



## Reports of the Credentials Committee

### Second report

#### *Composition of the Conference*

1. Since 3 June 2004, when the Committee adopted its first report (*Provisional Record* No. 6B), new credentials had been received from Gambia and Guinea-Bissau. Therefore at present a total of 167 member States are represented at the Conference. There is one more incomplete delegation in addition to those mentioned in paragraph 11 of its first report, that of Gambia which is exclusively governmental. Regarding the accredited Members with the right to vote mentioned in paragraph 14 of its first report, Peru and Suriname have recovered the right to vote but neither of the abovementioned newly accredited Members have the right to vote.
2. The Committee observes that of the eight member States mentioned in paragraph 20 of its first report, only one has replied to its request to complete the information regarding the organizations and the functions of each of the members of the Employers' and Workers' delegations.

#### *Objections*

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

##### Objection concerning the nomination of the Workers' delegation of Djibouti

4. The Committee has before it an objection, submitted by Mr. Adan Mohamed Abdou, secretary-general of the *Union djiboutienne du Travail* (UDT) and Mr. Kamil Diraneh Hared, secretary-general of the *Union générale des travailleurs djiboutiens* (UGTD), challenging the nomination of the Workers' delegation of Djibouti. The objection was supported by the International Confederation of Free Trade Unions (ICFTU). According to the authors of the objection, this is the seventh consecutive year that the Government has usurped the role and function of the representative organizations of Djibouti workers by introducing false unionists in the official delegation in lieu of the genuine legal representatives of the two national union centres, UDT and UGTD. Neither Mr. Abdo Sikieh Dirieh, the purported secretary-general of UGTD, nor the persons accompanying him, represent UGTD or the workers of Djibouti.

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5. In a written communication received in reply to the Committee's request, Mr. Ali Yacoub Mahamoud, secretary-general of the Ministry of Employment and National Solidarity and Government delegate to the Conference, indicates that the UDT/UGTD Inter-Union under which the objection was submitted had not existed for ten years. The first author of the objection claimed to represent UDT although this organization had split up into three factions whose disputes had not yet been resolved by the competent judicial authorities. In fact Mr. Mohamed Abdou is the leader of a political movement as evidenced by the fact that he had run in the 2003 general elections. The second author of the objection, Mr. Diraneh Hared, was reinstated in his post in 2002 but has not taken up trade union responsibilities again. He is currently a businessman and can therefore not claim to be a worker or union representative.
  6. Every year since 1997, and at every session but one of the Conference, to which Djibouti has accredited a tripartite delegation, the Committee has been seized of an objection concerning the composition of the Workers' delegation. These objections had all been based on allegations concerning government interference in the free nomination of the leaders of the most representative national trade unions, UDT and UGTD. In every case the Government, without providing any evidence to support its statements, confined itself to questioning the authors' *locus standi* to submit an objection. In its reports of the last four sessions of the Conference, the Committee recalled that the issues raised in these objections were for other authorities to resolve. In the absence of any final decisions laid down by these authorities, the Committee could not effectively carry out its mandate. The Committee regretted that this year once again this information was missing from both the objection and from the Government's reply. Nevertheless, it could not avoid noting that, although the Government had had to respond to objections submitted on behalf of the UDT/UGTD Inter-Union since 2001, it had waited until 2004 to plead that such a relationship had not existed for about ten years. Such arguments appear to support the allegations of interference formulated in the objection, which, it so happens, had also been grounds for a complaint submitted by UDT/UGTD to the Committee on Freedom of Association in 1995 (Case No. 1851). The Committee continues to be concerned about the total lack of progress in this matter and therefore wishes to once again express the hope that the Government will avail itself of ILO technical assistance in this matter in order to avoid similar doubts from reoccurring every year.

Objection concerning the nomination  
of the Workers' delegation of Haiti

7. The Committee has before it an objection concerning the nomination of the Workers' delegation of Haiti, submitted by the secretary-general, the deputy secretary-general and the treasurer of *Coordination syndicale haïtienne* (CSH) on its behalf. CSH groups together the following workers' organizations: *Fédération des ouvriers syndiqués* (FOS), *Confédération nationale des éducateurs haïtiens* (CNEH), *Confédération des ouvriers et des travailleurs haïtiens* (KOTA), *Corps national des enseignants haïtiens* (CONEH), *Syndicat national des travailleurs de la presse* (SNTPH), *Confédération indépendante des syndicats nationaux* (CISN), *Réseau national des femmes* (RENAFANM), *Rassemblement des petits planteurs* (RASPA), *Confédération générale des travailleurs* (CGT), *Groupe d'initiative des enseignants de lycée* (GIEL), *Mouvement des paysans haïtiens* (MOPA), *Centrale autonome des travailleurs haïtiens* (CATH), *Syndicat des chauffeurs coopérants fédérés* (SCCF). CSH, a member of the International Confederation of Free Trade Unions (ICFTU), is the most representative workers' organization in Haiti. The Government, nevertheless, nominated two members of the Workers' delegation without consulting CSH.

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8. In a written communication received on 7 June addressed to the Committee, two of the authors of the objection notified its withdrawal on grounds that the Government consulted CSH and proceeded to nominate its secretary-general in the Workers' delegation of Haiti.
  9. The Committee noted the withdrawal of the objection.

Objection concerning the nomination  
of the Workers' delegate of Lesotho

10. The Credentials Committee has before it an objection, submitted by Mr. E.T. Ramochela, secretary-general of the Lesotho Congress of Democratic Unions (LECODU), challenging the nomination of the Workers' delegate of Lesotho. The author of the objection submits that the organization, to which the Workers' delegate belongs, the Congress of Lesotho Trade Unions (COLETU), is no longer the most representative workers' organization in Lesotho under the terms of the ILO Constitution. On 3 May 2004, ten trade unions, including three former COLETU affiliates (the Lesotho Commercial Catering Food and Allied Workers' Union (LECCAFWU), the Lesotho Clothing and Allied Workers' Union (LECAWU) and the Construction and Allied Workers' Union of Lesotho (CAWULE)) notified the office of the Registrar of Trade Unions of the formation of LECODU under the terms of section 179 of the Labour Code. LECODU has a membership of 15,279. On 12 May 2004, however, the office of the Labour Commissioner determined that COLETU was the most representative organization based on the union membership statistics contained in the audit reports for 2003, thus ignoring the changes that occurred in the relative importance of national union centres in 2004. Furthermore, the audit reports misrepresent the union membership of two of the founding unions of LECODU. The Government maintained its position despite the fact that LECODU had informed the Labour Commissioner of those mistakes in a letter dated 18 May 2004.
11. In a written communication addressed to the Committee in response to its request, Ms. M. Matsoso, Labour Commissioner and Government delegate to the Conference, advised that, according to the latest audit report on membership of trade unions and employers' organizations, COLETU, with 15,587 members, was the most representative workers' organization in Lesotho. In accordance with domestic legislation, audit reports cover membership data for a calendar year, according to membership returns submitted by unions by 31 March for the preceding year. The practice for nominating a workers' representative to the International Labour Conference, which had been used and accepted for the past eight years, was to invite the most representative organization to appoint a representative as no consultations with unions were held for that purpose.
12. The Committee notes that it is not the procedure for nominating the Workers' delegate to the Conference that is being challenged by the objecting organization, but the determination of the relative importance of the two trade union centres in membership terms. In this connection, although no conclusive evidence of LECODU's membership was provided, the Government has not denied the figures put forward by that trade union congress. The Government has rather relied on membership figures of individual trade unions as at 31 December 2003, without contesting the affiliation of some large unions to the newly constituted LECODU in early May 2004. LECODU was formed less than one month before the opening of the Conference. Such a significant change, of which the Government was made aware by early May, might have been taken into consideration to determine which was the most representative workers' organization, as credentials for Lesotho were not issued until 28 May 2004. Nevertheless, in the absence of sufficient and reliable information on the situation in Lesotho, the Committee can come to no conclusion on this particular case. It wishes, however, to note for the future that article 3, paragraph 5, of the Constitution imposes on governments from countries in which there are two or more

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competing representative workers' organizations an obligation to actively seek to obtain agreement between them as to the nomination of the Workers' delegate. The Government cannot satisfy itself with a mere invitation to the largest organization in terms of membership, nor can organizations of comparable importance in good faith claim for themselves the right to appoint the Workers' delegate without even attempting to reach an agreement among them.

#### Objection concerning the nomination of the Workers' delegation of Paraguay

13. The Committee has before it an objection concerning the nomination of the Workers' delegation of Paraguay, which was submitted by the leaders of the *Central Sindical de Trabajadores del Paraguay* (CESITP), the *Central Unitaria de Trabajadores del Paraguay* (CUT) and the *Central General de Trabajadores del Paraguay* (CGT), which together comprise the *Comando Sindical de Trabajadores*. The authors of the objection allege that the Government did not appoint the true representatives of organized workers, who are grouped together by *Comando Sindical de Trabajadores*, in the Workers' delegation. In a communication dated 24 May 2004, the Government invited the trade union centres to jointly designate the Workers' delegate, as budgetary restraints did not allow for more members in the delegation. On 25 May the trade union centres, and authors of the objection, sent the Government the list that they had agreed upon, which included the president of CESITP as Workers' delegate and one representative each from CUT, CGT and *Confederación Paraguaya de Trabajadores* (CPT) as advisers. The delegation's composition, however, does not reflect this decision since it does not include the person they designated as delegate. This provides further evidence of the persecution to which the president of CESITP and other important trade union leaders are subjected, as has already been denounced to the Committee on Freedom of Association in Case No. 2086.
14. In a written communication addressed to the Committee in reply to its request, Mr. Juan Darío Monges Espínola, Minister of Justice and Labour and head of the delegation of Paraguay to the Conference, explains that on 24 May the Government invited all the most representative national trade union centres, *Central Nacional de Trabajadores* (CNT), *Central Unica de Trabajadores Auténtica* (CUT-A), as well as the four organizations grouped together under *Comando Sindical de Trabajadores* (CUT, CPT, CGT and CESITP) with a view to holding a meeting to coordinate the composition of the Workers' delegation to the Conference. In the absence of an agreement among them, the Government invited them to appoint their respective representatives separately. In a letter dated 25 May, CNT and CUT-A designated the CNT deputy secretary-general for international relations as the Workers' delegate and another representative as his substitute. On the same day, three of the organizations within *Comando Sindical* sent the Ministry of Labour their proposal for the composition of the delegation, appointing the president of CESITP as delegate and, as his three advisers, the secretary of international relations of CUT, the president of the CGT and the president of the CPT. Nevertheless, on 4 June 2004, the president and the secretary of international relations of CUT informed the Government that, taking into account that the union centres did not all agree with the proposal of *Comando Sindical*, they would abide by the Ministry's nomination based on the representative character of each organization. As it was not possible to appoint a representative of each organization in the Workers' delegation so as to avoid undue imbalance with the Employers' delegation, the Government finally nominated the secretary of international relations of CUT as the Workers' delegate and representatives of CNT, CUT-A and CPT as advisers. As a last point, the Government has serious doubts as to the validity of the objection submitted to the Committee. On the one hand, among its supposed authors, only the president of CESITP was in Geneva on the day the objection was submitted. On the other hand, in order for the objection to be considered as coming from

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*Comando Sindical de los Trabajadores*, it should have been signed by the representatives duly authorized of each of this organization's four centres.

15. According to the information provided, the Committee cannot ascertain whether a meeting with all the union centres had actually been held, as only one day had passed between the Government's convocation on 24 May and the dispatching of the nominations proposal of *Comando Sindical* and that proposed jointly by CUT-A and CNT. The Committee does not know the reasons which might have led some of the authors of the joint proposal of *Comando Sindical* of 25 May to change their mind as per the letter of 4 June sent to the Government by two CUT representatives. The only assertion that can be made is that two of the organizations alleged to have submitted the objection are part of the Workers' delegation included in the credentials issued by the Government on 31 May. To date, they have not contested their nomination. Furthermore, the Committee notes that four of the six representative trade union centres of Paraguay are represented in the Workers' delegation. Comparing this year's nominations with those of the last six sessions of the Conference, the Committee notes that there appears to have been some rotation among four of the centres, CUT, CNT, CPT and CGT, for the post of delegate, and between all six centres for the posts of advisers. None of the six centres, however, had contested the composition of the Workers' delegation during that period of time. Therefore the Committee cannot be certain that the objection had been submitted by all the centres of *Comando Sindical* and, in any case, it has no evidence indicating that the Workers' delegation accredited this year is not representative. Nevertheless, where there are several representative union centres, as is the case of Paraguay, the Committee wishes to emphasize the importance of the Government's obligation to endeavour to obtain agreement among them. To this end it is essential that the Government begin the consultation process sufficiently in advance and, in any case, before the time limit established in the Standing Orders of the Conference for member States to submit their credentials.

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

16. The Committee has before it an objection submitted by the secretary-general of *Union nationale des syndicats indépendants du Togo* (UNSI), Mr. Tétévi Gbikpi-Benissan, concerning the nomination of the Workers' delegation of Togo. The author of the objection alleges that UNSI is the only trade union among the six consulted for the purpose of nominating the Workers' delegation to not be represented. Because of its militant union activities and independence, UNSI is constantly subjected to Government discrimination. He challenges the representativeness of the Workers' delegation of Togo and requests the invalidation of its credentials.
17. The Committee notes that the objection, dated 2 June 2004, had only been received by the secretariat on 8 June 2004 at 6 p.m., that is, after the deadline under article 26, paragraph 4(a), of the Standing Orders of the Conference. Therefore the objection is irreceivable by virtue of this provision of the Standing Orders.

#### Complaints

18. The Committee had also received and dealt with the four following complaints, which are listed below in French alphabetical order of the member States concerned.

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Complaint concerning the partial payment of the subsistence expenses of the Workers' delegate of Costa Rica

19. On 2 June 2004 the Committee received a complaint submitted by the International Confederation of Free Trade Unions (ICFTU) on behalf of the Workers' delegate of Costa Rica. The complaint alleges that the Government had envisaged that the Workers' delegate would stay only until 13 June, which would prevent him from being present for the duration of the Conference and participate in its work.
20. In a written communication dated 4 June addressed to the Committee at its request, Mr. Ovidio Pacheco Salazar, Minister of Labour and head of the delegation of Costa Rica to the Conference, states that, despite budget cuts for public expenditures, the Government of Costa Rica was firmly committed to the participation of a complete tripartite delegation in the annual sessions of the Conference. Being aware of the obligation to enable a tripartite delegation to fully participate in the work of this session of the Conference, the Minister gave instructions for the Workers' delegate to receive subsistence expenses for five more days until the end of the Conference. Thus, on 2 June, the Government modified the initial agreement of 19 May concerning the travel and subsistence of the attendees to the Conference and the very same day informed the trade union to which the Workers' delegate belongs.
21. The Committee notes that, in so far as the Government has agreed to cover the necessary subsistence expenses to enable the Workers' delegate to be present until the last day of the Conference, the complaint becomes moot and requires no further intervention by the Committee.

Complaint concerning the non-payment of the travel and subsistence expenses of a member of the Workers' delegation of Gabon

22. The Committee has before it a complaint, submitted by Mr. Aloïse Mbou Mbine, president of *Confédération démocratique des Syndicats Autonomes* (CDSA) and member of the Workers' delegation of Gabon, concerning the non-payment of his travel and subsistence expenses. The complainant points out that this default of the Government would prevent CDSA from attending the Conference as the daily activities of the organization absorbed all of its meagre financial resources.
23. Under the terms of article 26, paragraph 10(b), of the Standing Orders of the Conference, a complaint is not receivable unless it is lodged by a delegate or adviser accredited to the Conference. In this respect the Committee notes that the complainant was appointed to occupy advisers' posts which may fall vacant in the Workers' delegation of Gabon (article 2, paragraph 3(i), of the Standing Orders of the Conference) and was therefore not competent to submit a complaint. Hence the complaint is irreceivable under the terms of the Standing Orders of the Conference.

Late complaint concerning the non-payment of the expenses of three advisers of the Workers' delegate of Gabon

24. The Committee has before it a complaint submitted by the secretary-general of *Confédération gabonaise des Syndicats libres* (CGSL), Mr. Francis Etienne Mayombo, alleging non-payment of the expenses of three advisers of the Workers' delegate of Gabon. The author of the complaint alleges that the Government appointed three CGSL advisers to the Workers' delegate but that, in applying discriminatory measures against CGSL, it had

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not covered their expenses thereby effectively preventing them from participating in the Conference.

- 25.** The Committee notes that the objection dated 3 June 2004 had only been received by the secretariat on 8 June 2004 at 6 p.m., that is, after the time limit under article 26, paragraph 10(a), of the Standing Orders of the Conference. Therefore the complaint is irreceivable by virtue of this provision of the Standing Orders.

**Complaint concerning the partial payment of the travel and subsistence expenses of the Workers' delegation of the United States**

- 26.** The Committee has received a complaint submitted by the International Confederation of Free Trade Unions (ICFTU) alleging a serious and manifest imbalance between the number of Workers' delegates' advisers whose travel and subsistence expenses were borne by the Government and the number of advisers appointed in the Government delegation. The Government has 17 representatives registered at the Conference on the one hand, but had paid the travel and subsistence expenses of only four Workers' representatives on the other hand. Although the number of Workers' representatives whose expenses had been covered by the Government had decreased from ten to four over the past 20 years, the number of Government advisers registered over the same period had not been reduced accordingly. Furthermore, resolutions set aside, the Government has failed to ensure that at least one Worker representative participated in each of the seven items on the Conference agenda for 2004, as required by article 3, paragraph 2, of the ILO Constitution. The Government, however, has not scaled down its ability to actively follow the discussion of all agenda items to a similar extent. The ICFTU believes that this situation is the result of an overall deterioration in the Government's commitment to tripartism, as evidenced by the fact that the President's Committee on the ILO had not met for the past four years and that hardly any tripartite consultations on the ratification of international labour Conventions had been held over the same period.
- 27.** In a written communication addressed to the Committee in response to its request, Mr. Robert Shepard, Director of the Office of International Organizations, Bureau of International Labor Affairs at the United States Department of Labor and substitute Government delegate to the Conference, contested that there was a serious and manifest imbalance between the Government delegation and the Workers' delegation. The latter comprised a delegate, seven advisers and nine other attendees. The former was composed of 14 advisers, two of whom were to participate in the work of the government-composed Finance Committee, and three of whom were from the Permanent Mission in Geneva. In addition, several of the advisers listed would not attend the Conference or would attend only for a short period of time. Considering that the number of Government advisers could be twice that of advisers for each of the social partners, the Government considered that the alleged imbalance could not be characterized as serious and manifest. The Government stressed that both social partners had been provided funding equivalent to the estimated costs for the travel and subsistence of four individuals. Consequently, the Government considered that the ability of the Workers' delegation to actively participate in the Conference had not been impaired. The Government also considered that the situation of the delegation of the United States was clearly distinguishable from cases in which the Committee had expressed its concerns in the past regarding the imbalance of delegations or their ability to participate in the Conference. The United States was represented by three complete and active delegations and the social partners were involved in regular consultative meetings prior to all significant ILO forums.

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**28.** 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 to the Committee in 1997 to examine complaints on the non-respect of that provision is limited, however, to the situations envisaged in paragraphs (a) and (b) of article 26, paragraph 9, of the Standing Orders, i.e. failure to cover the expenses of at least a tripartite delegation comprising two Government delegates, the Employers' delegate and the Workers' delegate, and cases of serious and manifest imbalance as between the number of Employer and Worker advisers whose expenses have been covered in the delegation and the number of advisers appointed for the Government delegates. In the course of the discussions that led to the introduction in 1997 of paragraphs 9 to 11 in article 26 of the Standing Orders, the purpose of those provisions was stated as 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. It was acknowledged that, for an imbalance to be objectionable, it had to be abnormal or serious on the one hand, and obvious or manifest on the other hand. At the same time, reference was made to the fact that the Committee's examination of complaints should not become a deterrent for governments to nominate in the Workers' or Employers' delegations additional advisers or other persons, whose travel and subsistence expenses would be covered by their respective groups.

**29.** In the present case, the Committee notes that the two Government delegates are accompanied by 16 advisers and substitute delegates who, except for one, have all registered. The Government has two representatives in five of the Conference committees, including the Finance Committee, and one representative in another Conference committee. The Workers' delegation on the other hand consists of the delegate and his eight advisers and substitute delegates. The Workers have appointed one representative in five of the Conference committees and three representatives in another committee. In so far as the Government has recognized that it has only provided resources for four persons in the Workers' delegation (the delegate and three advisers) while covering the expenses of many more Government advisers, the ability of the Government delegation and of the Workers' delegation to actively participate in the Conference Plenary and technical committees cannot be considered to be comparable. Noting this imbalance and given the circumstances, the Committee trusts that in the future the Government will cover the expenses of a sufficient number of advisers in the Workers' delegation to ensure that the ability of Workers to participate in the committees and the plenary is similar to that of the Government. The Committee is also confident that the Government and the social partners will find opportunities to discuss these issues in the course of the consultations leading to the preparation of each session of the Conference.

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

Geneva, 11 June 2004.

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

Ms. Lucia Sasso Mazzufferi.

Mr. Ulf Edström.

