



## Second report of the Credentials Committee

### Composition of the Conference

1. Since 6 June 2003, when the Committee adopted its first report (*Provisional Record* No. 5B), new credentials had been received from the Lao People's Democratic Republic. The total number of member States at present represented at the Conference therefore is now 159. The Committee notes that there had been no change in the number of incomplete delegations mentioned in paragraph 11 of its first report. However, concerning exclusively governmental delegations Haiti has now accredited both an Employers' and a Workers' delegate.
2. The Committee observes that out of the 11 member States which had been mentioned in paragraph 20 of its first report, only two (Djibouti and Equatorial Guinea) had replied to its request to complete the information regarding the organizations and the function for each of the members of the Employers' and Workers' delegations. Three member States (Bosnia and Herzegovina, Congo and Sao Tome and Principe) had not provided any information, whereas six States (Afghanistan, Argentina, Dominican Republic, Lebanon, Malaysia and Zambia) had not yet communicated all of the information that had been requested.

### Objections

3. Of the 11 objections received this year, the Committee had completed the examination of the following four, which are listed below in French alphabetical order of the member States concerned.

#### **Objections concerning the nomination of the Workers' delegation of Djibouti**

4. The Credentials Committee had before it two objections challenging the nomination of the Workers' delegation of Djibouti, submitted by Mr. Adan Mohamed Abdou, secretary-general of the Union djiboutienne du Travail (UDT) and Mr. Kamil Diarane Hared, secretary-general of the Union générale des travailleurs djiboutiens (UGTD). The objecting organizations submit that none of the three members that make up the Workers' delegation to this year's Conference can be said to represent either of the two most representative workers' organizations, the UDT or the UGTD, although the Government has nominated them as such. Thus, both the role and function of each of the genuine trade union representatives have been effectively usurped. According to the UGTD, this practice by the Government, which reoccurs annually, denies on the one hand genuine

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representation of workers at the Conference and, on the other hand, freedom of association. The UDT adds that such actions by the Government result in measures being taken contrary to the interest of workers. Indeed, the portended Workers' delegation to this year's Conference are representatives of trade unions that the Government consulted during the elaboration of the new Labour Code which is regressive in comparison to the previous *Code d'outre mer* of 1952.

5. In a written communication addressed to the Committee in response to its request, Mr. Guedi Absieh Houssein, Director of Labour and Relations with Social Partners and Government delegate to the Conference, advised that the nomination of the delegates to the Conference has always taken place in an objective and democratic manner. Indeed, concerning the two representatives in the Workers' delegation they are, respectively, secretary of Women's Issues and secretary-general of the UGTD. Further, their union has selected them without interference by the Government. The question concerning the legitimacy of the trade union leaders is within the competence of independent authorities, as the Government has already indicated in the course of the examination of similar allegations by the Committee on Freedom of Association.
6. The Committee notes that for the third consecutive year it is seized of an objection that does not bear on the representative character of workers' organizations, but the legitimacy of the persons that are supposed to represent them. As in prior years, neither the Government nor the objecting organizations have presented any information with respect to the question of who is effectively and legitimately representing the two most representative trade unions in the country. This absence of reliable information is further aggravated by this year's nomination: among the advisers to the Workers' delegate that pertain to the UDT, there is an individual who last year was the author of an objection founded on similar allegations. As well as, the evasive attitude that has been taken by the Government regarding allegations contained in the objection (absent from the response was any information on the issue concerning the capacity of the third person whose credentials have been contested and the circumstances surrounding the revision of the Labour Code). Moreover, the Government has to date not responded to the request made by the Committee of Experts on the Application of Conventions and Recommendations to furnish comments on the deep concerns that have been raised by the Committee on Freedom of Association, and referred to last year by the Credentials Committee that the Government limits the right of workers to freely and democratically elect their representatives.
7. To the extent that the questions that have been raised in the objection are mainly within the competence of other authorities and that the elements available to the Committee are insufficient for it to proceed with an examination of the situation with regard to article 3, paragraph 5, of the Constitution, the Committee in this case cannot usefully exercise its mandate (whether that be to furnish indications on the meaning of the relevant provisions of the ILO Constitution or the best manner to abide by them or to sanction violations thereto). Yet the Committee remains deeply concerned by the lack of any apparent progress despite the conclusions it adopted last year and deplors that doubts continue to exist, one year later, regarding the legitimacy and independence of the Workers' delegation accredited to the Conference.

### ***Objection concerning the nomination of the Workers' delegate of Fiji***

8. The Credentials Committee had received an objection challenging the nomination of the Workers' delegate of the Republic of Fiji, submitted by the Fiji Trades Union Congress (FTUC). The objecting organization claims to regroup the most representative workers'

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organizations of the country whose representativeness had until recently been recognized by the Government. In this regard, the objecting organization refers to a letter dated 26 March from the Ministry of Labour, Industrial Relations and Productivity that invited it to submit the name of its representative by 2 May for the purposes of appointing the Worker representative to the Conference. The name of Mr. Daniel Urai, president of the FTUC, was transmitted on 30 April and was initially accepted by the Government but later rejected. This rejection was in retaliation to the FTUC declining to participate in a tripartite forum on the basis that it was not in fact tripartite as evidenced by the presence of one of its members that had no role in such a forum. The objecting organization adds that the Fiji Island Council of Trade Unions (FICTU), the organization to which the appointed Workers' delegate belongs is comprised of 13 small union affiliates numbering no more than 10,000 members compared to its own which consists of 30 large affiliates numbering 32,000 members. Further, the objecting organization claims that although the Government has recognized the FICTU, it has not followed the necessary legal requirements as stipulated in the Trade Unions Act Cap 96. Indeed, at least three of the FICTU's affiliates and the FICTU's own constitution limits membership to individuals of a particular ethnic origin.

- 9.** In a subsequent communication sent by the International Confederation of Free Trade Unions (ICFTU) in support of the objection, it was pointed out that the only person within the tripartite delegation of Fiji who had not registered was the Worker representative appointed by the Government. This would seem to be a manoeuvre by the Government to escape the possible consequences of the examination of the objection by the Credentials Committee.
- 10.** The Committee notes that the purpose of the objection is to challenge the credentials of Mr. Attar Singh, general secretary of the Transport Workers Union, affiliated with the FICTU, whose name had been published in the provisional list of delegations in the capacity of Workers' delegate of Fiji. However, upon receipt of a request for observations from the Committee, the Government indicated that Mr. Singh's capacity at the Conference had been misrepresented in the provisional list of delegations published by the Office on 3 June. The official letter of credentials, dated 23 May 2003, clearly indicates that he had been appointed as an observer. To the extent that pursuant to article 5, paragraph 2, of the Standing Orders of the Conference, the mandate of the Committee encompasses the examination of "... the credentials of delegates and their advisers, and any objection relating thereto ...", but not of objections relating to the appointment of other persons attending the Conference with no official capacity or right to vote or address the Conference, the Committee considers that the objection of the FTUC and the ICFTU cannot be dealt with as such.
- 11.** The Committee, however, wishes to express its concern over the breaches of obligations incumbent on each member State under article 3, paragraph 1, of the Constitution, to appoint a full tripartite delegation and to ensure its effective participation for the whole duration of the Conference. While the Constitution of the ILO provides under article 4, paragraph 2, for a mechanism to mitigate the consequences for tripartism resulting from incomplete delegations, no means of action is afforded where failure to appoint one of the non-government delegates within the delegation of a member State is intentionally aimed at eluding that government's obligation to consult with the most representative organizations, to appoint the person whom the most representative organization has designated, or to avoid scrutiny of such situations by the Conference. The Committee therefore calls on the Governing Body to include consideration of possible remedies to this serious situation in the context of its examination of changes necessary for the Conference to ensure a more effective respect for tripartism, and by conferring the Credentials

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Committee with the mandate to examine objections concerning the credentials of incomplete delegations.

***Objection concerning the nomination of the adviser to the Employers' delegate of Fiji***

12. The Committee had received an objection challenging the credentials of the adviser to the Employers' delegate of Fiji presented by the Employers' group of the Conference. The Employers' group submits that the appointment of the Employers' delegation of Fiji was not made in compliance with the Constitution of the ILO, which requires that the composition of the delegation be made in agreement with the most representative organizations in the country. In Fiji, the only recognized representative organization of employers is the Fiji Employers' Federation (FEF) of which the Employers' delegate is the chief executive. However, the Government has included this year as adviser to the Employers' delegate the president of an organization with no representative character, without seeking the agreement of the FEF or even consulting it on the composition of the delegation.
13. The Committee notes that the purpose of the objection is to challenge the credentials of Mr. Taito Waradi, whose name had been published in the provisional list of delegations as adviser to the Employers' delegate of Fiji. However, the Government had indicated that Mr. Waradi's capacity at the Conference had been misrepresented in the provisional list of delegations published by the Office on 3 June. The official letter of credentials dated 23 May 2003, clearly indicates that he had been appointed as a mere observer. To the extent that, pursuant to article 5, paragraph 2, of the Standing Orders of the Conference, the mandate of the Committee encompasses the examination of "the credentials of delegates and their advisers, and any objection relating thereto", but not of objections relating to the appointment of other persons attending the Conference with no official capacity or right to vote or address the Conference, the Committee considers that the objection of Employers' group cannot be dealt with as such.
14. As the Committee has pointed out in the preceding objection against the credentials of the Workers' delegate of the same country, the various possibilities afforded by article 2 of the Standing Orders of the Conference to appoint within a tripartite delegation participants with no actual official capacity so as to make them acquainted with the activities and roles of the ILO, should not be used as a means of escaping scrutiny of situations that may be contrary to the principles governing the functioning of the Conference. All the more so where, as is the case with small delegations, the resources necessary to bring mere observers to Geneva could and should be used to expand the composition of the genuine tripartite actors at the Conference, i.e. the delegates and their advisers. Consequently, the Committee therefore also calls on the Governing Body to envisage measures that would permit it to examine objections arising from the possible misuse of nominations of individuals to non-official capacities within tripartite delegations.

***Late objection concerning the nomination of the Workers' delegation of Togo***

15. The secretary-general of the Union nationale des syndicats indépendants du Togo (UNSI), Mr. Tétévi Gbikpi-Benissan, had transmitted, on 6 June 2003 at 7.48 p.m. by electronic mail to the International Labour Office, an objection challenging the nomination of the Workers' delegation of Togo to the Conference. The objection is to the effect that the nomination of the Workers' delegation was not in conformity with the terms of article 3, paragraph 5, of the Constitution, because the four trade union centres in the

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country have joined into the Intersyndicale (CGCT, CNTT, CSTT, UGSL) and have been monopolizing for many years the representation of the Togolese workers to the Conference, to the exclusion of the other two representative workers' organizations in the country (GSA and UNSIT). The author of the objection seeks an extension of the deadline as set by article 26, paragraph 4(a), of the Standing Orders of the Conference because of the distance of Togo and the difficulties in transmitting this objection given frequent blackouts and cuts in electricity.

16. The Committee notes that the objection was received ten hours after the expiration of the 72-hour delay foreseen by article 26, paragraph 4(a), of the Standing Orders of the Conference. Account being taken of the amendment of article 26 of the Standing Orders by the Conference, at its 85th Session in 1997, so as to delete the so-called "distant country" provision and, absent any proof that the receipt of the late objection was due to force majeure, the Committee considers it irreceivable. The Committee further notes that the objection would be equally irreceivable by virtue of article 26, paragraph 4(c), of the Standing Orders, as the name of the author figures in the list of delegations published as a supplement to the *Provisional Record* on 3 June 2003, as an adviser to the Workers' delegation of Togo to the Conference.

## Communications

17. The Committee had also received and dealt with the two following communications.

### ***Communication concerning the Workers' delegate of Belarus***

18. The Committee had before it a communication from the ICFTU regarding the Workers' delegate of Belarus. The ICFTU, recalling the Credentials Committee's conclusions from the 90th Session of the Conference (June 2002) that, "... the nomination of the Workers' delegation to the Conference had been in clear violation of article 3, paragraph 5, of the Constitution, thus warranting the invalidation of the credentials of the Workers' delegation ...",<sup>1</sup> submits that the situation in Belarus has deteriorated further and that serious doubts exist again as to the independence, credibility and autonomy of the person appointed this year as Workers' delegate, Mr. Kozik, as well as of the procedure followed to appoint him as chairperson of the Federation of Trade Unions of Belarus (FTUB). Indeed, Mr. Kozik is the former deputy head of the presidential administration. He was nominated as chairperson of the FTUB by the President of Belarus following last year's Conference and formalized soon thereafter by the election procedure at the FTUB plenum, despite opposition from several chairpersons of the branch trade unions. Such opposition included the Belarusian Automobile and Agricultural Machinery Union (AAM), the Belarusian Agricultural Workers' Union (AWU) and the Belarusian Radio and Electronic Industry Workers' Union (REI). Although these matters are mainly within the purview of the Committee on Freedom of Association, they do have an impact on the proper functioning of tripartism at the Conference. The ICFTU therefore hopes that appropriate means will be devised to prevent similar situations where governments appoint state-controlled workers' organizations.
19. Having been made aware of the ICFTU communication, Ms. Antanina Morova, Minister of Labour and Social Protection of Belarus informed the Committee that the Workers' delegate to the Conference had been nominated in accordance with article 3, paragraph 5,

<sup>1</sup> ILO, International Labour Conference, 90th Session, Geneva, 2002, Vol. II, 5(Rev.)/19, para. 7.

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of the ILO Constitution, since the organization from which the Workers' delegate had been nominated is the most representative workers' organization in the country. Specifically, the FTUB is comprised of 4 million members, i.e. over 90 per cent of the workers in the country. Moreover, the Workers' delegate was duly elected as president of the FTUB and in full accordance with the organization's by-laws. He was elected at the Sixth Plenary Session of the Council of the FTUB, held on 16 July 2002 and his candidature was supported by: former FTUB president, Mr. F.P. Vitko; FTUB vice-president, Mr. N.A. Belanovsky; Director of the International Institute of Labour and Social Relations, Mr. Y.A. Veselov; and FTUB council members, G.I. Zagdai, H.A. Pokhabov, S.F. Simankova. In opposition were: A.I. Bukhvostov, council chairperson of the AAM; and G.F. Fedynich, chairperson of the Republican Council of the REI. In total, 208 persons voted for Mr. Kozik with ten votes against and eight abstentions. This election was subsequently approved at the Fourth Extraordinary Assembly of the FTUB, held on 18 and 19 September 2002.

- 20.** The Committee notes that the ICFTU's communication is not formulated as an objection against the credentials of the Workers' delegate of Belarus to the Conference and that it reckons that the main grievance is not within the Credentials Committee's purview. It therefore appreciates the willingness of the Government to comment on it.
- 21.** In contrast to last year, the Workers' delegate to the Conference this year was from FTUB, the most representative workers' organization in the country as conceded by the Government. It further noted that according to the information provided by the Government, the election of the FTUB president had been carried out in full accordance with the organization's by-laws. Notwithstanding, in light of the Committee on Freedom of Association's conclusions contained in its Interim Report that there has been undue interference by the public authorities in recent trade union elections in Belarus,<sup>2</sup> the Credentials Committee remains concerned of the serious doubts surrounding the independence, credibility and autonomy of the Workers' delegate, which are a prerequisite for the true participation of Workers' representatives at the Conference.

### ***Communication concerning the composition of the tripartite delegation of Colombia***

- 22.** The Committee had been made aware of a communication regarding the composition of the tripartite delegation of Colombia, addressed to the Chairperson of the Governing Body of the ILO by Mr. José Cipriano León, vice-president of the Unión de los Servidores Públicos de los Distritos y Municipios de Colombia (UNES), an organization affiliated to the Confederación de Trabajadores de Colombia (CTC). In the communication it is asserted that, whereas the Government has nominated 12 of its representatives and as many employers' representatives as members of the delegation of Colombia to the 91st Session of the Conference, the Government has only accredited six representatives to the Workers' delegation despite the request by the CTC to nominate seven advisers from its confederation, including the author of the communication. These representatives were disposed to bear their own travel and subsistence expenses so as to assist at the Conference. The author of the communication considers the process discriminatory and in contravention of the provisions of the ILO Constitution and it is for these reasons that he has felt obliged to make them public.

<sup>2</sup> GB.285/9 (Part I), paras. 217-281.

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**23.** The Committee considers that to the extent that the communication does not seek to impugn the credentials of the Workers' delegation nor to complain about the lack of payment of the expenses for the delegation, the matter does not require any action on its part.

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**24.** The Credentials Committee adopts this report unanimously. It submits it to the Conference in order that the Conference may take note of it.

Geneva, 10 June 2003.

*(Signed)* Mr. Jules Medenou Oni,  
Chairperson,

Ms. Lucia Sasso Mazzufferi,

Mr. Ulf Edström.

