



Reports on credentials

Second report of the Credentials Committee

Composition of the Conference

1. Since 4 June 2010, when the Credentials Committee adopted its first report (*Provisional Record* No. 5B), new credentials have been received from two member States (Equatorial Guinea and Trinidad and Tobago). Therefore, at present a total of 166 member States are represented at the International Labour Conference.
2. As of today there are 5,138 persons accredited to the Conference (as compared to 4,944 in 2009, 4,838 in 2008, and 4,657 in 2007), of whom 4,227 are registered (as compared to 4,096 in 2009, 4,212 in 2008, and 4,003 in 2007). The attached list contains more details on the number of delegates and advisers registered.
3. In addition, the Committee wishes to indicate that 153 ministers, vice-ministers, and deputy ministers have been accredited to the Conference.

Monitoring

4. The Committee was seized automatically with three cases, pursuant to article 26quater of the *Standing Orders of the Conference*, by virtue of decisions of the Conference taken at its 98th Session (2009).

Djibouti

5. At its 98th Session (2009), the Conference decided to renew the monitoring of Djibouti (*Provisional Record* No. 20, 2009) thereby requesting the Government to submit at the 99th Session (2010) of the Conference, at the same time that it deposited its credentials for the delegation of Djibouti, a detailed report substantiated with relevant documentation on the procedure utilized to nominate the Workers' delegate and advisers, and specifically, on the organizations that had been consulted on the matter and according to which criteria, the date, time and place of these consultations; and the names of the individuals nominated by the organizations during these consultations. This request was made on the basis of a proposal of the Credentials Committee, which unanimously considered that the procedure relating to the composition of the Workers' delegation of Djibouti to the Conference should once again be monitored, by virtue of article 26bis, paragraph 7, of the *Conference Standing Orders*.

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6. The Government did not submit the report demanded by the Conference. Further clarifications requested by the Committee were provided orally in the name of the Government by Mr Ali Yacoub Mahamoud, Secretary-General, Ministry of Employment and Professional Development and adviser at the Conference. He was accompanied by Mr Djama Mahamoud Ali, Counsellor, Permanent Mission, Geneva and adviser at the Conference, and Mr Hassan Houmed Ibrahim, Director of Labour and Relations with the Social Partners, and adviser at the Conference. Mr Yacoub Mahamoud stated that the absence of the detailed report on the procedure followed was due to personnel changes in the Ministry of Labour. He presented the Government's apologies and he made a commitment to submit the report in question in September 2010. He also committed to submit any future reports requested by the Conference, at the proposal of the Committee. He indicated that the recent history of freedom of association in Djibouti could explain in part the misunderstanding that prevailed until now and that the Government itself wanted to resolve the problem once and for all. The technical assistance programme that Djibouti had recently negotiated with the International Labour Office was part of this approach.
 7. *The Committee deplores the lack of cooperation by the Government in not submitting the report, all the more so since, again this year, an objection was lodged concerning the nomination of the Workers' delegation to the Conference (see paragraphs 28–36). The recurrent lodging of objections at each session of the Conference is an indication that the nomination procedure used is unsatisfactory to Worker representatives. The oral presentation by the Government's representative did not dispel the Committee's serious doubts about the real independent character of the nomination of the Workers' delegation (see paragraph 33). In this regard the Committee makes reference to the conclusions in the interim report of March 2010 of the Committee on Freedom of Association of the Governing Body on Case No. 2450 (Report No. 356, Vol. XCIII, Series B, No. 1) which expresses deep concern about this situation and the absence of any progress made.*
 8. *In these circumstances, the Committee may only recall, once again, that the nomination of the Workers' delegation must be carried out in agreement with the most representative workers' organizations, on the basis of pre-established, objective and verifiable criteria, and in a manner that respects the ability of the workers' organizations to act independently from the Government. In this regard, it is the Government's obligation to take all necessary measures to evaluate the representative character of the different organizations as well as to consult the organizations concerned as most representative in conformity with article 3, paragraph 5, of the ILO Constitution.*
 9. *The Committee notes that, according to the Government's oral presentation, the latter has expressed a desire to resolve the problem in a definitive manner and that it committed to providing the reports that the Conference, at the Committee's proposal, might ask for in the future. The Committee trusts that the Government will continue to act in this spirit of openness and will be cooperative.*
 10. *In light of the above, the Committee considers that the situation justifies not only the renewal of the monitoring decided by the Conference at its last session in respect to Djibouti, but its reinforcement. The Committee is of the view that the powers concerning the monitoring of a situation conferred upon the Conference under articles 26quater and 26bis, paragraph 7, of the Conference Standing Orders are not limited to requesting a report to the following session of the Conference, although such a request is always required in order for the Committee to be seized of the matter the following year. Therefore, by virtue of the abovementioned provisions of the Conference Standing Orders, the Committee unanimously proposes that the Conference request the Government of Djibouti to:*

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- (a) *submit to the Director-General of the International Labour Office, by the end of the year 2010, a detailed report on the progress achieved in Djibouti as regards the establishment of criteria for the independent representation of workers in the country and the concrete actions undertaken towards a definitive resolution of the problem; and*
 - (b) *submit for the next session of the Conference, at the same time that it submits its credentials for the delegation of Djibouti, a detailed report substantiated with relevant documentation on the procedure utilized to nominate the Workers' delegate and advisers, specifying the organizations consulted on the matter and according to which criteria, the percentage of workforce that the organizations consulted represent, the date and place of these consultations, and the names of the individuals nominated by the organizations during these consultations and positions they held within those organizations.*

11. *The Committee also refers to its conclusions on the objection for which it has been seized (see paragraphs 31–36).*

Islamic Republic of Iran

12. At its 98th Session (2009), the Conference decided, by virtue of article 26bis, paragraph 7, of the *Conference Standing Orders*, and based on the recommendation of the Credentials Committee, to monitor the procedure relating to the composition of the Employers' delegation of the Islamic Republic of Iran to the Conference (*Provisional Record* No. 20, 2009). The Government was requested to submit at the 99th Session (2010) of the Conference, at the same time that it submitted its credentials for the delegation of the Islamic Republic of Iran, a detailed report on the procedure utilized to nominate the Employers' delegate and advisers. Specifically, this report should indicate the organizations that had been consulted on the matter; the date, time and place of these consultations; and the names of the individuals nominated by the organizations during these consultations.
13. The Credentials Committee received a letter dated 19 May 2010 from the Ministry of Labour and Social Affairs informing the Committee that, after a series of negotiations, the two employers' organizations, the Confederation of Iranian Employers (CIE) (also known under the acronym ICE) and the Iranian Confederation of Employers' Associations (ICEA), agreed on establishing a delegation comprised of representatives from both employers' organizations. In a special meeting held on 14 April 2010, attended by the Secretary-General of the CIE and the Secretary-General of the ICEA, the parties signed an agreement on the composition of the Iranian employers' delegation to the Conference, a copy of which was attached to the letter. It was agreed that each organization would designate three persons. The six persons so designated would nominate a titular delegate amongst them. In a meeting of 5 May, the two organizations had agreed that Mr Mohesen Khalili Araghi, of the CIE, would be the Employers' delegate and Mr Mohammad Otaredian of the ICEA, would be the substitute delegate.
14. *The Committee notes that, according to the information received from the Government, agreement was reached between the two employers' organizations, the ICEA and the CIE, on the designation of the employers' delegation to this session of the Conference and that the Government has respected this agreement when making the nominations. In light of the information before it, the Committee considers that the Government has nominated the Iranian Employers' delegation to this session of the Conference in agreement with the most representative employers' organizations of the country as required by article 3, paragraph 5, of the ILO Constitution.*

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15. *For this reason, the Committee decides no further measures are required regarding the situation in question.*

Myanmar

16. At its 98th Session (2009), the Conference decided, by virtue of article 26bis, paragraph 7, of the *Conference Standing Orders*, and based on the recommendation of the Credentials Committee, to monitor the procedure relating to the composition of the Workers' delegation of Myanmar to the Conference (*Provisional Record* No. 20, 2009). The Government was requested to: (a) submit to the Director-General of the International Labour Office, by the end of the year 2009, a detailed report on the progress achieved in Myanmar as regards the establishment of permanent structures for the independent representation of workers in the country and on how the Government envisages to consult those structures for the purpose of nominating the Workers' delegate and advisers to the 99th Session (2010) of the Conference; as well as to (b) submit, at the same time that it submits its credentials for the delegation of Myanmar, a detailed report substantiated with relevant documentation on the procedure utilized to nominate the Workers' delegate and advisers, specifying the organizations consulted on the matter and according to which criteria, the percentage of workforce that the organizations consulted represent, the date and place of these consultations, and the names of the individuals nominated by the organizations during these consultations and positions they held within those organizations.
17. On 5 February 2010, progress was reported in a letter addressed to the Director-General of the International Labour Office from Mr Chit Shein, Director-General, Ministry of Labour. The letter briefly recalled how the delegate to the 98th Session of the Conference had been nominated and that, since 1988 there had been no workers' organizations in the country. However, the Government was working on solving labour issues in line with ILO Conventions Nos 87 and 98 and tripartism within the framework of the ILO. It indicated that workers could already bargain individually or collectively at their respective factories. Although it had given priority to other areas during the transitional period, it intended to organize labour organizations in accordance with Convention No. 87. It also reported on the drafting in the Ministry of Labour of a law which would provide a framework for labour organizations. The basic principles of this draft law were discussed with ILO experts during a mission to Myanmar in January 2010.
18. *The Committee accepts the letter of 5 February 2010 as the report requested by the Conference last year on the progress achieved in Myanmar as regards the establishment of permanent structures for the independent representation of workers in the country. It regrets, however, that the letter contained only general statements and lacked the requested detail. As regards the substance of the report, the Committee notes that it contains information that has also been provided by the Government in the written and oral statements requested by the Committee with regard to the objection concerning the failure to deposit credentials of a Workers' delegate by the Government of Myanmar. It has therefore decided to consider the information in the context of the objection (see paragraphs 66–75). As the Committee renews the monitoring under analogous terms, it expects the Government to report in more detail so as to allow for a meaningful monitoring of the situation by the Committee next year.*
19. *As regards the second report under the monitoring, concerning the procedure utilized to nominate the Workers' delegate and advisers and which was to be provided at the same time that the Government submitted credentials for the delegation of Myanmar, the Committee finds that, since the Government failed to nominate a Workers' delegation, the Committee could not give effect to this decision of the Conference concerning the monitoring of the situation.*

Objections

20. The Committee has received 14 objections this year. These relate both to the credentials of delegates and their advisers who are accredited to the Conference as reflected in the *Provisional List of Delegations* and to the failure to deposit credentials of an Employers' or Workers' delegate. The Committee has completed the examination of all objections, which are listed below in the French alphabetical order of the member States concerned.

Objection concerning the failure to deposit credentials of an Employers' delegate by the Government of Bosnia and Herzegovina

21. The Committee received an objection presented by the Employers' group of the Conference concerning the failure to deposit credentials of an Employers' delegate by the Government of Bosnia and Herzegovina. It submitted that the Employers' Association of Bosnia and Herzegovina (APBiH), which had been created in 2004 as a result of a merger between three employers' associations, was the most representative association of employers in the country and was duly registered. According to the objection, the Ministry of Civil Affairs had, by letter of 6 April 2010, requested the presidents of APBiH and of the Union of Employers' Association of the Republic of Srpska to agree on one delegate to represent employers at the Conference; each association was to inform the Ministry in writing of the delegate chosen. According to the Employers' group, the Ministry had emphasized that in the absence of any agreement, no Employers' delegate would be appointed to the Conference. By not appointing a delegate in disregard of the representative character of the APBiH, the Government had breached the requirements of article 3, paragraph 5, of the ILO Constitution to appoint the delegate from the most representative organization. The Government had prevented the attendance of a fully tripartite delegation at the Conference, which had consequences on the normal functioning of the Conference.
22. The Committee had also before it a note from the Permanent Mission of Bosnia and Herzegovina to the International Labour Office, sent on 17 May 2010 upon presentation of its credentials to the Conference, in which the Government submitted that it had received no reply to its invitation to the APBiH to nominate a representative. Therefore the composition of the delegation of Bosnia and Herzegovina did not include an Employers' delegate. It added that it would make an addendum to the credentials, in accordance with the rules of the Credentials Committee, should the APBiH inform the Ministry of their representative.
23. In a written communication addressed to the Committee at its request, Mrs Emina Kečo Isaković, Ambassador and Permanent Representative at the Permanent Mission of Geneva referred the Committee to the explanation provided on 17 May upon presentation of credentials. She informed the Committee that any additional information received from the Government would be transmitted to the Committee.
24. The Committee forwarded the communication of 17 May 2010 from the Permanent Mission to the Employers' group for information. The Employers' group informed the Committee of the name of the employers' representative proposed to the Government. On 14 June 2010, the Committee received, through its secretariat, the Permanent Mission's assurances that the accreditation of an Employers' delegate was forthcoming.
25. *The Committee notes the divergence between the communications from the Ministry and the Permanent Mission – while the former had requested the presidents of APBiH and of the Union of Employers' Association of the Republic of Srpska to agree on one delegate,*

the latter stated that it would amend its credentials should the APBiH inform the Ministry of their representative.

26. *The Committee wishes to stress that it is the obligation of member States under article 3, paragraph 1, of the ILO Constitution to nominate full tripartite delegations. The Government cannot require employers' organizations to reach a consensual proposal as a precondition for the nomination of the Employers' delegate. The Government should do its best to bring about an agreement between the most representative organizations. Where an agreement cannot be reached, it is the duty of the Government to nominate the Employers' delegate in agreement with the most representative organization, as determined on the basis of objective and verifiable criteria, previously established in consultation with the employers' organizations.*
27. *The Committee notes the undertaking of the Permanent Mission. It expects this undertaking to be fulfilled prior to the conclusion of the Conference. The Committee trusts that, with the technical assistance of the Office in this respect, the Government will ensure that the nomination of the Employers' delegation to future sessions of the Conference will be in full compliance with article 3, paragraph 5, of the ILO Constitution.*

Objection concerning the nomination of the Workers' delegation of Djibouti

28. The Committee received an objection concerning the nomination of the Workers' delegation from Djibouti presented by Mr Adan Mohamed Abdou, Secretary-General of the *Union djiboutienne du travail* (UDT), and Kamil Dirane Hared, Secretary-General of the *Union générale des travailleurs Djiboutiens* (UGTD). They contended that the UDT was the most representative workers' organization in the country and that the Government, first through the Ministry of Employment and National Solidarity and then through the President of the Republic, had refused to take into account the list of representatives put forth by their respective organizations, to the present session of the Conference. The Government had deliberately breached the commitments taken before this Committee and continued to include officials who have always contributed and participated in the repression of Djiboutian workers and union members. They asked the Committee to take a definitive and effective decision concerning the delegation of Djibouti.
29. In a written communication addressed to the Committee at its request, the Government contended that when it received the invitation to participate in the Conference it asked the two most representative organizations of workers to designate their representatives. This was how Mr Abdo Sikieh Dirieh of the UGTD and Mr Mohamed Youssouf Mohamed of the UDT were nominated by their respective organizations. It added that an *intersyndicale* UDT/UGTD did not exist. According to the Government, the complainants had no union mandate, for personal reasons they were trying to interfere with the delegation from Djibouti at the Conference, and they disseminated false information concerning the situation of union rights in the country. The Government claimed to fully respect the principles of freedom of association and it was trying to follow the recommendations of the ILO direct contacts mission in 2008, in particular putting in place a National Council of Labour, Employment and Professional Development (CNTEFP).
30. Further clarifications requested by the Committee were provided orally in the name of the Government by Mr Ali Yacoub Mahamoud, Secretary-General, Ministry of Employment and Professional Development and adviser at the Conference. He was accompanied by Mr Djama Mahamoud Ali, Counsellor, Permanent Mission, Geneva and adviser at the Conference, and Mr Hassan Houmed Ibrahim, Director of Labour and Relations with the Social Partners, and adviser at the Conference. Mr Yacoub Mahamoud indicated that the subject-matter of the objection was a situation that had been going on for 15 years and its

origin was worker lay-offs during the year 1995 following a structural adjustment programme. He stressed that the representatives nominated by the Government from the UGTD – Mr Abdou Sikieh Dirieh – and the UDT – Mr Mohamed Youssouf Mohamed – were the legitimate representatives of these two organizations for the past ten years. He recalled that a direct contacts mission went to Djibouti in 2008 and that three principal questions were examined: (i) revision of the labour legislation to bring it into conformity with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and Right to Organise and Collective Bargaining Convention, 1949 (No. 98); (ii) the reintegration or the compensation for the workers laid off in 1995; and (iii) the legitimacy of each confederation. Concerning the legislation, the Government's representative stated that the CNTEFP, a tripartite institution which was finally put into place in 2010, had examined several articles of the Labour Code considered by ILO supervisory bodies not to be in conformity with the abovementioned Conventions, and had sent these to the Council of Ministers for adoption. On the reintegration or compensation for the laid off workers, he recalled that this question concerned the authors of this objection and that they had been heard by the direct contacts mission in 2008. He added that the only mandate the Government recognized of Mr Adan Mohamed Abdou, who signed the objection in the name of the UDT, was that of Secretary-General of a political party. Finally, on the subject of the legitimacy of the unions, the Government stated that only elections that were free and transparent could legitimize union officers. It was up to each union to organize these; the Government's role was limited to providing financial or logistical assistance. The Government indicated that elections for the UGTD were scheduled to take place on 8 and 9 August 2010 and were being organized by the outgoing officers in collaboration with the World Federation of Trade Unions (WFTU) and the International Confederation of Arab Trade Unions (ICATU). He invited representatives from the ILO to come to Djibouti as election observers, together with other independent observers.

31. *The Committee deeply regrets that the Government did not provide the detailed report requested by the Conference in 2009 under the monitoring of the procedure used to nominate the Workers' delegate and advisers (see paragraphs 5–11).*
32. *The Committee deplores the absence of any progress, in view of the recurrent objections for which it has been seized.*
33. *It follows from the information provided by the Government that for many years it obstinately applies the same procedure for nominating the workers' representatives despite the multiple recommendations of the Committee and other supervisory bodies of the ILO. The Committee notes with regret that it does not have any new element before it answering the questions that have been raised these past several years. Therefore, the Committee once again expresses very serious doubts on 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 this session of the Conference. Concerning the UDT, the Committee had considered, in light of the information at its disposition, that the existence of the UDT, led by Mr Mohamed Abdou, in the trade union movement of Djibouti, was a fact. Consequently, it recommended that the nomination of the representative of the UDT to the Conference must be carried out in consultation with the organization led by Mr Mohamed Abdou as Secretary-General and it asked the Government to ensure that the nomination of the representative of the UDT at future sessions of the Conference be carried out in conformity with this Committee's recommendations and article 3, paragraph 5, of the ILO Constitution (Provisional Record No. 4C, 2009, paragraph 51).*
34. *The Committee recalls that the objection continues to raise questions that go above and beyond those concerning exclusively the nomination of the Workers' delegation to the*

Conference. Some of these questions have already been examined by different supervisory bodies in the ILO and reflect the non-respect of principles of freedom of association in the country and government interference in trade union matters. In this regard, the Committee notes that the supervisory bodies of the ILO deeply regret the absence of information requested and of any progress, despite the expectations raised in the recommendations of the direct contacts mission of January 2008 (see in particular Case No. 2450, Report No. 356, Vol. XCIII, Series B, No. 1).

35. *The Committee nevertheless welcomes the oral statements of the Government that only free and transparent elections could legitimize union officers and notes that those concerning the UGTD are due to take place in August 2010. The Committee expects that these elections will allow workers to designate their representatives freely, without interference by public authorities, for either the determination of eligibility requirements for leadership or for the elections themselves. It trusts that the right to free and transparent elections will be fully recognized for all workers' organizations in the country.*
36. *Taking into account all of the above, as well as the legislative improvements that the Committee trusts will be enacted in the near future, as indicated in the oral declaration of the Government, the Committee urges the Government to guarantee as soon as possible the implementation of objective and transparent criteria for the nomination of the workers' representatives to future sessions of the Conference. To this end, it expects that the determination of this criteria will finally allow full consultation among all the parties concerned, in particular the genuine workers' organizations, in an environment respecting the ability of the workers' organizations to act in total independence from the Government, in accordance with the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).*

Objection concerning the nomination of the Workers' delegation of El Salvador

37. The Committee received an objection concerning the nomination of the Workers' delegation of El Salvador submitted by 16 representatives of workers' organizations belonging to the *Movimiento de Unidad Sindical y Gremial de El Salvador* (MUSYGES) and supported by *Federación Sindical Revolucionaria de El Salvador* (FSR). The authors of the objection noted that, diverging from prior practice, this year they had not been consulted by the Ministry of Labour and Social Security regarding the preparation for the Conference and the nomination of the Workers' delegation. Concerned by the fact that the Ministry had not contacted them nor deposited credentials by the deadline set out in the Standing Orders, they sent a letter to the Minister of Labour and Social Security, proposing a delegate and advisers from their organizations and requesting the payment of their travel and subsistence expenses. The persons they proposed were members of the tripartite commission created by the Government to execute a pilot programme to implement the Global Jobs Pact and were, in their opinion, best able to represent the workers of El Salvador at the Conference. As of the date of the objection, these organizations had not received a response from the Ministry, having learned about the nomination through other sources. They alleged that the organizations to which the members of the Workers' delegation belonged, albeit important, were not the most representative and that, therefore, the nomination was in breach of the ILO Constitution. In their view, this arbitrary nomination reflected the Ministry's lack of willingness to dialogue with the MUSYGES and its organizations. They also argued that the Government, not having responded to their request for payment of travel and subsistence expenses, had also failed to comply with article 13, paragraph 2(a), of the ILO Constitution. The authors of the objection requested the invalidation of the credentials of the Workers' delegation to the Conference.

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38. In a written communication addressed to the Committee at its request, the Government, not aware of a rotation agreement being in place, contended that not all organizations, but only those most representative, were required to participate in the selection of non-governmental delegates. The Government stated that it had determined the three following criteria to objectively establish the representativeness of the organizations to be invited to consultations: number of members; legally recognized organizational structure and assets; and signed collective agreements in force. Based on these criteria the Government had invited seven organizations to freely elect their representative. The Government stated that it had used first-level unions, instead of federations, as the organizational category to apply these criteria to, since the seven chosen unions represented a larger number of members than many federations, and since more than a hundred unions were not affiliated to any federation. The seven unions identified as most representative proposed the candidate the Government nominated as delegate. In an effort to designate for the first time two representatives per social partner, the Government nominated as adviser the candidate proposed by the workers' section of the Superior Council of Labour – a tripartite body. Responding to the objection, the Government stated that the MUSYGES was not a legally constituted workers' organization, but a de facto entity, which did not represent the universe of workers' unions in the country. According to the Government, in contrast with the non-representative nature of the objecting organizations, the election of the nominated delegation had been proposed by the most representative unions in the country, whose membership figures it attached.
39. *The Committee must first recall that the obligation of payment of travel and subsistence expenses set out in article 13, paragraph 2(a), of the ILO Constitution concerns the delegates and their advisers nominated to the Conference. Since the candidates proposed by the authors of the objection were never accredited as part of the Workers' delegation a complaint would be irreceivable under 26ter, paragraph 2(b), of the Conference Standing Orders.*
40. *Regarding the objection before it, the Committee notes that, according to the Government, the nomination of the Workers' delegation was done in agreement with the most representative organizations, including inputs from a public tripartite body that in past years had proposed the candidates to be nominated. However, the response from the Government regarding the consideration given to federations and other union movements, and in particular to the authors of the objection, cannot be deemed satisfactory.*
41. *The Committee regrets that the Government has not provided an explanation concerning the reasons why it decided not to invite the authors of the objection to the consultation, when it had done so in the past, and all the more so since their candidates had been recently designated by the Government as members of a public tripartite commission on the implementation of the Global Jobs Pact. Moreover, the Government has failed to explain its decision to take different approaches for the selection of the Workers' delegate and adviser, and its choice of the latter based on the proposal of the Superior Council of Labour.*
42. *The Government provides an explanation for its decision to assess the representativeness of first-level unions, and not of federations. However, it does not provide information regarding the relative representative strength of the unions consulted nor of the federations it did not consider – information which would have allowed comparison of their representativeness. The Committee wishes to remind the Government that the overall representative strength of federations or other union organizations cannot be disregarded a priori, for example by choosing to only take into account the representativeness of individual unions. This is the case even if, as the Government states, a number of unions are not affiliated into federations, or if certain unions have larger memberships than some federations. The Government, when establishing consultation processes and nomination*

criteria, cannot disregard the fact that a group of unions may decide to speak with one voice. It must gauge accordingly the overall representativeness of all categories of workers' organizations.

43. *In light of the above, doubts may be cast as to the most representative nature of the organizations consulted, as well as to the criteria and process followed, including the exclusion of a group of organizations like the MUSYGES. The objection, however, does not provide precise data to weigh the representativeness of the organizations that compose the MUSYGES. Consequently, the Committee does not have sufficient information to conclude that the members of the Workers' delegation to the Conference were not nominated in agreement with the most representative workers' organizations. Nevertheless, the Committee must stress the need for the Government to ensure that federations and other union organizations, which aggregate the weight of their affiliated members, are taken into account when it assesses representativeness, in order to nominate the Workers' delegation in accordance with article 3, paragraph 5, of the ILO Constitution.*

Objection concerning the nomination of the Workers' delegation of Gabon

44. The Committee received an objection concerning the nomination of the Workers' delegation of Gabon presented by the *Confédération gabonaise des syndicats libres* (CGSL). The objecting organization alleged that the nomination of representatives from the *Union des Syndicats de l'administration publique et privée* (USAP) and the *Organisation démocratique syndicale des travailleurs du Gabon* (ODESTRAG), as titular and substitute workers' delegates respectively, breached article 3, paragraph 5, of the ILO Constitution as well as provisions of the Tripartite Consultation Convention, 1976 (No. 144). It alleged that the nomination also breached an agreement of 27 March 2007 which had provisionally designated four trade union confederations as being the most representative of workers – while waiting for a definitive determination of the representativeness of employers' and workers' organizations in Gabon. ODESTRAG was not among the four so designated. It also referred to a schedule – annexed to the minutes of a meeting which had been called on 7 May 2009 in order to nominate the workers' delegation to the 98th Session (2009) of the Conference – designating which of the different workers' organizations would be the representative to each session of the Conference from 2009 through 2022. Not only was this schedule unfavourable to the CGSL but it indicated that USAP had been nominated to a future session of the Conference. Consequently, the CGSL contested the credentials of the titular and substitute delegates.
45. In a written communication addressed to the Committee at its request, the Government referred to the schedule of workers' representatives to the Conference undertaken by the Government for the period 2009 to 2022. This agreement had been confirmed by all the social partners present at the meeting of 15 April 2010 concerning, inter alia, the preparations for the present session of the Conference; the minutes of this meeting were attached to the Government's reply. The Government admitted that the Workers' delegate this year should have been a representative from the *Confédération syndicale démocratique du travail* (CSDT). However, because of the split in the leadership of this organization as well as difficulties contacting the *Congrès des agents publics et privés de l'Etat* (CAPPE), which should have been the next organization to come according to the schedule, the USAP was nominated in place of the abovementioned organizations.
46. *The Committee recalls that, once again, the objection of the CGSL raises issues which go beyond those strictly related to the nomination of the Workers' delegation to the Conference and that some of these had already been brought before the Committee on Freedom of Association of the Governing Body. More than once the Committee has*

encouraged the Government to ensure the implementation of objective and transparent criteria for determining the most representative organizations, agreed to by all the parties concerned. This could be achieved, for example, through an independent mechanism or body entrusted to establish such criteria. The Committee notes that the information brought to its attention does not show that there has been any improvement on this issue. Under these circumstances, the Committee questions the appropriateness of a rotation agreement which designates, up to the year 2022, the different workers' organizations which should be represented at the Conference, thereby freezing a situation outside of any objective or verifiable criteria. In addition it notes that the Government decided unilaterally to nominate a representative from the USAP as the Workers' delegate to the present session of the Conference.

47. *The Committee reminds the Government that the nomination of the Workers' delegation to the Conference must be carried out in consultation with the most representative workers' organizations, on the basis of pre-established objective and verifiable criteria concerning the authenticity and representativeness of the organizations. The Committee urges the Government to take measures to ensure that the nomination of the Workers' delegation to future sessions of the Conference has been made in consultation with the organizations recognized as the most representative within the meaning of article 3, paragraph 5, of the ILO Constitution. It recalls that the Office's technical assistance is at the Government's disposition to clarify the situation and to put in place a mechanism to define which workers' organizations are representative and which are not.*

Objection concerning the nomination of the Workers' delegation of Guatemala

48. The Committee received an objection concerning the nomination of the Workers' delegation of Guatemala submitted by the *Movimiento sindical, indígena y campesino guatemalteco* (MSICG) – a workers' movement composed of the following organizations: *Confederación central general de trabajadores de Guatemala* (CGTG), *Confederación de unidad sindical de Guatemala* (CUSG), *Unión sindical de trabajadores de Guatemala* (UNSITRAGUA), *Comité Campesino del Altiplano* (CCDA), *Consejo Nacional, indígena campesino y popular* (CNAICP) and *Frente nacional de lucha en defensa de los servicios públicos y recursos naturales* (FNL). The MSICG denounced the Government's interference, discrimination and favouritism in relation to workers' organizations, aimed at hindering their autonomy and favouring their control by the Government. It alleged that the nomination of the Workers' delegation had not been done in accordance with article 3, paragraph 5, of the ILO Constitution. The MSICG, through a communication of 21 April 2010 to the Government, had proposed advisers from its organizations for the Workers' delegation, noting that their expenses would be covered by their organizations. Neither the MSICG, nor the majority of its member organizations in their individual capacity (with the exception of the CGTG and the CUSG), were invited by the Government to the consultation process. None of them were included in the delegation. The nomination had not been made in agreement with the most representative workers' organizations and constituted a unilateral act of the Government to designate members of non-representative organizations instrumental to it. The nomination had been carried out in bad faith, not only because of the process followed but also since the nomination had not been communicated by the Government until 31 May 2010, which did not afford enough time to contest it through national procedures. The MSICG also noted that, just like itself, the Workers' delegate organization, the *Unión Guatemalteca de Trabajadores* (UGT), was not formally registered with the Ministry of Labour, and that the organization of the accredited advisers, the *Federación Sindical de Empleados Bancarios y Servicios* (FESEBS), was a minor organization and was also a member of the UGT. The MSICG requested the invalidation of the credentials of the Workers' delegation to the Conference.

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49. In a written communication addressed to the Committee at its request, the Government stated that there were 386 registered workers' organizations in the country with more than 20 members each. Federations must be comprised of four or more organizations. The Government explained that consultations were structured through written communications to the most representative organizations registered with the Ministry of Labour, inviting them to formulate proposals regarding the composition of the Workers' delegation. It attached the communications sent to 15 federations, as well as a number of responses received, both from some of these federations and from other organizations. The Government stated that in determining the composition of the Workers' delegation it respected the decision of the majority, taking into account the number of members in each organization. It noted that among the objecting organizations only two of them (the CGTG and the CUSG) were registered with the Ministry of Labour. The Government contended that representativeness was determined by virtue of registration and that, consequently, it was impossible to establish if the other authors of the objection were workers' organizations and to assess their representative nature. It added that the nominated delegation, enacted through a presidential decree, was backed by workers' organizations representing 5,984 members.
50. The Committee also had before it an unsolicited communication from the MSICG supplementing its objection and annexing the consultation file it had requested and obtained from the Government. The MSICG alleged that the UGT had not even submitted a nomination proposal and that the Workers' delegation nominated by the Government had been proposed by only minority workers' organizations. MISCG also added that its nomination proposal was supported by three other federations: *Federación Nacional de Trabajadores* (FENATRA), *Federación Sindical de Trabajadores Independientes* (FESTRI) and *Federación Nacional de Sindicatos de Empleados Públicos* (FENASEP).
51. *The Committee notes the Government's statements that it consulted the most representative organizations – implicitly endorsing a criterion based on membership figures, and that its nomination was backed by organizations representing 5,984 members. However, the Committee considers that the Government has not provided sufficient information to convince it that the nomination was made in agreement with the most representative organizations. The Committee, lacking data on the membership figures for the federations consulted, is unable to confirm the assertions of the Government.*
52. *Furthermore, the Committee regrets the lack of clarity in the Government's submissions. For example, from the explanations and documents received, although 15 federations were invited to propose candidates, the Committee notes that only two of the responses support the final nomination; the other letters of support come from three organizations and three federations for which no invitation to consultations appears in the files. Conversely, four responses from federations invited to the consultation process proposed as delegate a representative that was not even nominated as adviser, and two remaining proposals submitted also differ from the Government's designation. In short, while the Government justifies the exclusion of unregistered organizations on the grounds that it cannot know their membership numbers, it nevertheless fails to justify the numeric strength of the registered organizations it deems most representative.*
53. *The Committee is concerned about the incomplete nature of the Government's response, and its failure to explain satisfactorily the consultation and nomination process. Although this raises doubts as to whether the nomination of the Workers' delegation was made in agreement with the most representative organizations, the Committee does not have sufficient information to draw conclusions as to the relative representative strength of the organizations concerned.*

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54. *The Committee notes that, in the absence of an agreement between the most representative organizations, the method of determining representativeness – based on pre-established, objective and verifiable criteria – as well as its transparent application, are crucial for the nomination of the Workers’ delegation. The Committee recommends that the Government avail itself of the advice or technical assistance that the Office can provide in this respect. It expects 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, paragraph 5, of the ILO Constitution.*

Objection concerning the nomination of the Workers’ delegation of the Islamic Republic of Iran

55. The Committee received an objection from the International Trade Union Confederation (ITUC) concerning the nomination of the Workers’ delegation of the Islamic Republic of Iran. The ITUC expressed surprise to see representatives from the Coordinating Centre of Workers’ Representatives in the delegation because, before the 98th Session (2009) of the Conference, it had never heard of this organization. After that session it heard nothing more of them until representatives were accredited to the 99th Session of the Conference. Furthermore, none of the independent workers’ groups, with whom the ITUC had contact, had heard of it. The ITUC contended that the law did not mention these sorts of centres; the Labour Code stipulated that either an Islamic labour council or a guild society could be established at a workplace and that the law strongly favoured labour councils. The national coordinating and leading centre of the Islamic labour councils was the Workers’ House, the “official” workers’ organization set up and backed by the authorities. In the view of the ITUC, where a council had been established no other form of representation was allowed. Workers’ House authorities claimed that over 1,000 labour councils had been established in the country; the ITUC alleged that the councils were often formed by threats and pressure, promises, or forced or rigged elections. In addition, it alleged that the labour councils were formed as tools for controlling workers protests and demands and as the Government’s alternative and barrier to the workers’ efforts to organize. The ITUC contended that workers who try to organize independently were subjected to different forms of harassment, including violence, arrest, detention and prison sentences. It was surprising, therefore, that there was a new so-called workers’ organization which no one had heard of, particularly given the great dissatisfaction among workers against the already existing government-organized union. In view of the repression exacted against new independent workers’ organizations, the existing legal framework supporting the Islamic labour councils, and since none of the independent organizations in the Islamic Republic of Iran knew of the Coordinating Centre of Workers’ Representatives, the ITUC did not believe that it was a genuine workers’ organization. It added that, to its knowledge, all delegation members to the Conference had always been appointed by the Government and not the workers themselves. In view of these facts the ITUC considered that the nomination had not been made in accordance with article 3, paragraphs 1 and 5, of the ILO Constitution and it challenged the credentials of the Coordinating Centre of Workers’ Representatives.
56. The Committee had also before it a written communication from the Government dated 26 May 2010, in which it was informed of the procedure followed for the nomination of the Iranian Workers’ delegation to the Conference. Representatives of the two major workers’ organizations in the Islamic Republic of Iran, the High Assembly of the Workers’ Representatives (HAWR) and the High Center for Islamic Labour Councils (HCILC) had been asked by a letter dated 30 March 2010 to provide the names of their representatives to the Ministry of Labour. The Head of the Workers’ House was invited to attend a meeting in the International Affairs Department of the Ministry of Labour and Social Affairs which was held on 12 April to discuss the manner in which the Workers’ delegation to the Conference would be designated. Although Mr Alirez Mahjoub, Head of the Workers’

Fraction of the Islamic Consultative Assembly was invited to accompany the delegation, he declined the invitation. The HAWR and the HCILC convened a meeting on 5 May 2010 and agreed to a rotation for the delegate and substitute delegate to the Conference; as the Workers' delegate at the 98th Session (2009) was from the HCILC, it would be from the HAWR at this session. They also agreed to cooperate with each other and adopt joint approaches.

57. In a written communication addressed to the Committee at its request, Mr Tavakol Habibzadeh, the Deputy Minister for International Relations and Overseas Employment, informed the Committee that the workers' organizations may choose their representative using free will and discretion and upon consultation among themselves and that this had been the case between the two most representative workers' organizations: the Islamic Labour Council (ILC) and the Coordinating Center of Workers' Representatives (CCR). The Government undertook to make sure that the Workers' delegation to the Conference and other relevant assemblies were inclusive of the representatives of workers from different trade industries as well as trade unions from the most represented workers' organizations around the country. It submitted that the CCR was provided for in article 131, Chapter 6, note 4 of the Iranian Labour Law and was necessary given the existence of a fairly large informal sector and number of workplaces accommodating less than ten workers. The CCR was first established by a directive of the Government issued on 4 March 1993; at the moment it covered some 3,406 workplaces making it the single largest workers' organization. Among its tasks was ensuring proper implementation of the provisions of the Labour Law and establishing the assembly of the CCR in order, inter alia, to elect the Iranian workers' representatives attending ILO meetings. National law prohibited the formation of more than one organization of workers' representatives per province. The CCR in each province was authorized to conclude collective bargaining agreements in compliance with the Labour Law. The formation of the High Council of the CCR had greatly helped the fulfilment of tripartism and social dialogue in the Islamic Republic of Iran, particularly among the informal sectors and rural areas. According to reliable statistics, the CCR along with the ILC are among the most representative workers' organizations in the Islamic Republic of Iran. They agreed to a rotation as to the delegate and substitute delegate. The Government had proposed amendments to Chapter 6 of the Labour Law on workers' and employers' organizations to create an enabling environment for the promotion of trade union activities and the proliferation of trade unions. The Government reaffirmed its commitment to the implementation of Convention No. 87 and to that end welcomed any technical cooperation which could be provided by the Office.
58. *The Committee regrets that it received the Government's written communication 45 hours after the time-limit set by the Committee, thereby making it difficult for the Committee to fully examine the objection before it.*
59. *In general, the Committee finds that the objection raises questions that go beyond those concerning exclusively the nomination of the Workers' delegation to the Conference and may be better examined by the Committee of Freedom of Association. For example, it appears from the Government's response that the law prohibits the formation of more than one organization of workers' representatives in each province. The Committee also has doubts about the nature of the CCR as a genuine workers' organization. It notes that according to the Government's communication the CCR has among its tasks to ensure proper implementation of the provisions of the Labour Law and the communication mentions that the CCR has inspectors in each province, which seems to indicate that the CCR exercises public administration functions.*
60. *The Committee recalls that article 3, paragraph 5, of the Constitution, requires consultation and agreement with the most representative workers' organizations. This condition can only be satisfied if the organizations consulted are genuine organizations of*

workers, which are free and independent from the Government. In light of the above information, the Committee expresses doubts as to whether this condition is fulfilled in this case.

- 61.** *The Committee unanimously considers that the objection before it raises issues which relate to violations of the principles of freedom of association which have not already been examined by the Committee on Freedom of Association of the Governing Body. It proposes that the Conference refer the question to that Committee, in accordance with article 26bis, paragraph 6, of the Conference Standing Orders.*

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

- 62.** *The Committee received an objection presented by the Iraqi Federation of Industries concerning the delegation, nominated by the Ministry of Employment, which did not include any employer representatives. This incomplete delegation did not fulfil the conditions set out by the ILO Constitution. The Iraqi Federation of Industries contended that it was the most representative employers' organization and alleged that it had been subjected to serious interference by the Government, for which it had lodged a complaint before the Committee on Freedom of Association. The objecting organization asked the Committee to urge the Government to respect its constitutional obligations as well as the principles of freedom of association.*
- 63.** *In a written communication addressed to the Committee at its request, the Government, while insisting on the quality of social dialogue in Iraq and the importance given to the respect for fundamental rights, declared that travel by federations, unions or associations in general, which included employers' and workers' organizations, was subject to the authorization of the Secretariat General of the Council of Ministers in conformity with that Council's circular of 25 April 2010. It was the General Federation of Iraqi Workers (GFIW) which brought the circular to the attention of the Ministry of Labour and Social Affairs. The Minister of Labour and Social Affairs brought to the attention of the minister in charge of civil affairs the negative effect this decision had on both the national and international level, and asked him not to apply it, particularly insofar as it concerned the objecting organization.*
- 64.** *The Committee notes that following a request from the Iraqi Federation of Workers Trade Union (IFTU), an intervention was sent by the International Labour Office on 21 May 2010. The International Confederation of Arab Trade Unions (ICATU) also requested the ILO to intervene with the Iraqi officials in relation to the decision requiring government approval for union travel abroad, which gave rise to a second intervention from the Office on 29 May. The Committee regrets that these interventions were not followed by the Government and notes that dissension between different government departments is irrelevant in this respect. The Committee wishes to recall that participation as a representative of the social partners in meetings organized by the ILO is a fundamental right under the ILO Constitution, and it is incumbent on the government of any ILO member State to abstain from any measure which would prevent representatives of a workers' or employers' organization from exercising their mandate in full freedom and independence.*
- 65.** *The Committee notes that at the present session of the Conference there is a Workers' delegate but no Employers' delegate. The Committee recalls the obligation of member States under article 3, paragraph 1, of the ILO Constitution to nominate tripartite delegations to the Conference. Respect for the principles of tripartism requires a balanced representation of employers and workers so as to permit their effective participation at meetings. Without the participation of Government, Employer and Worker representatives,*

the Conference cannot function properly or attain its objectives. The Committee urges the Government to establish an environment in which freedom of association is respected and that social partners are able to organize themselves, and that Iraq should be represented by full tripartite delegations at future sessions of the Conference.

Objection concerning the failure to deposit credentials of a Workers' delegate by the Government of Myanmar

66. The Committee received an objection presented by the International Trade Union Confederation (ITUC) concerning the failure to deposit credentials of a Workers' delegate by the Government of Myanmar. The ITUC submitted that the Government had not fulfilled its obligations under article 3, paragraph 1, of the ILO Constitution. It recalled the comments made by the Credentials Committee at the 97th (2008) and 98th (2009) Sessions of the Conference, that "the only way a government could avoid facing repeated objections addressed to the Committee would be to allow workers to organize themselves without any interference from the government and elect their representatives to the Conference" as well as its urgent request that the Government take meaningful steps towards permitting the establishment of free and independent organizations. In light of the repeated objections submitted over the years concerning the delegation of Myanmar, it urged the Committee to call upon the Government to once again explain why the delegation was incomplete and to fulfil its constitutional obligations.
67. In a written communication addressed to the Committee at its request, Mr Htin Lynn, Minister Counsellor at the Permanent Mission of Geneva and substitute delegate at the Conference stated that despite the Government's best efforts to nominate the most representative worker to the Conference there had been unreasonable objections to the Workers' credentials in past sessions of the Conference. It was for that reason that it did not accredit a Workers' delegate to this session of the Conference. It added that Myanmar was in the process of drafting legislation "for the formation of Workers' Organizations" which would be implemented after the new Constitution is adopted.
68. Further clarifications requested by the Committee were provided orally by Mr Chit Shein, Director-General, Ministry of Labour and Mr Nyunt Swe, Deputy Director-General, Ministry of Foreign Affairs. The Government recalled that it had tried its best to accredit a tripartite delegation to the Conference at its 96th (2007) and 98th (2009) Sessions. Last year the nomination was after an 11-step process to identify a genuine worker but nevertheless there was an objection against the nomination of the Workers' delegate and it was found by the Committee not to be in line with article 3, paragraph 5, of the ILO Constitution. Consequently this year it decided not to nominate a Workers' delegate. This year was a transitional one in Myanmar, as elections were scheduled to be held in November. The Government was currently drafting legislation that would allow for workers' organizations, which have not existed in the country since 1988. It was a high priority of the Government to have this law put before the Parliament as soon as that body was established. However, despite the priority given to the draft legislation, it was impossible to predict what the Parliament would do. As far as the Government was concerned, the drafting of the law was on track; it had been seeking to consult with the ILO on both the draft legislation and the nomination of the Workers' delegate. After the adoption of the legislation any organization, which included workers' organizations, would be able to be formed if it was in conformity with the law.
69. *The Committee recalls that it has been dealing on numerous occasions with the nomination of the Workers' delegate of Myanmar and that it has considered the case to be an extremely serious one in which it has come close to making a unanimous recommendation to the Conference to invalidate the credentials of the Workers' delegate. The Committee also notes that on some occasions in the past already the Government chose not to*

nominate a Workers' delegate or withdrew the delegate's credentials during the Conference in order to avoid objections and possible invalidation.

- 70.** *The Committee recalls the obligation of member States under article 3, paragraph 1, of the ILO Constitution to nominate tripartite delegations to the Conference. Without the participation of Government, Employer and Worker representatives, the Conference cannot function properly or attain its objectives. The purpose of the Committee's mandate to examine objections relating to a Government's failure to deposit credentials of an Employers' or Workers' delegate is to avoid weakening the unique system of verification of the genuine representation at the Conference by a deliberate failure of members to nominate the Workers' or Employers' delegate.*
- 71.** *In this regard, the Committee must firmly reject the Government's explanation that it did not nominate a Workers' delegate because there had been "unreasonable objections" to the credentials of the Workers' delegate of Myanmar at previous sessions of the Conference. In 2008 and 2009, the Committee stressed that the only way a government could avoid facing repeated objections addressed to the Committee would be to allow workers to organize themselves without any interference from the government and elect their representatives to the Conference. Last year, the Committee examined a system established to designate the Workers' delegate through a succession of elections in one of the industrial sectors of the country. It concluded that the procedure followed was totally inadequate, noting that the Government's misconception had been to believe that the nomination of a truly representative worker could be done in a one-time election organized over a period of only six months in the absence of any representative structures of workers in the country. Expressing its grave concern at the continuing absence of freedom of association in Myanmar, the Committee urgently requested the Government to take meaningful steps towards permitting the establishment of free and independent organizations, which entails allowing workers to organize themselves without any government interference (see Provisional Record No. 4A, 2009, paragraphs 26–33).*
- 72.** *The Committee notes the information provided by the Government, in particular that the Government is in the process of drafting legislation allowing for the formation of workers' organizations and its indication that such organizations may come into existence upon the entry into force of the new Constitution. It does, however, express once again grave concern at the continuing absence of freedom of association in Myanmar, recalling last year's observation by the Committee on the Application of Standards that the Government had embarked upon a road map for democracy without ensuring the basic requisites for freedom of association (Provisional Record No. 16, 2009).*
- 73.** *In this regard, the Committee wishes to stress that the establishment of free and independent workers' organizations entails the existence of and respect for freedom of association and recalls that Myanmar has ratified the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and is therefore bound by its provisions. It considers that full implementation of this Convention would be the best means to create the conditions for the creation of free and independent organizations, which the Government will be able to consult on the nomination of the Workers' delegation to the Conference.*
- 74.** *The Committee therefore again urgently requests the Government to take meaningful steps towards permitting the establishment of free and independent organizations, in particular the adoption and application of legislation that permits the creation of workers' organizations, which will have the right to establish and join federations and confederations which in turn have the free and full right to affiliate with international organizations of workers. In so doing, the Government may wish to avail itself of the possibility to seek advice from the Office.*

75. *The Committee considers that the situation justifies the renewal of the monitoring under analogous terms to those of last year, that is, reinforced by a request for a progress report by the end of this year. Therefore, by virtue of the 26quater and 26bis, paragraph 7, of the Conference Standing Orders, the Committee unanimously proposes that the Conference request the Government of Myanmar to:*

- (a) submit to the Director-General of the International Labour Office, by the end of the year 2010, a detailed report on the progress achieved in Myanmar as regards the establishment of permanent structures for the independent representation of the workers in the country and on how the Government envisages to consult those structures for the purpose of nominating the Workers' delegate and advisers to the next session of the Conference; and*
- (b) submit for the next session of the Conference, at the same time that it submits its credentials for the delegation of Myanmar, a detailed report substantiated with relevant documentation on the procedure utilized to nominate the Workers' delegate and advisers, specifying the organizations consulted on the matter and according to which criteria, the percentage of workforce that the organizations consulted represent, the date and place of these consultations, and the names of the individuals nominated by the organizations during these consultations and positions they held within those organizations.*

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

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

77. In a written communication addressed to the Committee at its request, Mr Akmal Saidov, Director of the National Human Rights Centre and Government delegate at the Conference, stated that the Council of Federation of Trade Unions and the Chamber of Commerce and Industry of Uzbekistan were the two representative bodies of the social partners in the country. They interacted and cooperated with the Government in tripartite consultations on labour issues and social development; during these consultations they expressed their support of the Government's position in the "Report with regards to the 1999 Convention (No. 182) on the Worst Forms of Child Labour". However, in connection with the need to undertake preparatory work for the organization of the report and election campaign, neither the Council of Federation of Trade Unions nor the Chamber of Commerce and Industry had been able to delegate members to this session of the Conference, although they expressed their desire to participate in future sessions of the Conference. Although the social partners were not participating in the 99th Session of the Conference they had actively participated in consultations in the preparation of materials, reports and documents on the work carried out in accordance with the ILO global programme on decent work.

78. *The Committee notes that Uzbekistan became a member State of the ILO in July 1992 but has accredited delegations to the Conference on only six occasions. Uzbekistan participated in the Conference for the first time in 1994 and on that occasion it accredited a fully tripartite delegation. At its next participation in the Conference, in 2004, its delegation was exclusively governmental. The same situation was repeated in 2005, 2006*

and 2009. (In 2007 and 2008 it had, once again, accredited no delegation.) This year, for the fifth time, Uzbekistan has accredited an exclusively governmental delegation.

79. The Committee expresses its concern at the continued failure of the Government of Uzbekistan to accredit a fully tripartite delegation; however it notes that this is the first time an objection has been lodged. The Committee recalls the obligation of member States under article 3, paragraph 1, of the ILO Constitution to nominate tripartite delegations to the Conference. Respect for the principles of tripartism requires a balanced representation of employers and workers so as to permit their effective participation at meetings. Without the participation of Government, Employer and Worker representatives, the Conference cannot function properly or attain its objectives. Therefore, the Committee expects the Government of Uzbekistan to ensure that the proper mechanism for nominating the social partners exists in the country so that it can respect its constitutional obligations at future sessions of the Conference.

Objection concerning the nomination of the Employers' delegation of Romania

80. The Committee received an objection presented by the Employers' group at the Conference concerning the nomination of the Employers' delegation of Romania. The group submitted that a special meeting had been organized on 26 May 2010 with national employers' confederations recognized by the Romanian courts as being representative. The Employers' delegation, which was determined by vote at that meeting, comprised one representative of each of the following organizations: CNIPMMR, PNR, UGIR, UNPCPR and CNPR. These nominations were communicated to the Minister of Labour, Family and Social Protection by the designated delegate. Two employers' organizations – UGIR 1903 and CONPIROM – had left the meeting before the voting process started. The Employers' group alleged that subsequently, and in breach of the ILO Constitution, the Government changed the composition of the delegation by removing Mr Costel Olteanu of UNPCPR and Ms Roxana Prodan of CNPR and introducing Mr Ioan Cezar Coraci of UGIR 1903 and Mr Virgil Popa of CONPIROM. The group stated that all the members of the Romanian Employers' delegation, which had been established by vote among the representative employers' confederations at the meeting of 26 May, were from the Alliance of Romanian Employers' Confederations (ACPR). The ACPR was made up of nine representative confederations and was the most representative organization in the Romanian employers' movement. The Employers' group at the Conference was concerned by the Government's interference in the nomination process, by which it had disregarded the results of the vote and introduced unilaterally two people from other organizations.
81. In a written communication addressed to the Committee at its request, Mr Valentin Mocanu, Secretary of State, Ministry of Labour, Family and Social Protection contended that the objection was unfounded because both Mr Olteanu and Ms Prodan were included in the credentials of the Romanian delegation. There were 13 employers' organizations with the legal status as representative employers' organizations at the national level. These organizations had not provided the Government with updated figures on their activity and representativeness, so it was unable to determine their comparative importance on the basis of those figures. The Government had organized two consultation meetings, held on 12 and 16 March, in order to determine the composition of the Employers' delegation; these meetings were attended by representatives of 11 and nine employers' organizations respectively. There was no consensus reached during those meetings. The Government submitted that in addition to the names proposed by the ACPR, it also received proposals from the UGIR 1903 and the CONPIROM. To the Government's knowledge there is no rotation system used by the employers' organizations for nominating the delegation. It pointed out that the ACPR had no legal status under Romanian legislation and in any event only nine employers' organizations took part in it. Confronted with a lack of consensus,

the Government had opted for a balanced formula for the composition of the Employers' delegation and considered the proposals from all employers' organizations. It added that the Government had fulfilled its obligation to grant the financial support to the organizations participating in the Conference.

- 82.** Further clarifications requested by the Committee were provided orally by Mr Ovidiu Nicolescu, Employers' delegate to the Conference. He stated that no consensus was reached at the consultation meetings held in March 2010. And although many informal discussions followed, the employers' organizations were unable to come to a consensus on the composition of the delegation, in particular the five members of the delegation whose expenses would be covered by the Government. Once again in the meeting of 26 May no consensus was reached so they resorted to a vote to establish the five members of the delegation and sent this information to the Government; no reply to this communication was received. Furthermore, he confirmed that the Employers' delegation had not been informed by the Government as to the composition of the delegation on the credentials presented on 18 May. He first learned that the Government had not respected the nomination put forward on 26 May when he went to collect his subsistence allowance for Geneva. He stated that this was the first year the Government had interfered with the nomination process.
- 83.** Further clarifications requested by the Committee were provided orally in the name of the Government by Mr Mocanu. He was accompanied by Ms Alexandra Spănu, Third Secretary, Permanent Mission and Ms Carmen Dumitriu, Ministry of Labour, Family and Social Protection. Mr Mocanu stated that when he was first informed of the objection he did not understand exactly what was being contested as all five names included in the communication of 26 May were on the credentials presented on 18 May. The Government took into account the nomination of the titular and substitute delegates as communicated on 26 May as well as one other adviser, and it covered the travel and subsistence expenses of these three people. Absent an agreement between the 13 employers' organizations the Government had included other advisers in accordance with a criterion of the number of collective agreements concluded at the branch level. Mr Mocanu advised the Committee that the two changes in the Employers' delegation on 1 and 2 June were made on the oral request of Mr Florian Costache, substitute delegate. In order to have a balanced approach to the financial support it provided, the Government was paying the travel and subsistence expenses of the delegate and two advisers from the ACPR and of two other advisers coming from the remaining four employers' organizations not members of the ACPR. Considering that it had more than fulfilled its constitutional obligations as to financial support for the delegation, it saw this balanced approach as being an internal affair for the Government. The Government had requested the 13 employers' organizations several times to come to an agreement, as it did not want to be an arbiter in the matter.
- 84.** *The Committee notes that according to the written communications it received, there are 13 employers' organization, which are recognized as representative in accordance with applicable law. Two meetings were organized by the Government, on 12 and 16 March 2010, to try to reach agreement among all of them on the composition of the Romanian employers' delegation for this session of the Conference, but no agreement was reached. Nine of the organizations participated in a special meeting without the Government on 26 May 2010 at which five persons from five different organizations were elected to form the Romanian Employers' delegation. According to the Employers' group, two organizations did not participate in the vote. The names of the five elected persons were communicated to the Government by letter of the same day. The Committee further notes that the initial credentials for the delegation of Romania presented by the Minister of Labour, Family and Social Protection on 18 May 2010, the due date for submission of credentials, which was before the special meeting. These credentials comprised the five elected persons, including the designated delegate, and six representatives from other employers' organizations,*

including Mr Ioan Cezar Coraci of UGIR 1903 and Mr Virgil Popa of CONPIROM. It was specified in the credentials form that the Government covered the expenses of five employer representatives. It also appears from the Committee's files that by two notes of 1 and 2 June 2010 respectively, the Permanent Mission of Romania in Geneva informed the Conference secretariat that Mr Costel Olteanu was replaced by Mr Catalin Albu of the PNR and Ms Roxana Prodan was replaced by Mr Octavian Bojan of Concordia. Both notes expressly stated that they communicated the changes on behalf of the Romanian Employers' delegation.

85. From the oral clarifications provided by the Employers' delegate and the Government's substitute delegate it appears, however, that the point of contention between the Employers' group and the Government are not the nominations of the delegate and the advisers, since the five persons elected in the special meeting of 26 May 2010 were included in the credentials, respectively as one delegate, one substitute delegate and three advisers and the subsequent changes were made on behalf of the Employers' delegation at the request of the substitute delegate. The point of contention is the order in which the advisers were listed in the credentials, namely the placement in the credentials of two names, Mr Costel Olteanu and Ms Roxana Prodan. According to the parties, this was of importance as the expenses of only the five first representatives on the list were borne by the Government.
86. The Committee regrets the lack of clarity of the objection but considers that after the clarifications received it is in a position to reach conclusions on the substance of the objection. It recalls that according to article 3, paragraph 5, of the Constitution, the Employers' delegates and advisers have to be chosen by the Government in agreement with the most representative organizations of employers in the country. Where the Government decides that it will pay the travelling and subsistence allowance of only a limited number of advisers but is prepared to accredit further advisers to attend the Conference at their own expense, the decision as to which advisers will benefit from Government financing is a crucial one. The Committee cannot agree with the Government that this question is at the entire discretion of the Government. As the Committee has stated on other occasions, the payment of travel and subsistence expenses cannot be considered as a favour and the Government must be careful not to show favouritism towards minority organizations over more representative organizations. Since in accordance with article 13, paragraph 2(a), of the Constitution, Members would have to pay the travelling and subsistence expenses of their full delegation, when the Government decides to pay only a part of the delegation, the agreement with the most representative organizations on the nomination of delegates and advisers has to include the question as to whose costs are borne by the Government. Typically, as in this case, this means that there has to be consultation and agreement on the position of the advisers on the delegation list.
87. The Committee observes in this regard that the Government did not state what consideration it gave to the list of five persons communicated to it on behalf of the employers' organizations that held the meeting of 26 May. The Committee considers that the Government should have responded to this communication if it reflected an agreement between the most representative employers' organizations. In this regard, the Committee notes, on the one hand, that the Government states that it has no up to date figures on the comparative importance of the recognized representative organizations; instead it used criteria based on the number of collective agreements concluded to justify the inclusion of certain organizations in the delegation. It did not, however, disclose the relevant figures to the Committee. On the other hand, the Committee notes that 13 employers' organizations are considered to be representative and that the list of five representatives represented an agreement reached, albeit after a vote, between the majority of them. The Committee therefore considers that the Government could not ignore the communication and should

have at least consulted with them regarding its intention to maintain a composition of the Employers' delegation that did not follow their proposal.

88. *The Committee recalls that, in the absence of an agreement between organizations, for the nomination of an Employers' delegation to be in accordance with Article 3, paragraph 5, of the ILO Constitution, it is crucial to have in place pre-established, objective and verifiable criteria to determine the most representative nature of the organizations concerned. It is the Government's obligation to establish such criteria and to ensure that they can be implemented, although the Committee accepts that the implementation of certain criteria may require the cooperation of the employers' organizations. The Committee considers that criteria established to determine representativeness should not impact on the organization's freedom of association. The Committee therefore expresses the hope that next year the Government will implement such criteria allowing it to be satisfied that the nomination of the delegate and all advisers of the employers are made in agreement with the most representative employers organizations of the country.*

Objection concerning the nomination of the Workers' delegation of Sri Lanka

89. The Committee received an objection presented by the Trade Union Confederation (TUC), Sri Lanka concerning the nomination of the Workers' delegation of Sri Lanka. The authors of the objection contended that the nomination procedure was flawed by a conflict of interest: the delegation's credentials were signed by the President of the country, who was also president of a trade union – *Sri Lankan Nidahas Sewaka Sangamaya* (SLNSS) – which operated directly from the headquarters complex of Sri Lanka's main ruling party. The TUC stated that it was a collective of nine independent, non-political trade unions representing various categories in both the public and private sector; its membership was around 200,000. It alleged that it was the most representative trade union in the country, in terms of membership and employment sector diversity, and the only public-private sector confederation in Sri Lanka. The TUC had written to the Secretary to the Ministry of Labour on 22 April 2010 seeking to participate at this session of the Conference. The Ministry did not respond to its request and on 29 April the Secretary to the Ministry convened a consultation meeting with the participation of unions of his own choosing; the TUC was neither invited nor informed of this meeting. The TUC contended that based on its representativeness and strength of membership one of its members should have been considered for nomination as the Workers' delegate, or at the very least, been nominated as an adviser to the Workers' delegate. It alleged that its membership was greater than the membership of the unions representing Sri Lanka at this session of the Conference and that, without exception, the entire Workers' delegation to the Conference did not meet the criteria of most representative unions and was drawn from trade unions directly and officially operated by political parties. None of these represented the public sector, where most of the unionized workforce belonged. The TUC requested the Committee to declare the nomination process and the non-inclusion of the TUC in the Workers' delegation as in breach of ILO rules and principles. It urged the Committee to direct the Government to take measures to avoid conflicts of interest and arbitrary and discriminatory decisions concerning the composition of the Workers' delegation. It also requested that the Government be prevented from disqualifying organizations which raise genuine issues of workers' rights in Sri Lanka and be asked to nominate a representative delegation to the Conference in an unbiased, impartial and transparent manner.
90. In a written communication addressed to the Committee at its request, the Government stated that there was no agreement on a rotation system for the nomination of the Workers' delegate; the Workers' delegate was selected unanimously by the trade unions attending the consultation on 29 April 2010 which included the most representative trade unions in the country. The following criteria were used to extend invitations to the consultations:

being a trade union registered with the Trade Union Registrar, numerical strength in membership, and having sectoral representation. In addition, since, under the Trade Unions Ordinance, federations of public service workers were not registered with the Trade Union Registrar, it was the federations of public service trade unions recognized by the Ministry of Public Administration which were invited. The Government contended that the TUC was not a registered trade union nor a federation recognized by the Ministry of Public Administration. However, it noted that the trade unions that were signatories to the objection were individually registered unions, but that collectives of public service and private service trade unions were not registered and, therefore, did not enjoy the rights, privileges and immunities of registered federations or trade unions. Consequently, the TUC was not invited to the consultations but two of the trade unions affiliated to the TUC were invited and present; neither of these had protested the nomination at the consultation meeting. The Government stated that for budgetary reasons it had to limit the number in the Workers' delegation to six persons. The trade unions present at the consultations were not able to agree on the delegation and were unwilling to resort to a system of rotation, which had been in place among public service trade unions in 2007 and 2008. Therefore, at the request of the trade unions present at the consultation, the Ministry of Labour Relations and Productivity Promotion nominated the delegation taking into account numerical strength and sectoral representation. Concerning the allegation that the nomination was flawed by a conflict of interest, the Government replied that, as the delegation to the Conference represented the country and required an official instrument of credentials, the Ministry of External Affairs needed the President's approval for the nominations as a matter of formality but the President did not make any changes to the nominations made by the Ministry. Furthermore, freedom of association and the right to form and organize trade unions were fundamental rights enshrined in the Constitution of the Democratic Socialist Republic of Sri Lanka; in addition to applying to trade unions, the right of freedom of association included the right to join any political party or any other association. The Government rejected the allegations of systematic exclusion of independent trade unions. It pointed out that three of the six unions participating in the delegation were affiliated to the International Trade Union Confederation (ITUC).

91. *The Committee notes the information provided by the Government. Regarding the allegation of the lack of impartiality in the process of selection of the Workers' delegation to the Conference, the Committee considers that the fact that one person simultaneously holds the office of President of the State and that of president of a trade union, gives an appearance of a conflict of interest when it comes to signing credentials for trade union nominees to represent the workers of the country at the Conference. The Committee notes that, according to the Government, the signature by the President of the credentials prepared by the Ministry of External Affairs is a formality. However, it also says that the Ministry of Labour Relations and Productivity Promotion nominated the delegation to the President "for approval". The Committee observes that those two statements do not convey the same idea of the role of the President in the nomination procedure but it trusts that the Government has procedures in place that prevent this situation from resulting in decisions that are not impartial.*
92. *The Committee further notes the Government's explanation that under relevant national law federations of public sector trade unions cannot be registered with the Trade Union Registrar and that there are, therefore, no membership figures available for them. They can, however, obtain recognition by the Ministry of Public Administration instead. What the Government does not explain is on what basis those federations can be recognized by the Ministry and on the basis of which criteria their relative importance is assessed as between them and in comparison to private sector trade unions. The Committee wishes to encourage the Government to establish objective and verifiable criteria to determine the representative character of all trade unions and trade union federations, including those that represent the public sector or a mix of sectors. It hopes that next year the Government*

will be in a position to show that it has nominated the Workers' delegation in agreement with the most representative workers' organizations.

Late objection concerning the nomination of the Workers' delegate of Trinidad and Tobago

93. The Committee received an objection from the National Trade Union Centre of Trinidad and Tobago concerning the nomination of the Workers' delegate of Trinidad and Tobago.
94. *This objection, dated 7 June 2010, was received only on 8 June and therefore well after the expiry of the 72-hour time-limit provided for in article 26bis, paragraph 1(a), of the Conference Standing Orders. At the time the objection was lodged there was no delegation to the Conference accredited by the Government of Trinidad and Tobago. In addition, since the Government submitted credentials for a tripartite delegation only on 8 June, which was after the publication of the Revised Provisional List of Delegations, the objecting organization could not base an objection on that list. The Committee therefore considers that the objection is not receivable. The Committee reiterates the obligation of Governments to accredit delegations in a timely fashion.*

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

95. The Committee received an objection presented by the Employers' group of the Conference concerning the nomination of the Employers' delegation of the Bolivarian Republic of Venezuela. According to the Employers' group, the Government should not have included Mr Miguel Valderrama and Mr Mario Castillo, both from the *Federación de Artesanos, Micros, Pequeños y Medianos Industriales* (FEDEINDUSTRIA), Mr Alfredo Cabrera, from the *Confederación de Agricultores y Ganaderos de Venezuela* (CONFAGAN), Ms Keila De la Rosa and Mr Elmer Villamizar, both from *Empresarios por Venezuela* (EMPREVEN), and Ms Fanny Suarez and Mr Juan Benavides, from the *Consejo Bolivariano de Industriales, Empresarios y Microempresarios* (COBOIEM), as advisers in the delegation since they did not come from representative organizations according to criteria recognized by the ILO (free, independent organizations without government interference). These organizations lacked an employer basis, and received financial support and favouritism from the Government. CONFAGAN, in addition to being linked to the Government, had much fewer members than the organization that was truly representative of the rural sector, the *Federación Nacional de Ganaderos* (FEDENAGA). COBOIEM was an unknown organization in the business world. The Employers' group also noted that in March 2009 the Committee on Freedom of Association had stressed the importance of non-interference by the Government in employers' organizations and the need to respect the *Federación de Cámaras y Asociaciones de Comercio y Producción de Venezuela* (FEDECAMARAS), the most representative employers' organization in the country. It also noted that FEDECAMARAS had not accepted the nominations of the representatives of FEDEINDUSTRIA, CONFAGAN, EMPREVEN and COBOIEM. It pointed out that not only had the Government changed the composition of the employers' delegation as proposed by FEDECAMARAS, but it had also imposed advisers from such semi-public bodies that were neither independent nor representative, thus contravening article 3, paragraph 5, of the ILO Constitution. Finally, it stated that while the Government had financed the participation of these imposed advisers, it had only paid for the participation costs of two FEDECAMARAS representatives – Mr Álvarez Camargo and Ms Muñoz.
96. The Committee received unsolicited submissions from EMPREVEN, COFANGAN and COBOIEM complaining about the actions taken by Mr Noel Alvarez, from

FEDECAMARAS, in the discharge of his functions as Employers' delegate to this session of the Conference. These three organizations noted that while at the national level, where their representativeness was self-evident, FEDECAMARAS had engaged with and recognized them, as well as other representative employers' organizations, FEDECAMARAS had been excluding them and denying their representative character in international instances such as the Conference. These organizations denounced that FEDECAMARAS, monopolizing employer representation, had been using the ILO to discriminate against them, and obstructing their participation in the Conference, including through denying their advisers the right to speak and partake in Conference committees. Requesting that this exclusion be remedied, they defended their right to participate actively in the Conference, based on the plural notion of representativeness as formulated by the Permanent Court of International Justice (PCIJ) in 1922. The Committee also received an unsolicited submission from FEDEINDUSTRIA defending its representativeness, and alleging to that end its foundational principles, work to advance sectoral claims, presence in the media, contributions to the development of laws, policies and institutions and instances of national and international representation. Like the other three organizations, it alleged the recognition from FEDECAMARAS based on joint participation in discussions and meetings, complained about the inability of its advisers to participate and speak in committees, and contended that more than one organization may be deemed most representative.

97. In a written communication addressed to the Committee at its request, the Government refuted the allegations of the Employers' group concerning interference in the creation and operation of employers' organizations. The Government noted that it had put in place programmes to promote small and medium-sized enterprises and to provide financing with low interest rates, which were open to all the business community without favoritism based on affiliation. It contended that the current Government's non-discrimination and inclusion policies contrasted with the exclusion, discrimination and favoritism of prior Governments, in which FEDECAMARAS unfairly enjoyed a monopolistic position in employer representation. The Government stated that FEDECAMARAS, EMPREVEN, CONFAGAN, FEDEINDUSTRIA and COBOIEM had been deemed to be the most representative employers' organizations, based on the fact that they recognized and accepted each other as such, evidenced by their dialogue and participation in meetings held at the Ministry of Labour and Social Security. It added that, since none of these organizations had registered, the Government did not have data to determine their membership levels and, consequently, invited all of them to the consultation process. The Government hosted a meeting on 5 May 2010 but no agreement was reached between the five organizations as to the composition of the Employers' delegation. Consequently, the Government based its nomination on the individual proposals that the different organizations submitted in writing, in accordance with a practice it followed since 2002. The Government also noted that, since no rotation system was in place and the Employers' delegate had always been from FEDECAMARAS, the other organizations had asked the Government to establish objective representativeness criteria. With this aim the Government reports that it held two consultation meetings on 26 May and 30 June 2009 – attended by FEDECAMARAS, EMPREVEN, CONFAGAN, FEDEINDUSTRIA – to develop an objective and permanent mechanism to determine representativeness. While the organizations expressed their divergent opinions at the first meeting, at the second meeting, they manifested that representativeness could be assessed on the basis of membership figures, noting the need to disaggregate their membership numbers by chamber. According to the Government the organizations concurred in stating that this should be accomplished through the registration of the said chambers with the corresponding regional authorities. The Government contended that, based on the 1922 Advisory Opinion of the PCIJ, several organizations may be most representative in one country, and that article 3 of the ILO Constitution did not require that all organizations reach an agreement with the most representative organization, nor that the latter be the

only one participating in the Conference. The Government stated that all nominated delegates and advisers came from important and recognized organizations corresponding to fundamental economic sectors, and that having a single organization attributing itself the monopoly over the representation of employers would be contrary to the ILO founding principles and Conventions. The Government also contended that FEDECAMARAS, through its delegate, was hindering the participation of all other organizations in the Conference, denying their right to partake and speak in the committees. Regarding the payment of travel and subsistence expenses, the Government stated that due to the global crisis it had only been able to cover those of the delegate and five advisers, deciding to pay for one adviser from each organization based on a pluralist criterion.

98. *The Committee notes that, in the absence of an agreement between organizations, for the nomination of an Employers' delegation to be in accordance with article 3, paragraph 5, of the ILO Constitution, it is crucial to have in place adequate criteria and means to objectively determine the most representative nature of the organizations concerned. It is the Government's obligation to establish and implement objective and verifiable representativeness criteria, through a consultation process that respects the genuine character, autonomy and independence of employers' organizations. The Committee must stress that the issue at hand is not, as the Government and challenged organizations purport, whether only one or more organizations may be considered as most representative – this question was answered by the PCIJ in its advisory opinion No. 1 in 1922. The issue is that there is currently no mechanism in place to assess representativeness. The Committee deeply regrets to observe that the situation concerning the establishment and implementation of representativeness criteria has, once again, not materially changed with respect to prior years.*
99. *The Committee notes that the Government held meetings in 2009 to discuss the development and implementation of criteria to determine the representativeness of employers' organizations, and that specific criteria may have been discussed in such consultations. However, the Committee regrets that no progress ensued since the last reported meeting of 30 June 2009, and that the Government has not provided any information on the follow-up to the meeting's conclusions. The Government, other than inferring the representativeness of the consulted organizations – mainly from their joint discussions and participation in meetings, has not furnished adequate and sufficient evidence on their genuine, independent and most representative nature. The Committee notes in this regard that mutual recognition and acceptance among organizations cannot be considered as satisfactory indicators to consider an organization most representative.*
100. *Consequently, the Committee notes the historical recognition of FEDECAMARAS as the most representative employers' organization and finds that the Government has not provided objective information that convinces it that any other organization could be considered as most representative. Conversely, the Committee does not have sufficient objective evidence to decide on the claim concerning the non-representative nature of the challenged organizations. In this connection, the Committee wishes to recall that in March 2010 the Committee on Freedom of Association urged the Government to establish a high-level joint national committee in the country with the assistance of the ILO to examine allegations of interference and favouritism by the Government so that the problems can be solved through direct dialogue.*
101. *As to the grievance concerning the treatment of advisers from the challenged organizations by the Employers' delegate, the Committee recalls, as it follows from the ILO Constitution and the Conference Standing Orders, that the role of advisers is to accompany the delegates and to act on their behalf and under their instructions. In accordance with article 3, paragraph 6, of the Constitution, "advisers shall not speak except on a request made by the delegate whom they accompany". The grievance arises*

from the fact that the nomination lacks the agreement of the only organization for which the condition of most representative remains unchallenged.

- 102.** *In view of the above, in particular concerning the doubts remaining as to the character of four organizations – FEDEINDUSTRIA, EMPREVEN, CONFANGAN and COBOIEM – and the need to advance in the establishment of objective and verifiable representativeness criteria, the Committee, as in prior years, must restate its recommendation that the Government avail itself of the technical assistance that the Office may offer in that respect. The Committee notes with regret that the Government, although it had welcomed this recommendation in the past, did not approach the Office to discuss the possibility of such technical assistance and it trusts that it will do so to ensure compliance with the member State obligations of the Bolivarian Republic of Venezuela. The Committee expects the Government to ensure that the nomination of the non-governmental delegations at future sessions of the Conference will be in full compliance with article 3, paragraph 5, of the ILO Constitution.*

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

- 103.** The Committee received an objection concerning the nomination of the Workers' delegation of the Bolivarian Republic of Venezuela submitted by Mr Manuel Cova, Secretary-General of the *Confederación de Trabajadores de Venezuela* (CTV). He alleged that, in breach of article 3 of the ILO Constitution and of what had been established on prior occasions by this Committee, the Government had unilaterally nominated the Workers' delegation, and denied the CTV, the most representative organization, its designation as Workers' delegate. Consultation meetings were held by the Government on 10 and 12 May 2010, in which the following worker organizations participated: the *Confederación de Sindicatos Autónomos* (CODESA), the *Confederación General de Trabajadores* (CGT), the CTV, the *Confederación Unitaria de Trabajadores de Venezuela* (CUTV), and the *Unión Nacional de Trabajadores* (UNETE). No agreement was reached between the workers' organizations invited. In spite of this, and ignoring a prior rotation arrangement, the Government had unilaterally named as titular delegate a member of UNETE, an organization close to the Government. The author of the objection recalled that UNETE was not registered and that it had never held elections, called for by a large sector of its members. The Government, by letter of 21 May 2010, informed the CTV that Mr Cova and Ms Castellanos were nominated as advisers and Mr Moreno and Mr Suarez as other participants in the Workers' delegation to the Conference. The CTV considered this a manoeuvre to mask the illegal and unilateral determination of the Workers' delegation and refused such nominations and any arrangements as to travel and subsistence expenses for the CTV members concerned. The objecting organization asked the Committee, for the seventh time, to invalidate the credentials of the Workers' delegation to the Conference.
- 104.** In a written communication addressed to the Committee at its request, the Government stated that the following most representative workers' organizations existed in the country: UNETE, CGT, CODESA, CTV, and CUTV. It explained that there had been a notable growth in the organization of workers over the past years – 5,387 new workers' organizations had registered from 1999 to 2010, as compared to 2,872 from 1989 to 1998. In the last three years 50 per cent of the new registrations were affiliated to UNETE, while the other 50 per cent had not joined any other country-wide confederations (CUTV, CGT, CTV or CODESA). Moreover, according to the Ministry of Labour, the three most numerous workers' federations, representing 126,000 members, were affiliated to UNETE. The Government also stated that the five abovementioned organizations, which recognized each other as representative, were consulted. Two meetings were held in the Ministry of Labour but no consensus could be reached as to the nomination of the Workers' delegate.

While the CTV and CGT proposed Mr Cova, UNETE, CUTV and CODESA considered that a representative from UNETE should be nominated. The Government respected the proposal of the majority and accredited a UNETE representative as Workers' delegate, while also including, as advisers, representatives from the other organizations. The Government contended that it had respected the dialogue between the most representative organizations. It explained that, at present, there was no rotation system in place, and that the nomination process was based on the democratic dialogue between organizations, and it only relied on the decision of the majority when consensus was unattainable after exhausting all efforts. The Government noted that CTV had not demonstrated that it was the most representative organization and that it was up to the organizations to resolve the question of representativeness, relying on the legal means available for that purpose. It referred to the obligation of workers' organizations, set out in the Organic Labour Law, to provide information on the lists of their members, in order to permit the calculation of membership figures. The confederations, including the CTV, had not provided such information in the past years. Consequently, the Government was unable to present numeric data as to the CTV and other organizations, and it challenged CTV's claims to be the most representative organization. The Government also stated that it acted in good faith when it submitted CTV's credentials to the Conference on 18 May 2010, since CTV's withdrawal was not communicated to it until 25 May. Finally, it noted that, as had been the case in the previous year, Mr Cova's objection was irreceivable by virtue of the fact that he had been accredited as adviser for the Workers' delegation of the Bolivarian Republic of Venezuela.

105. *With respect to the Government's plea of irreceivability the Committee wishes to recall that, according to article 26bis, paragraph 1(c), of the Standing Orders, an objection is not receivable if the author of the objection is serving as adviser to the delegate to whose nomination objection is taken. Mr Cova did not register as an adviser within the delegation of the Bolivarian Republic of Venezuela, but as a member of the delegation of the International Trade Union Confederation. The Committee, noting that the author of the objection had not registered in the Workers' delegation, considers that he could not be regarded as serving as adviser within the meaning of article 26bis, paragraph 1(c). Therefore, the objection is found receivable and this decision is final pursuant to article 26bis, paragraph 2(b).*
106. *The Committee notes that once more it is presented with an objection concerning the nomination for the Workers' delegation from the CTV and that, yet again, the Government accredited Mr Cova in spite of his specific and written refusal on 25 May. The Government's justification of having received the refusal after it had submitted the credentials on 18 May cannot be accepted, since the Government had ample opportunity to amend the credentials thereafter. As a matter of fact, the Government did submit several amendments to its credentials after 25 May, the latest one having been transmitted to the Office on 7 June, and it could have easily communicated Mr Cova's withdrawal through any of them.*
107. *However, the Committee reiterates that, in the absence of a rotation agreement, the method of determining representativeness of the organizations is crucial for the nomination of the Workers' delegation. It notes that the Government based its nomination on the proposals of the majority of organizations considered to be most representative. The Committee observes that the figures provided by the Government do not allow it to draw conclusions as to the relative representative strength of the organizations concerned.*
108. *Regarding the Government's contention that it is up to the workers' organizations to resolve the question of representativeness, the Committee must stress that it is the duty of the Government, in consultation with the workers' organizations, to establish objective and verifiable criteria regarding the representativeness of the organizations it consults. The*

implementation of certain criteria may require the cooperation between Government and workers' organizations. However, such process must not interfere with the autonomy and independence of the workers' organizations. Concerning the Government's statement that the absence of data to determine representativeness is attributable to the lack of compliance by workers' organizations with their obligation to provide membership lists, pursuant to the Organic Labour Law, the Committee wishes to recall the recommendations of the Committee on Freedom of Association on this subject. The Committee on Freedom of Association has stated that it is unnecessary to draw up a list of trade union members in order to determine the number of members, which could make acts of anti-union discrimination easier, that the determination to ascertain or verify the representative character of trade unions can best be ensured when strong guarantees of secrecy and impartiality are offered, and that verification of the representative character of a union should a priori be carried out by an independent and impartial body (see Digest of decisions and principles of the Freedom of Association Committee, 5th edition, 2006, paras 351–353).

109. *The repetitive lodging of objections at each session of the Conference by both the Employers' and Workers' groups indicates that the nomination process is not being conducted correctly. The Committee recommended in 2007 and in 2008, and it renews its recommendation now, that the Government avail itself of any advice or technical assistance that the Office can provide in this respect. The Committee notes that in 2008 the Government welcomed the offer. The Committee expects that the Government will ensure, with the assistance of the Office, that the nomination of the Workers' delegation at future sessions of the Conference will be in full compliance with article 3, paragraph 5, of the ILO Constitution.*

Complaints

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

Late complaint concerning the non-payment of travel and subsistence expenses of the Workers' delegate by the Government of Albania

111. The Committee received a complaint presented by the International Trade Union Confederation (ITUC) concerning the non-payment of travel and subsistence expenses of the Workers' delegate by the Government of Albania.
112. *The Committee notes that the complaint had been received by the Committee's secretariat on 10 June 2010, that is, one day after the expiration of the deadline established by article 26ter, paragraph 2(a), and that, pursuant to this provision, the Committee considered that there was insufficient time to deal with it properly. On this basis, the complaint is irreceivable.*

Complaint concerning the partial payment of the travel and subsistence expenses of the Employers' delegate by the Government of Botswana

113. The Committee received a complaint presented by the Employers' group at the Conference concerning the partial payment of the travel and subsistence expenses of the Employers' delegate by the Government of Botswana. It submitted that this breached the Government's obligations under article 13, paragraph 2(a), of the ILO Constitution. It

alleged that on 30 April 2010, Mr Norman Moleele, titular delegate, received a telephone call from the Government informing him that his length of stay in Geneva for the Conference might be reduced by one week due to financial constraints. On 25 May he noticed that his air ticket had indeed been changed and that he would have to leave Geneva one week before the end of the Conference. The Employers' group submitted that the Government's failure to meet its obligations under the ILO Constitution prevented the employers of Botswana to participate in important work at the Conference. It went against the resolution concerning the strengthening of tripartism in overall activities, adopted by the Conference at its 56th Session (1971) and was contrary to the spirit of tripartism required of the Government by virtue of its membership to the ILO. The Employers' group asked the Committee to strongly urge the Government to comply with its obligation to pay the full travel and subsistence expenses which would allow the Employers' delegate to attend the full duration of the Conference.

114. In a written communication addressed to the Committee at its request, the Acting Minister of Labour and Home Affairs stated that Botswana was currently facing serious budgetary constraints causing it to cut back on expenditures which had a regrettable effect on international activities. Nevertheless, it had taken serious note of the complaint and had extended the attendance of the Employers' delegate to the end of the Conference.
115. By letter received by the Committee on Friday, 11 June 2010, the Employers' group notified the Committee that it withdrew the complaint since the Government had decided to cover the attendance of the Employers' delegate until the end of the Conference.
116. *The Committee notes the withdrawal of the complaint.*

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

117. The Committee received a complaint presented by the International Trade Union Confederation (ITUC) concerning the partial payment of the travel and subsistence expenses of the Workers' delegate by the Government of Botswana. It alleged that the Workers' delegate, Mr Gadzani Mhotsha, had been informed that he would have to leave one week before the end of the Conference because there were no funds to keep the social partners in Geneva for that week. However, the Government delegation would be staying for the entire duration of the Conference. The ITUC asked the Committee to call upon the Government to comply with its obligation, under article 13, paragraph 2(a), of the ILO Constitution, to pay the full travel and subsistence expenses of Mr Mhotsha which would allow him to take part in the third week of the Conference.
118. In a written communication addressed to the Committee at its request, the Acting Minister of Labour and Home Affairs stated that Botswana was currently facing serious budgetary constraints causing it to cut back on expenditures which had a regrettable effect on international activities. Nevertheless, it had taken serious note of the complaint and had extended the attendance of the Workers' delegate to the end of the Conference.
119. *The Committee notes the measures taken by the Government to extend the attendance of the Workers' delegate and it finds that the Government has respected its obligation to bear the expenses of a complete tripartite delegation for the entire length of the Conference. Therefore it has decided not to uphold the complaint.*

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

120. The Committee received a complaint lodged by Mr Leopoldo Tartaglia, Workers' delegate at Conference, on behalf of the Italian Trade Union Confederations CGIL, CISL and UIL, alleging a manifest imbalance between the number of Workers' and Government advisers whose expenses have been covered by the Government. The complaint was supported by the International Trade Union Confederation (ITUC). According to the complaint, the Government delegation was composed of the Minister of Labour and his diplomatic counsellor, two Government delegates and six advisers. However, the workers' organizations had been informed that, due to financial reasons the Government could cover the costs for only one Worker and one Employer representative to this session of the Conference, although it would not be opposed to the presence of other persons in the delegation, provided that the expenses would not be charged to the Government. Despite these financial constraints, the entire Government delegation's expenses were covered. The complainant observed that the Government had therefore disregarded the conclusions of the Credentials Committee at the 98th Session (2009) of the Conference and undermined the possibility for representatives of the social partners to fully participate in all the work of the Conference.
121. In a written communication addressed to the Committee at its request, the Government contended that the imbalance should be evaluated only insofar as the number of advisers. For financial reasons, it had been necessary for the Government to review the composition of its delegation; it had to renounce the nomination of one adviser and even had to remove another from the delegation. The Government stated that the delegation was limited to three advisers for the entire duration of the Conference. It added that because of new budgetary restrictions its advisers might even have to pay some of their Conference expenses out of their own pocket. Nevertheless the expenses of the titular delegates of the social partners would be covered in full by the Government.
122. In an additional written communication, the Government submitted to the Committee an extract of the decree-law No. 78 on urgent measures concerning financial stabilization and economic competitiveness, according to which meals and lodging expenses in connection with government missions would no longer be reimbursed in the same measure as from its entry into force on 31 May 2010.
123. *The Committee recalls that article 13, paragraph 2(a), of the ILO Constitution imposes on its Members an obligation to pay the travel and subsistence expenses of the delegates and their advisers nominated to the Conference. The competence conferred on the Committee to examine complaints on the non-observance of that provision includes, in accordance with article 26ter, paragraph 2(b), of the Conference Standing Orders, cases of serious and manifest imbalance as between the number of Employer or Worker advisers whose expenses have been covered in the delegation and the number of advisers appointed for the Government delegates. The purpose is to ensure that the financial means available for the participation of a tripartite delegation to the Conference would be distributed between the Government, the Employers' and the Workers' delegations at least in a proportion similar to that envisaged in the Constitution for the composition of delegations to the Conference. For an imbalance to be objectionable, it has to be abnormal or serious and it must be manifest.*
124. *The Committee notes that, in the present case, according to the Revised Provisional List of Delegations published on 8 June 2010, the Government has accredited six Government advisers, three Employers' advisers and four Workers' advisers. It further notes that the*

Government does not deny that it does not pay for the travelling and subsistence expenses of any of the Workers' advisers. In accordance with its past practice, the Committee not only considers the number of Government advisers accredited, but also takes into account the actual attendance and level of participation of the Government in the work of the Conference. In this connection, the Committee notes that the Government states that it covers the work of the five technical Committees with only three advisers, which at the time of the examination of this complaint, on 11 June 2010, is confirmed by the relevant records of the Conference. The Committee observes that the proportion of three Government advisers to zero Workers' advisers whose expenses are paid for is less favourable to the Workers' than the proportion envisaged in the Constitution for the composition of delegations to the Conference; it finds, however, that it does not amount to a serious and manifest imbalance.

- 125.** *The Committee wishes nevertheless to recall that the ability for the social partners to actively participate in the work of the Conference depends to a large extent on the number of advisers that accompany their delegate to the Conference; to expect that those advisers attend the Conference at their own expense is incompatible with article 13, paragraph 2(a), of the ILO Constitution. The Conference in its current format is characterized by a condensation of the work in a much shorter period than before, which regularly results in simultaneous sittings of four or five technical committee and sometimes the plenary. While there is no constitutional obligation for a Government to nominate advisers, it must be recognized that the Conference can only work properly if there are a sufficient number of advisers present in the three groups of the Conference. The Committee takes note of the explanation provided by the Government that the situation was a consequence of budgetary restrictions due to the current financial crisis. Nevertheless, in view of the importance of the ILO's work in the context of the crisis, the Committee trusts that all Members will continue to give sufficient budgetary priority to participation in the work of the Conference to allow for the payment of travelling and subsistence expenses of a sufficient number of advisers to their delegates, evenly distributed between the three parts of the delegation. It trusts that this will be the case of Italy as one of the Members of chief industrial importance.*

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

- 126.** The Committee received a complaint presented by the International Trade Union Confederation (ITUC) concerning the non-payment of the travel and subsistence expenses of Workers' advisers by the Government of Mauritania. The ITUC contended that the Government had agreed to cover the travel and subsistence expenses of some nine workers' organizations to take part in the 99th Session of Conference. However, those of Mr Abdellahi Ould Mohamed from the *Confédération générale des travailleurs de Mauritanie* (CGTM) and Mr Mohameden Ould Beweh from the *Union de la Génération nouvelle des travailleurs de Mauritanie* (UGNTM), were not. According to the ITUC, the CGTM was the most representative trade union organization in the country; it was also known for its opposition to the coup d'état. The ITUC requested the Committee to call upon the Government to comply with article 13, paragraph 2(a), of the ILO Constitution and provide these two advisers with sufficient expenses to take part in the Conference.
- 127.** In a written communication addressed to the Committee at its request, the Government stated that professional elections, allowing for the determination of trade union representativeness, were not held due to the electoral calendar in 2009. A proliferation over the past few years of new confederations called into question the representativeness of the long-standing ones. Consequently, at the moment none of the 16 trade unions could be considered as the most representative. Nevertheless, they continue to receive a government

subvention, distributed equally without consideration for their political affiliations. The Government indicated that a consultation meeting was held on 6 May 2010 in order to designate the Workers' delegate and substitute for this session of the Conference; the Secretaries-General of the trade unions unanimously elected the representative of the *Union des travailleurs de Mauritanie* (UTM) as the titular delegate and they continued the consultations to designate the nine representatives whose expenses would be covered by the Government. The Secretaries-General of the CGTM and the UGNTM were not selected. It added that three of the nine workers' organizations present at this session of the Conference were known for their opposition to the coup d'état.

128. *The Committee recalls that article 13, paragraph 2(a), of the ILO Constitution imposes on its Members an obligation to pay the travel and subsistence expenses of the delegates and their advisers nominated to the Conference. The competence conferred on the Committee to examine complaints concerning the non-observance of this provisions is limited to the situations set out in article 26ter, paragraphs 1(a) and (b), of the Conference Standing Orders: the non-payment of expenses of a tripartite delegation composed of at least two Government delegates, an Employers' delegate and a Workers' delegate and cases of serious and manifest imbalance between the number of Employers' or Workers' advisers whose expenses have been covered and the number of advisers appointed for the Government.*
129. *The Committee notes the Government's decision to cover the expenses of nine workers' organizations representatives and observes that the subject matter of the complaint does not fall within one of the abovementioned situations. Nevertheless, the Committee considers that the complaint raises issues that go beyond those of non-payment of expenses of the Workers' delegation at the Conference and call into question the criteria used for determining the representativeness of workers' organizations in the country. Consequently, in light of the Government's statement regarding the contested representativeness of the long-standing confederations, the Committee recalls that under article 13, paragraph 2(a), of the Constitution the payment of travel and subsistence expenses cannot be considered as a favour. The Government must be careful not to show favouritism towards minority organizations over more representative organizations. The Committee invites the Government to take the necessary measures to clarify the situation of the union representation in the country, so as to fully respect its constitutional obligations.*

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

130. The Committee received a complaint presented by the Employers' group at the Conference concerning the payment of the travel and subsistence expenses of the Employers' delegate, Mr Freddy José Blandon, by the Government of Nicaragua. It submitted that the Government had breached its obligations under article 13, paragraph 2(a), of the ILO Constitution and undermined the ability of the employers of Nicaragua to participate in the important work of the Conference. It also went against the Resolution concerning the strengthening of tripartism in overall activities, adopted by the Conference at its 56th Session (1971) and was contrary to the spirit of tripartism required of the Government by virtue of its membership to the ILO. The Employers' group alleged that this is the fourth consecutive year that the Government had not covered the travel and subsistence expenses of the Employers' delegate. In 2007 and 2008 the delegate had decided to give the Government the benefit of the doubt and had not filed a complaint; however, when the situation was repeated again in 2009, he did so. It submitted that last year, under the same circumstances, the Committee had recalled that "the decision not to cover expenses of the Employers' delegate is incompatible with the Government's obligation under article 13, paragraph 2(a), of the ILO Constitution to cover the expenses of a complete tripartite

delegation”. It noted that the Employers’ delegate was nevertheless able to attend the Conference because his employers’ organization had paid his expenses. The Employers’ group asked the Committee to strongly urge the Government to comply with its obligation to pay the full travel and subsistence expenses in the future and to provide a reimbursement to the delegate’s employers’ organization for having paid his expenses this year.

131. In a written communication to the Committee made at its request, received after the time limit given, the Minister of Labour of Nicaragua, Ms Jeannete Chávez Gómez, acknowledged that the Government had not been able to cover the travel and subsistence expenses of the Employers’ and Workers’ delegate for the fourth consecutive year. She attributed this inability to pay on budgetary constraints. She added that due to such financial difficulties the government officials in Nicaragua had not been able to attend this session of the Conference, having had to entrust the representation of the Government delegation to officials from its Permanent Mission at Geneva.

132. *The Committee acknowledges the difficult financial situation that many member States are facing at this moment and understands the financial burden that the participation of a full tripartite delegation to the Conference implied. It notes that all the Government representatives registered came from its Permanent Mission. However, once again the Committee must remind the Government that while most governments could rely on the support of their Permanent Mission in Geneva to ensure participation of a governmental delegation, the social partners could not rely on such a system. The decision not to cover expenses of the Employers’ delegate is incompatible with the Government’s obligation under article 13, paragraph 2(a), of the ILO Constitution to cover the expenses of a complete tripartite delegation. The Committee notes that financial constraints have not only an impact on governments, but an even greater impact on the social partners and their ability to cover their own expenses. The Committee, therefore, expects that the Government will meet its duty to cover the travel and subsistence expenses of the Employer’s delegate for the entire duration of the Conference, and that, in the future, the Government will comply with its constitutional obligations in this respect.*

Complaint concerning the payment of the travel and subsistence expenses of the Employers’ delegate by the Government of the Democratic Republic of the Congo

133. The Committee received a complaint presented by the Employers’ group at the Conference concerning the payment of the travel and subsistence expenses of the Employers’ delegate, Mr Marc Atibu Saleh Mweke, by the Government of the Democratic Republic of the Congo. It submitted that the Government had breached its obligations under article 13, paragraph 2(a), of the ILO Constitution and prevented the employers of the Democratic Republic of the Congo to participate in the important work of the Conference. The Employers’ group asked the Committee to urge the Government to comply with its obligation to pay the full travel and subsistence expenses which would allow the Employers’ delegate to attend the full duration of the Conference.

134. By letter received by the Committee on Wednesday, 8 June 2010, the Employers’ group notified the Committee that the Employers’ delegate had arrived in Geneva and that his travel and subsistence expenses had been paid by the Government. Consequently it withdrew its complaint.

135. *The Committee notes the withdrawal of the complaint.*

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

136. The Committee received a complaint presented by Mr Lovemore Matombo, titular Workers' delegate, concerning partial payment of his subsistence expenses by the Government of Zimbabwe. Mr Matombo alleged that the Government had reduced his subsistence allowances while at the same time it increased those provided for Government delegates.
137. In a written communication addressed to the Committee at its request, the Secretary for Labour and Social Services recalled that the complainant had lodged a similar complaint last year which had been rejected by the Committee. Concerning the present complaint the Government submitted that Mr Matombo and all other members of the delegation whose expenses were met by the Government were given an equal amount of money for accommodation and meals for their stay in Geneva for the duration of the Conference. He added that senior government officials were awarded an entertainment allowance as part of their conditions of service; he speculated that this was the basis of the complaint. He submitted that it was for the respective employers' or workers' organizations to provide an entertainment allowance to their elected delegate. He asked the Committee to request Mr Matombo to disclose how much money he had received from the Government.
138. *The Committee notes that in the credentials the Government indicates that it will cover the travel and subsistence expenses of the Workers' delegate and which it reconfirmed in its explanation. The Committee trusts that when governments provide such expenses that these are reasonable and sufficient to cover accommodations, meals and incidentals. The Committee regrets that, in the present case, neither party has provided it with information concerning the amount provided to the complainant and allowing it to fully evaluate the claim. Nevertheless, the Committee finds that under the circumstances, it is incumbent upon the complainant to substantiate why his subsistence expenses were insufficient, which he has not done. The Committee decides, therefore, not to uphold the complaint.*

Communications

139. The Committee also received two communications.

Communication concerning the Employers' delegation of the Islamic Republic of Iran

140. The Committee also received a communication concerning the Employers' delegation of the Islamic Republic of Iran presented by the Employers' group at the Conference. The Employers' group expressed concern about the participation of a delegate from an organization, the Confederation of Iranian Employers (CIE) which, in its view, had ceased to exist. The delegation to the 99th Session of the Conference was composed of representatives from both the Iranian Confederation of Employers Association (ICEA) and the CIE. The Employers' group attached a judgement, dated 4 May 2010, from the Ultimate Appeal Branch of the Supreme Administrative Court; in the view of the Employers' group the ICEA was the only recognized representative employers' organization in the Islamic Republic of Iran, the CIE having been "officially dissolved". The Employers' group requested the Committee to ask the Government of the Islamic Republic of Iran to clarify the status of the CIE at the Conference.

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141. In a written communication addressed to the Committee at its request, the Government explained that the main reason the CIE was present at this session of the Conference had been the mutual agreement reached between the ICEA and the CIE.
142. *The Committee takes note of the information provided by the Employers' group concerning the judgement dated 4 May 2010 by the Second Verification Bench of the Supreme Administrative Court of Iran. According to its terms, the judgement, which is a final judgement, annuls a previous revision judgement and confirms a judgement rendered in the first instance by the Supreme Administrative Court ordering cancellation of the order No. 96700 of 2 November 2006 from the Director-General of the Department of Labour and Employer Organizations, which dissolved the ICEA. The Committee notes that this final judgement annuls the dissolution of the ICEA, but that it does not mention any consequences on the legal existence of the CIE. The Committee also takes note of the further information provided by the Government. To the extent that Iranian legislation permits the existence of only one national employers' organization, the Committee wishes to recall that last year it considered, in line with recommendations of the Committee on Freedom of Association, that "the Government should take measures as a matter of urgency to amend the Labour Law so as to ensure the exercise of freedom of association and, in particular, the right to establish more than one employers' and workers' organization".*

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

143. The Committee received a communication dated 2 June 2010 presented by the National Union of Rail Maritime and Transport Workers (RMT) citing issues concerning workers' rights in Iran.
144. *The Committee considers that this communication is not an objection and that the issues it raises are not within the Committee's mandate. It notes that it examined an objection concerning the Workers' delegation of the Islamic Republic of Iran (see paragraphs 55–61).*

General observations

145. The Committee notes an amendment to the *Conference Standing Orders* which is now before the Conference for adoption. This amendment will allow the Committee to take action in relation to an act or omission on the part of a government that has prevented a delegate or adviser from attending the Conference. The Committee welcomes this new mandate and trusts that it will contribute to the achievement of full tripartite representation of all member States at the Conference, as required by article 3, paragraphs 1 and 2, of the ILO Constitution.
146. At its 98th Session (2009) the Credentials Committee, through the Conference, requested the Governing Body to consider possible measures to improve the situation of imbalanced delegations regarding the number of Government, Employers' and Workers' advisers accredited in delegations. The Governing Body discussed measures that could be taken by the Credentials Committee under the provisions of the Standing Orders currently in force. In this regard, the Committee has restructured the presentation of the lists of registered and accredited delegates and advisers attached to its reports, in order to facilitate an easier identification of imbalances. It also examined the application of general criteria to measure imbalances, in particular through numeric formulas, and found their application unsatisfactory, due to their inability to take into account the particular circumstances of each case. In the context of complaints under article 26ter, paragraph 1(b), alleging serious

and manifest imbalance as to the expenses covered, the Committee notes that the practice is to take into account, beyond the number of accredited advisers, other factors relevant to the capacity of the three parts of a delegation to effectively participate in the work of the Conference, such as actual attendance and participation level in committees. Consequently, the Committee observes that addressing situations of tripartite imbalance is best accomplished through the consideration of specific allegations, which allow for the identification of serious cases and the review of their particular circumstances. However, the provisions of the Standing Orders in force do not allow the Committee to fully address situations of imbalance other than those relating to the payment of advisers' expenses. The Committee would, therefore, like to request the Governing Body, through the Conference, to continue its consideration of the matter, including the possibility of extending the Committee's mandate to specific submissions based on alleged tripartite imbalance in a delegation.

* * *

- 147.** 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 10, 61, and 75.

Geneva, 15 June 2010

(Signed) Mr Greg Vines
Chairperson

Ms Lidija Horvatić

Mr Yves Veyrier

- 4) **Government advisers**
- 5) **Employers' advisers**
- 6) **Workers' advisers**

List of registered delegates and advisers

	1)	2)	3)	4)	5)	6)		1)	2)	3)	4)	5)	6)		1)	2)	3)	4)	5)	6)		1)	2)	3)	4)	5)	6)
Afghanistan.....	2	1	1	7	-	-	Ecuador.....	2	1	1	5	1	-	Luxembourg.....	2	1	1	5	3	8	Sierra Leone.....	-	-	-	-	-	-
Albania.....	2	1	-	7	-	1	Egypt.....	2	-	1	8	1	9	Madagascar.....	2	1	1	3	-	-	Singapore.....	2	1	1	11	2	8
Algeria.....	2	1	1	9	5	9	El Salvador.....	2	-	1	5	1	-	Malawi.....	2	1	1	1	-	-	Slovakia.....	2	1	-	7	3	2
Angola.....	2	1	-	4	1	1	Equatorial Guinea.....	2	1	1	1	-	-	Malaysia.....	2	1	1	5	2	9	Slovenia.....	2	1	1	5	-	1
Antigua and Barbuda.....	-	-	-	-	-	-	Eritrea.....	1	-	1	2	-	2	Maldives.....	1	1	1	-	-	-	Solomon Islands.....	-	-	-	-	-	-
Argentina.....	2	1	1	7	9	10	Estonia.....	2	-	1	2	1	-	Mali.....	2	1	1	10	1	1	Somalia.....	-	-	1	1	-	-
Armenia.....	-	-	-	-	-	-	Ethiopia.....	2	1	1	4	2	1	Malta.....	2	1	1	6	1	2	South Africa.....	2	1	1	7	3	8
Australia.....	2	-	1	4	2	2	Fiji.....	2	1	1	1	-	-	Marshall Islands.....	-	-	-	-	-	-	Spain.....	2	1	1	13	9	7
Austria.....	2	1	1	8	1	3	Finland.....	2	1	-	6	4	4	Mauritania.....	2	1	1	5	-	10	Sri Lanka.....	2	1	1	8	-	5
Azerbaijan.....	2	1	-	4	1	1	France.....	2	1	1	20	4	9	Mauritius.....	1	1	1	3	1	-	Sudan.....	2	1	1	6	1	9
Bahamas.....	2	1	1	-	-	1	Gabon.....	1	1	1	12	1	5	Mexico.....	2	1	1	7	6	10	Suriname.....	2	1	1	-	-	-
Bahrain.....	2	1	1	9	2	2	Gambia.....	2	1	1	1	-	-	Republic of Moldova.....	2	1	1	1	-	-	Swaziland.....	2	1	1	5	1	2
Bangladesh.....	1	1	1	8	2	2	Georgia.....	2	1	1	2	1	6	Mongolia.....	2	1	1	4	2	1	Sweden.....	2	1	1	4	3	4
Barbados.....	2	1	1	4	-	1	Germany.....	2	1	-	9	5	8	Montenegro.....	2	1	1	2	-	1	Switzerland.....	2	1	1	11	3	9
Belarus.....	-	1	1	7	2	8	Ghana.....	2	1	1	12	9	10	Morocco.....	2	1	1	14	2	9	Syrian Arab Republic.....	2	1	1	6	3	5
Belgium.....	2	1	1	13	4	6	Greece.....	2	-	1	12	6	4	Mozambique.....	2	1	1	5	-	1	Tajikistan.....	-	-	-	-	-	-
Belize.....	-	-	-	-	-	-	Grenada.....	-	-	-	-	-	-	Myanmar.....	2	1	-	5	-	-	United Republic of Tanzania.....	1	1	1	12	6	3
Benin.....	2	1	1	6	1	10	Guatemala.....	2	1	1	2	3	-	Namibia.....	2	1	1	7	2	2	Thailand.....	2	1	1	12	4	8
Bolivia (Plurinational State).....	2	-	-	4	1	2	Guinea.....	2	1	1	20	3	5	Nepal.....	2	-	1	4	-	8	The former Yug. Rep. Macedonia.....	2	-	-	2	-	-
Bosnia and Herzegovina.....	2	-	-	3	-	-	Guinea-Bissau.....	2	-	1	1	-	1	Netherlands.....	2	1	1	8	-	3	Timor-Leste.....	2	-	1	1	-	-
Botswana.....	2	1	1	4	-	-	Guyana.....	2	1	1	-	-	-	New Zealand.....	2	1	1	6	1	1	Togo.....	2	1	1	11	7	10
Brazil.....	2	1	1	20	10	10	Haiti.....	2	1	1	2	-	-	Nicaragua.....	2	-	1	1	-	-	Trinidad and Tobago.....	2	1	1	4	-	1
Brunei Darussalam.....	2	1	1	5	-	-	Honduras.....	1	1	1	7	1	2	Niger.....	2	1	1	5	2	7	Tunisia.....	2	1	1	5	3	9
Bulgaria.....	2	1	-	7	6	2	Hungary.....	2	-	-	6	5	8	Nigeria.....	1	1	-	19	6	6	Turkey.....	2	1	1	12	6	8
Burkina Faso.....	2	1	1	10	3	5	Iceland.....	2	-	-	2	-	1	Norway.....	2	1	1	10	4	8	Turkmenistan.....	-	-	-	-	-	-
Burundi.....	2	1	1	1	-	-	India.....	2	1	1	10	8	8	Oman.....	2	1	1	15	10	8	Tuvalu.....	-	-	-	-	-	-
Cambodia.....	2	1	1	4	-	2	Indonesia.....	2	1	1	18	10	3	Pakistan.....	2	1	1	5	-	2	Uganda.....	-	1	1	5	2	4
Cameroon.....	2	1	1	12	4	3	Islamic Republic of Iran.....	2	1	1	12	6	5	Panama.....	2	1	1	8	3	2	Ukraine.....	2	1	-	4	10	6
Canada.....	2	1	1	10	4	6	Iraq.....	2	-	1	6	-	-	Papua New Guinea.....	2	-	-	7	-	-	United Arab Emirates.....	2	1	1	17	3	1
Cape Verde.....	2	1	1	2	-	-	Ireland.....	2	1	1	2	1	-	Paraguay.....	2	1	1	3	-	1	United Kingdom.....	2	1	1	8	5	4
Central African Republic.....	2	1	1	4	2	2	Israel.....	2	1	1	6	3	2	Peru.....	2	1	1	5	1	1	United States.....	2	1	1	18	4	10
Chad.....	2	1	1	9	1	1	Italy.....	-	1	1	6	2	2	Philippines.....	2	1	1	8	5	9	Uruguay.....	2	-	1	4	2	2
Chile.....	2	-	-	7	10	8	Jamaica.....	2	1	1	6	-	1	Poland.....	2	-	1	7	3	5	Uzbekistan.....	2	-	-	3	-	-
China.....	2	1	1	15	5	7	Japan.....	2	1	1	16	3	10	Portugal.....	2	1	1	7	8	6	Vanuatu.....	1	1	1	1	-	-
Colombia.....	2	1	1	13	9	9	Jordan.....	1	1	1	5	-	5	Qatar.....	2	1	1	13	2	-	Bolivarian Republic of Venezuela.....	2	-	1	7	6	5
Comoros.....	1	1	1	-	2	1	Kazakhstan.....	2	1	1	3	-	1	Romania.....	2	1	1	3	5	5	Viet Nam.....	2	1	1	5	-	2
Congo.....	2	1	1	10	3	7	Kenya.....	2	1	1	10	3	10	Russian Federation.....	2	-	1	11	2	8	Yemen.....	2	-	1	2	1	2
Costa Rica.....	2	1	1	2	1	-	Kiribati.....	2	1	1	1	-	-	Rwanda.....	2	1	-	2	-	-	Zambia.....	2	1	1	6	3	1
Côte d'Ivoire.....	2	1	1	13	-	2	Republic of Korea.....	2	1	1	16	8	7	Saint Kitts and Nevis.....	-	-	-	-	-	-	Zimbabwe.....	2	-	1	12	1	1
Croatia.....	2	1	1	2	2	2	Kuwait.....	2	1	1	20	3	4	Saint Lucia.....	-	-	-	-	-	-							
Cuba.....	2	1	1	5	1	1	Kyrgyzstan.....	-	-	-	-	-	-	Saint Vincent and the Grenadines.....	-	-	-	-	-	-							
Cyprus.....	2	1	1	7	4	7	Lao People's Democratic Rep.....	2	1	1	3	1	1	Samoa.....	-	-	-	-	-	-							
Czech Republic.....	2	-	-	7	4	4	Latvia.....	2	1	1	-	-	-	San Marino.....	-	1	1	1	3	2							
Democratic Republic of the Congo.....	1	1	1	11	4	5	Lebanon.....	2	1	1	8	5	6	Sao Tome and Principe.....	2	1	1	1	-	-							
Denmark.....	2	1	1	7	3	3	Lesotho.....	2	1	1	4	-	-	Saudi Arabia.....	2	1	1	8	3	3							
Djibouti.....	2	1	1	4	-	1	Liberia.....	2	1	1	1	2	6	Senegal.....	2	1	1	9	2	10							
Dominica.....	-	-	-	-	-	-	Libyan Arab Jamahiriya.....	2	-	1	3	-	3	Serbia.....	2	1	1	3	1	6							
Dominican Republic.....	2	1	1	16	4	9	Lithuania.....	2	1	1	2	-	-	Seychelles.....	-	-	-	-	-	-							

	1)	2)	3)	4)	5)	6)
Total	310	138	146	1098	388	597

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