



FIRST ITEM ON THE AGENDA

**Standing Orders of the
International Labour Conference****(a) Provisional arrangements regarding
the Credentials Committee****I. Introduction**

1. At the 286th (March 2003) and 288th (November 2003) Sessions of the Governing Body, the Committee on Legal Issues and International Labour Standards (LILS Committee) examined a number of proposals aimed at improving the functioning of the Credentials Committee and making it more efficient, as the Credentials Committee itself had requested.¹
2. Following this examination,² the Governing Body requested the Office to prepare a document for the present session containing specific proposals with a view to enabling the Conference to implement, on a trial basis, the measures agreed upon by the Committee. However, the implementation of some measures requires certain adjustments to reflect the concerns expressed by the LILS Committee, or consultations with other bodies, in particular the Committee on Freedom of Association. It is therefore appropriate first of all to review the scope of the various measures before considering the practical mechanisms and timetable for their implementation on a trial basis.

II. Scope of the proposed changes

3. Four main groups of measures, which could be complementary, were discussed, namely: practical improvements to the visibility and functioning of the Credentials Committee; strengthening its control and monitoring functions; modifying the appeals procedure with regard to the composition of committees; and extending the mandate of the Credentials Committee to enable it to examine objections concerning incomplete delegations.

¹ GB.286/LILS/3; GB.288/LILS/4.

² GB.288/10/1, paras. 60 to 75.

Practical improvements

4. As part of this first set of measures, the Committee was favourable to the publication of a detailed information brochure on the implications of the obligations contained in articles 3 and 13 of the Constitution as regards the composition and effective participation of tripartite delegations to the Conference. Such a brochure would be attached to the invitations to each session of the Conference. If, as seems likely, the brochure were also required to contain information on the procedure for the verification of credentials, including any new arrangements that might be adopted in the light of the present examination, it would not be possible to finalize it before the mailing in early 2005 of the invitations to the 93rd Session of the Conference.
5. The Committee also endorsed the proposal to establish a data bank containing the reports of the Credentials Committee, which would be accessible to the public. The Office is already working on ways of setting up this data bank covering the past 30 sessions of the Conference, and hopes to be in a position to make it available to the constituents from 2005 onwards. It intends subsequently to extend the data bank progressively to cover as many sessions of the Conference as possible back to 1919.
6. The Committee also considered measures intended to enable the Credentials Committee to start its work sooner by adjusting the time limit for the presentation of objections. While agreeing with the need for such an adjustment, the Committee did not take a decision as to the two proposed options. The first, which requires no amendment to the Standing Orders of the Conference, would involve bringing forward the publication of the official list of delegations from which the time limits for the presentation of objections are calculated. The second option would involve setting a single time limit for the submission of objections, independently of the date of publication of the list of delegations, while still allowing the Credentials Committee to examine objections received outside the time limit, in a manner similar to the procedures adopted for regional meetings. The provision relating to receivability *ratione temporis* of objections would need to be amended in this case.
7. Given that what is being discussed at this stage is implementation on a provisional basis, and that both the above options have the same purpose, it might be useful, in the absence of a consensus on the second, to try out the first. This would mean in practice that the Office would bring forward publication of the provisional and revised lists of delegations by one week, so that the Credentials Committee could bring forward by the same period its examination of objections relating to the credentials in the lists. Since the revised list would now be published at about the same time as the provisional list had been published under the old arrangements (at the start of the Conference, when many of the credentials have yet to be received), it would no doubt be necessary to envisage the publication of a second provisional list at the beginning of the second week of the Conference, on the understanding that the practice of publishing the final list on the day before the close of the Conference would be continued.
8. Publication online of credentials as they are received, which is also envisaged, should enable the Credentials Committee to manage its time better, provided of course that any objections are submitted as soon as possible following publication of the credentials to which the objection is raised, without necessarily waiting for the time limit reckoned from the publication of the official list of delegations to elapse.

Strengthening of the control and monitoring functions

9. For this group of possible improvements, the previous document described two complementary mechanisms, namely: referral, subject to certain conditions and safeguards,

by the Conference of objections concerning possible violations of the principles of freedom of association to the Committee on Freedom of Association; and requesting of reports from governments, also subject to certain conditions, where the Conference, on the recommendation of the Credentials Committee, considers that a case merits more frequent monitoring from one year to the next. Implementation of these changes would entail a number of amendments to the Standing Orders provisions relating to the mandate and procedures of the Credentials Committee.

10. While the Committee was favourable in overall terms to these measures, a number of the Committee's members considered that the first could not be implemented without first consulting the Committee on Freedom of Association. That consultation could take place no earlier than the May 2004 meeting of the Committee on Freedom of Association. The Committee could therefore reconsider the matter during the November 2004 or March 2005 session of the Governing Body with a view to implementing the measure from the 93rd Session of the Conference onwards.
11. As regards the possibility of the Conference requesting a government to provide a report, it remains to be established under what procedural conditions, firstly, the Credentials Committee could make such a recommendation and secondly, the Conference would take such a decision. According to the proposal contained in the previous document, a request for a report would need to be recommended unanimously by the Credentials Committee. In addition, it was envisaged that the Conference would take the final decision without further discussion. The proposal set out in the appendix includes the same conditions.

Appeal procedure with regard to the composition of committees

12. The Committee will recall that this measure essentially involved transferring from the Selection Committee to the Credentials Committee responsibility for examination of any appeal from a delegate against a group's decision to exclude him or her from a committee. However, according to the proposal set out in the Office document, the right of the groups to determine the composition of the committees would be limited to exclusion of a delegate on grounds of problems relating to his or her credentials. This restriction was deemed to be incompatible with the autonomy of the groups, and it remains to be decided whether there exists a consensus in favour of simply transferring, without restriction, the power to examine such appeals to the Credentials Committee. It would suffice in that case to replace the reference to the Selection Committee in article 9(b) of the Standing Orders with a reference to the Credentials Committee.

The mandate of the Credentials Committee as regards incomplete delegations

13. As regards objections concerning incomplete delegations, there was agreement on the idea of extending the mandate of the Credentials Committee to include examination of such objections on the same terms as apply to other types of objection. That would require an amendment to the mandate of the Credentials Committee (article 5 of the Standing Orders) and certain adjustments to its rules of procedure (article 26).

III. Practical arrangements and timetable for implementation

14. As indicated above, all the measures proposed except one require amendments to the Standing Orders of the Conference. Since the Governing Body has expressed the wish, when requested by the Committee, that these measures should be implemented initially on a trial basis, it is necessary to decide how, when and for how long.

How?

15. In principle, temporary derogation of a provision of the Standing Orders of the Conference is possible only through the suspension procedure set out in article 76 of the Standing Orders.³ This procedure presents a number of major drawbacks and practical difficulties. First, while the suspension is intended to bring about the non-application of a given provision, implementation of the measure requires adjustments to many other provisions in the Standing Orders, including perhaps the whole of Section B. Furthermore, the suspension is valid only for the session during which it is adopted, from its formal adoption until the end of the session; however, as already indicated, some of the measures proposed are intended to apply to subsequent sessions. In addition, adopting a suspension measure would require two plenary sessions during the first week of the Conference, despite the fact that it is now envisaged, as one of the measures to improve the operation of the Conference, that there will be only a brief plenary opening session.
16. Under these circumstances, the simplest solution would appear to lie in amending the relevant provisions of the Standing Orders. Although there is no express provision for this, it would be possible in principle for the Conference to adopt a number of provisions as temporary replacements for existing provisions, for a predetermined period at the end of which they would automatically cease to have effect, unless the Conference decided to renew them. The Conference could state in its decision that the measure would be subject to evaluation.
17. If that solution were adopted, the Conference decision to that effect would need, for the sake of clarity, to state in full the procedure for the verification of credentials in order to avoid any confusion that might arise from having two different texts on the same subject. The appendix accordingly reproduces the totality of the current provisions with the amendments that would be required to enable the proposed measures to be implemented.

When?

18. Given the urgency of the request made by the Credentials Committee and the necessity of examining certain measures in greater detail, consideration needs to be given to whether the proposed package of measures should be implemented all at once or progressively.
19. In the former case, the package as a whole could not be submitted to the Conference for its approval before the 93rd Session in June 2005, in order to enable the Committee on Freedom of Association and the Governing Body to take any action needed to adjust the

³ Suspension requires a unanimous recommendation to that effect from the Officers of the Conference and a decision by Plenary during the session following the one at which the recommendation is made.

procedures or practice of the Committee on Freedom of Association before implementing the new credentials procedure.

20. In the latter case, two possible options suggest themselves. In the first, the Governing Body would request the Office, during the present session, to implement the practical adjustments that will improve the functioning of the Credentials Committee but do not require any amendments to the Standing Orders (time limit for the submission of objections referred to in paragraphs 6 to 8 above), and would defer any amendments to the Standing Orders to a later session of the Conference.
21. The second option would be to recommend to the Conference, at its next session in June 2004, the adoption of all the measures already agreed, deferring implementation only of those specific measures with regard to which the Governing Body wishes to undertake further examination.

For how long?

22. In the light of the difficulties referred to above of using the suspension procedure recommended by the Governing Body and adopted by the Conference from one year to another, it would also appear necessary to fix the period for which the procedure will be implemented on a trial basis. The period adopted should be long enough to allow an assessment of the impact, but short enough to allow adjustments to be made if need be, it being understood that the Conference can decide at any time to modify all or part of the mechanism thus implemented on a trial basis. A period of at least three years would appear to meet both these requirements.

* * *

23. *Given that the substance and wording of the recommendation to be made, where appropriate, to the Governing Body depends on a number of factors, the Committee will no doubt wish to:*
 - (a) *confirm its agreement with the proposals described in paragraphs 7, 8, 10, 11, 12 and 13 and indicated in the appendix;*
 - (b) *state its preference as regards the implementation timetable discussed in paragraphs 19 to 21 above;*
 - (c) *indicate the period for which it wishes to recommend implementation of the proposed measures on a trial basis.*

Geneva, 26 January 2004.

Point for decision: Paragraph 23.

Appendix

Interim provisions concerning verification of credentials, effective from the ... Session to the ... Session of the International Labour Conference

International Labour Conference

Verification of credentials

ARTICLE 5

Credentials Committee

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

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

- (a) the credentials of persons accredited to the Conference;
- (b) any objection relating to the credentials of delegates and their advisers or to failure to deposit credentials of an Employers' or Workers' delegate;
- (c) any appeal made under article 9, subparagraph (b);
- (d) any complaint of non-observance of paragraph 2(a) of article 13 of the Constitution;
- (e) the monitoring of any situation with regard to observance of the provisions of article 3 or article 13, paragraph 2(a) of the Constitution about which the Conference has requested a report.

ARTICLE 9

Adjustments to the membership of committees

The following rules shall apply to all committees appointed by the Conference with the exception of the Selection Committee, the Credentials Committee, the Finance Committee of Government Representatives and the Drafting Committee:

- (a) once the various committees have been established and their initial membership appointed by the Conference, it shall be for the groups to determine subsequent changes in the composition of such committees;
- (b) if a delegate has not been nominated by his group to sit on any committee, he may bring the matter to the notice of the Credentials Committee which shall have power to place him on one or more committees.

PART II

Standing Orders concerning special subjects

Section B

Verification of credentials

ARTICLE 26

Examination of credentials

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

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

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

ARTICLE 26bis

Objections

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

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

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

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

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

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

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

[6. If the Credentials Committee considers unanimously that the issues raised by an objection relate to a violation of the principles of freedom of association, it may propose referral of the question to the Committee on Freedom of Association of the Governing Body of the International Labour Office. The Conference shall decide, without discussion, on such proposals for referral.]

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

ARTICLE 26ter

Complaints

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

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

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

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

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

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

ARTICLE 26quater

Monitoring

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