' delegation was indeed made in accordance with the nomination submitted by this organization, yet the Government rejected the allegation as to a possible inclusion in the delegation of bias employers' organizations or those with low representativeness.

185. *The Committee notes that there is no dispute that there was a reduction in the number of individuals whose expenses would be funded due to the exceptional measures. The Committee also notes that the Government offered to pay for the expenses of two Workers' and two Employers' members, respectively. However, the Committee observes that in spite of the reduction in members from the capital, the Government delegation still included five*

members acting as delegates and advisers, three of which came from its Permanent Mission. The Committee trusts that the exceptional measures will be resolved by next year's conference so as to permit a wider workers' and employers' participation.

- 186.** *The Committee observes that the Government has in the meantime covered the payment of travel and subsistence expenses of the accredited Employers' delegate and an adviser. As it is not clear which adviser has been paid, the Committee wishes to recall that the obligation under article 13(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 or advisers who cannot afford to advance expenses is not jeopardized. Therefore, the Committee urges the Government to meet its constitutional obligations in the future.*

Other matters

- 187.** The Credentials Committee wishes to recall that it has been the custodian of the tripartite structure of the ILO since its inception. The Committee stresses that full compliance with the two fundamental constitutional obligations; to nominate the Employers' and Workers' delegates and advisers in agreement with their most representative organizations (article 3(5) of the ILO Constitution) and to pay the travel and subsistence expenses of delegates and their advisers, including those of the employers and workers attending the Conference (article 13(2)(a) of the ILO Constitution) is necessary for the genuine representatives of the governments, employers and workers of member States to be brought together and fully participate in the Conference.
- 188.** In this connection, the Committee remains concerned at the number of incomplete delegations, whether they be exclusively governmental or absent one of the social partners. In this regard, it recalls the Resolution concerning incomplete delegations adopted during the 6th Session (1924) of the Conference and considers that in the context of the Standing Orders review consideration should be given to the Credentials Committee so that it may be automatically seized of such cases.
- 189.** The Committee is also concerned, as the ILO nears its centenary, that participation at the Conference remains primarily that of men distributed among the three groups (government, employers and workers) with varying proportions of women depending on function and group. In this regard, based on the accreditation statistics, the Committee observes that in the delegations from the African region women represent 24.4 per cent, in the Americas 38.8 per cent, in Asia and the Pacific 28.9 per cent, and in Europe 44.3 per cent of the total number of delegates and advisers. Whereas the Committee notes that there is a slight increase of women representation in all delegations, it urges the constituents of all member States to reach at least the 30 per cent minimum of women participation in their delegations, particularly of women leadership positions with the goal of gender parity.

190. The number and size of accredited delegations may well attest to the increasing interest of tripartite constituents in the work of the Conference. However, the Committee considers that it is within its remit to reiterate that such a situation increasingly affects the efficient functioning of the Conference. The Committee reiterates its request that an in-depth analysis of all current accreditation arrangements and practices should be undertaken with a view to assessing their implications and identifying possible needs for improvement, as well as practical arrangements, such as direct communications to member States regarding the need to maintain the size of their delegation within reasonable limits. It also calls upon member States to similarly evaluate the specific functions of individuals they send, so that only those with a direct role and function at the Conference are accredited.

191. 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 12, 29 and 82.

Geneva, 7 June 2018

(Signed) Mr Michael Hobby,
Chairperson

Mr Fernando Yllanes Martínez

Mr Jens Erik Ohrt

- 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)							
Afghanistan.....	2	-	1	5	-	1	Dominican Republic.....	2	1	1	6	2	7	Lithuania.....	2	1	1	1	-	-	Serbia.....	2	1	1	3	2	2
Albania.....	2	1	1	4	1	1	Ecuador.....	-	-	1	7	-	-	Luxembourg.....	2	1	1	4	2	7	Seychelles.....	2	1	1	-	-	-
Algeria.....	2	1	1	11	5	3	Egypt.....	2	1	-	13	6	-	Madagascar.....	2	1	1	4	1	1	Sierra Leone.....	1	1	1	1	-	1
Angola.....	2	1	1	5	-	1	El Salvador.....	2	1	1	4	-	4	Malawi.....	2	1	1	6	2	1	Singapore.....	2	1	1	11	4	6
Antigua and Barbuda.....	-	-	-	-	-	-	Equatorial Guinea.....	2	1	1	1	1	-	Malaysia.....	2	1	1	8	1	10	Slovakia.....	2	1	1	3	3	3
Argentina.....	2	1	1	8	9	9	Eritrea.....	2	1	1	2	-	-	Maldives.....	1	1	1	-	-	-	Slovenia.....	2	1	1	2	1	1
Armenia.....	2	-	-	-	-	-	Estonia.....	2	1	1	2	1	-	Mali.....	2	1	1	10	1	2	Solomon Islands.....	-	-	-	-	-	-
Australia.....	1	1	1	8	2	5	Ethiopia.....	2	1	1	2	4	6	Malta.....	2	1	1	5	4	4	Somalia.....	2	-	1	4	-	6
Austria.....	2	-	-	8	2	3	Fiji.....	2	1	1	2	-	-	Marshall Islands.....	-	-	-	-	-	-	South Africa.....	2	1	1	24	4	10
Azerbaijan.....	2	1	1	2	2	1	Finland.....	2	1	1	5	3	3	Mauritania.....	2	1	1	5	1	4	South Sudan.....	2	1	1	10	1	-
Bahamas.....	2	1	1	2	-	-	France.....	2	1	1	10	2	9	Mauritius.....	2	1	1	3	1	-	Spain.....	2	1	1	7	4	10
Bahrain.....	2	-	1	5	2	5	Gabon.....	1	1	1	12	2	0	Mexico.....	2	1	1	11	8	9	Sri Lanka.....	2	1	1	8	-	8
Bangladesh.....	2	1	1	19	5	1	The Islamic Republic of Gambia.....	-	-	-	-	-	-	Republic of Moldova.....	2	1	1	1	-	-	Sudan.....	2	1	1	8	-	6
Barbados.....	2	1	1	3	-	-	Georgia.....	2	1	1	1	5	-	Mongolia.....	2	1	1	2	3	3	Suriname.....	2	1	1	-	-	-
Belarus.....	2	-	1	10	4	10	Germany.....	2	1	1	12	4	8	Montenegro.....	2	1	1	3	-	1	Eswatini (formerly Swaziland).....	2	1	1	8	2	5
Belgium.....	2	1	1	13	5	10	Ghana.....	2	1	-	11	9	8	Morocco.....	2	1	1	5	4	10	Sweden.....	2	1	1	6	3	4
Belize.....	-	-	-	-	-	-	Greece.....	2	1	1	7	6	4	Mozambique.....	2	-	1	9	1	2	Switzerland.....	2	1	1	11	3	10
Benin.....	2	1	1	12	-	6	Grenada.....	-	-	-	-	-	-	Myanmar.....	2	1	1	10	-	10	Syrian Arab Republic.....	2	1	1	-	1	4
Bolivia, Plurinational State of.....	2	1	1	6	1	2	Guatemala.....	2	1	1	6	1	2	Namibia.....	2	1	1	4	1	1	Tajikistan.....	2	-	-	-	-	-
Bosnia and Herzegovina.....	2	1	1	2	1	1	Guinea.....	2	1	1	24	4	11	Nepal.....	2	1	1	5	4	6	United Republic of Tanzania.....	2	1	-	13	2	3
Botswana.....	2	1	1	5	1	6	Guinea-Bissau.....	-	-	-	-	-	-	Netherlands.....	2	1	1	17	2	8	Thailand.....	2	1	1	19	9	10
Brazil.....	2	1	1	10	9	9	Guyana.....	-	-	-	-	-	-	New Zealand.....	2	1	1	4	2	1	The former Yug. Rep. of Macedonia.....	2	1	1	3	-	1
Brunei Darussalam.....	2	-	-	3	-	-	Haiti.....	2	-	1	2	-	1	Nicaragua.....	1	-	-	1	-	-	Timor-Leste.....	-	-	-	-	-	-
Bulgaria.....	2	-	1	8	3	2	Honduras.....	2	1	1	5	4	2	Niger.....	2	1	1	19	8	12	Togo.....	2	1	1	16	8	10
Burkina Faso.....	2	1	1	22	3	7	Hungary.....	2	1	-	3	4	6	Nigeria.....	2	1	1	23	9	7	The Kingdom of Tonga.....	-	-	-	-	-	-
Burundi.....	2	1	1	1	-	-	Iceland.....	2	1	1	3	-	1	Norway.....	2	1	1	5	4	10	Trinidad and Tobago.....	2	1	1	1	-	-
Cambodia.....	2	1	1	4	-	7	India.....	2	1	1	9	10	10	Oman.....	2	1	1	5	7	8	Tunisia.....	2	1	1	6	2	10
Cameroon.....	2	1	1	6	6	7	Indonesia.....	2	1	1	20	10	5	Pakistan.....	1	1	1	6	-	-	Turkey.....	2	1	1	17	9	11
Canada.....	2	1	1	13	4	5	Islamic Republic of Iran.....	2	1	1	7	9	9	Palau.....	-	-	-	-	-	-	Turkmenistan.....	2	1	1	2	-	-
Cabo Verde.....	2	1	1	2	-	1	Iraq.....	2	1	1	10	9	6	Panama.....	2	1	1	8	3	5	Tuvalu.....	-	-	-	-	-	-
Central African Republic.....	2	1	1	7	1	4	Ireland.....	2	1	1	7	5	1	Papua New Guinea.....	2	1	1	3	-	-	Uganda.....	2	1	1	8	7	6
Chad.....	2	1	1	16	1	4	Israel.....	2	1	-	7	-	2	Paraguay.....	2	1	1	13	1	9	Ukraine.....	2	1	1	2	-	5
Chile.....	2	-	1	11	7	9	Italy.....	2	1	1	6	2	3	Peru.....	2	1	-	7	5	1	United Arab Emirates.....	2	1	1	7	4	3
China.....	2	1	1	16	8	7	Jamaica.....	2	1	1	10	-	1	Philippines.....	2	1	1	11	5	7	United Kingdom.....	2	1	1	14	5	7
Colombia.....	2	1	1	9	10	10	Japan.....	2	1	1	12	4	10	Poland.....	2	1	1	5	4	5	United States.....	2	1	1	15	4	3
Comoros.....	-	-	-	1	-	-	Jordan.....	2	1	1	13	-	1	Portugal.....	2	1	1	7	7	8	Uruguay.....	2	-	1	5	3	2
Congo.....	2	1	1	12	3	9	Kazakhstan.....	2	1	1	2	2	3	Qatar.....	2	1	1	7	3	1	Uzbekistan.....	1	1	1	-	-	-
Costa Rica.....	1	1	1	4	2	3	Kenya.....	2	1	1	24	9	11	Romania.....	2	1	1	10	4	5	Vanuatu.....	-	-	-	-	-	-
Cook Islands.....	-	-	-	-	-	-	Kiribati.....	2	1	1	1	-	-	Russian Federation.....	2	1	1	12	4	7	Venezuela, Bolivarian Republic of.....	2	1	-	3	6	7
Côte d'Ivoire.....	2	1	1	13	8	9	Republic of Korea.....	2	1	1	13	4	7	Rwanda.....	2	1	1	1	-	4	Viet Nam.....	2	1	1	3	4	3
Croatia.....	2	1	1	6	-	1	Kuwait.....	2	1	1	4	1	2	Saint Kitts and Nevis.....	-	-	-	-	-	-	Yemen.....	1	-	-	1	-	-
Cuba.....	2	1	1	4	1	1	Kyrgyzstan.....	-	-	-	-	-	-	Saint Lucia.....	-	-	-	-	-	-	Zambia.....	2	1	1	19	6	8
Cyprus.....	2	1	1	4	4	6	Lao People's Democratic Rep.....	2	1	1	-	1	1	Saint Vincent and the Grenadines.....	-	-	-	-	-	-	Zimbabwe.....	2	1	1	8	4	9
Czech Republic.....	2	1	1	7	3	3	Latvia.....	2	1	1	1	1	1	Samoa.....	-	-	-	-	-	-							
Democratic Republic of the Cong.....	2	-	-	20	5	6	Lebanon.....	2	1	1	4	3	9	San Marino.....	2	-	1	1	4	3							
Denmark.....	2	1	1	5	2	9	Lesotho.....	1	1	1	3	-	-	Sao Tome and Principe.....	-	1	1	-	-	-							
Djibouti.....	2	1	-	1	-	3	Liberia.....	2	1	1	2	3	2	Saudi Arabia.....	2	1	1	11	3	3							
Dominica.....	-	-	-	-	-	-	Libya.....	2	-	-	2	-	-	Senegal.....	2	1	1	17	1	11							
Total	318	147	150	1187	462	713																					

