



FIRST ITEM ON THE AGENDA

**Legal and practical measures relating to
the representation of Employers' and
Workers' delegates at the International
Labour Conference**

1. At its 96th Session (2007), the International Labour Conference, acting upon recommendations made by its Credentials Committee,¹ requested the Governing Body to examine the reasons for an increasing discrepancy between the number of accredited delegates and those who actually register at the Conference, and the extent to which this discrepancy may have an impact on the proper functioning of the Conference.
2. The purpose of the present document is to provide a factual and legal background, thereby enabling the Governing Body to respond to the request of the Conference.

**Discrepancy between the accredited
and registered persons**

3. While the total number of persons² increased by almost 35 per cent between 2000 and 2008, the discrepancy between persons accredited (i.e. those who were included in the credentials presented to the Conference) and those actually registered (i.e. those who were considered present at the Conference) remained stable, at between 11 and 15 per cent. The table below reflects these numbers:

¹ *Provisional Record* No. 4C, International Labour Conference, 96th Session, 2007, para. 130.

² This term includes all representatives of member States, international organizations, non-governmental organizations, liberation movements and observers regardless of their exact function at the Conference.

Year	Accredited	Registered
2008	4 838	4 212
2007	4 657	4 003
2006	4 500	3 828
2005	4 315	3 842
2004	4 180	3 696
2003	4 046	3 498
2002	3 778	3 306
2001	3 663	3 236
2000	3 581	3 115

4. Since many credentials are established a considerable time before the Conference, this discrepancy is not in itself atypical for such a large international conference. Furthermore, this total increase in number of participants does not necessarily have an impact on the increase in the number of titular delegates and their advisers, as their numbers were established by the Constitution of the International Labour Organisation.³
5. However, the difference between the accredited delegates or their substitutes and those who actually registered is not without impact on the functioning of the Conference.

Question of quorum

6. Pursuant to article 17 of the Constitution, the quorum is based on the number of delegates attending the Conference. The difference between the accredited and registered delegates would therefore not have an impact on the quorum, except at the very beginning of the Conference. In fact, article 20 of the Conference Standing Orders provides that the provisional quorum be established by the Chairperson of the Governing Body one day before the opening of the Conference on the basis of credentials received, which means on the number of delegates accredited. If the delegates accredited are not registered by the time of vote (for example, on the election of the President of the Conference), the total number of votes cast for and against may not reach the quorum.
7. In order to reduce this risk, in 2008 the Conference amended its Standing Orders to enable an early nomination of the Credentials Committee, which has the power to determine the quorum on the basis of attendance.
8. Attendance (a synonym for registration) has in recent years been established electronically based on the collection of the personal identification Conference badge, and this represents a reliable method of determining the quorum.
9. However, in 2008 the Credentials Committee faced a situation that revealed the possibility of artificially created presence and made a specific recommendation to remedy this

³ Article 3 of the Constitution requires each member State to be represented by four titular delegates, who can each be accompanied by two advisers per item on the agenda of the meeting. The Office indicates in the Conference Guide the number of advisers admitted, and it normally varies between eight and ten per delegate.

problem. In paragraph 118 of its second report to the Conference,⁴ the Credentials Committee said the following:

The Committee notes a practice that has gradually developed over the years which consists of allowing the Permanent Missions of member States in Geneva to collect the Conference badges for the whole tripartite delegation, in order to facilitate the arrival of participants. The Committee notes, however, that this practice creates difficulties affecting the discharge of its mandate. There are situations in which the Committee needs to know whether or not certain delegates or advisers who have been accredited are in attendance at the Conference. When a participant's badge is collected, that participant is at the same time registered in the electronic Conference management system as present at the Conference. Therefore, if badges can be collected for others, the Committee cannot fully rely on the registration information available in the system. Most importantly, however, the Committee recalls that its mandate includes the determination of the voting quorum which is based on the number of delegates attending the Conference, as provided in article 17, paragraph 3, of the Constitution. If delegates who are in fact not present at the Conference are registered as attending, the basis for calculating the quorum becomes inaccurate and the probability of a vote failing for lack of quorum increases. This is the reason why the Committee regularly appeals to the delegates to the Conference to register in person upon their arrival and to give timely notice of their departure date. Since the practice of collecting badges for other participants contradicts this request by the Committee, it recommends that the practice be restricted. At a minimum, representatives from the Permanent Missions should be requested not to collect badges for the Employers' and Workers' delegation, unless they have been specifically authorized in writing by the employers and workers concerned.

10. It should be recalled that this practice was introduced upon a request from the constituents to facilitate the registration process and that it has been very much appreciated, especially by the Government representatives who received their badges immediately upon their arrival in Geneva. However, as some Permanent Missions collected badges for the whole delegation, it created situations in which Employers' and Workers' representatives discovered at the registration desk that their badges had already been taken by the representatives of the Permanent Missions. That is why the practice may need to be limited in accordance with the initial intention.
11. The Governing Body may wish to support the recommendation of the Credentials Committee, and to request the Office to adjust the system of collecting badges for the 98th Session (2009) of the Conference and to inform, in an appropriate and timely manner, the Permanent Missions of the change.
12. At the 97th Session (2008) of the Conference, the Office made publicly available, at the end of the second week, an electronic version of the list of all delegates and their substitutes who were attending the Conference and entitled to vote. This practical measure is meant to assist delegations in nominating substitutes to titular delegates who are not present and therefore to help those delegations exercise their right to vote. The Governing Body may wish to encourage the Office to continue this practice.
13. Another issue in this context is the departure of delegates. The delegates who leave the Conference, either permanently or temporarily, are requested to announce their departure to the secretariat of the Credentials Committee. The Credentials Committee constantly "strongly appeals to the delegates to the Conference to register in person upon their arrival and to give timely notice of their departure date, in order to ensure that the quorum is as

⁴ *Provisional Record* No. 4C, International Labour Conference, 97th Session, 2008.

accurate as possible and that they are not counted as present when they are in fact absent from the Conference”.⁵

Consequences of the discrepancy on the tripartite character of representation at the Conference

14. Although most instances where accredited delegates are not registered result from their own actions, there are some cases resulting from the active involvement of their governments. The Credentials Committee has recently dealt with situations in which governments had prevented delegates accredited by them from attending the Conference. Some examples are:
- (a) in 2007, an accredited titular Workers’ delegate had been prevented from leaving his country to attend the Conference when his service passport was taken from him at the airport. In spite of his Government’s assurances, the passport was not returned and consequently the delegate was unable to leave the country and did not attend the Conference. The Credentials Committee, acting upon a simple communication, limited itself to noting that the information provided regarding freedom of movement was totally contradictory and to expressing its puzzlement in this respect;
 - (b) in 2007, an accredited titular Employers’ delegate was deprived of her liberty by judicial order and was therefore prevented from attending both a Regional Meeting and the Conference. In reply to an objection, the Government justified the situation by arguing that it could not influence the system of separation of powers in the country. While noting this principle, the Credentials Committee observed that the Government had not shown any efforts to ensure the effective participation of the delegate at the Conference by, for example, offering a guarantee to the judicial authorities;
 - (c) in 2006 and 2007, several accredited titular Workers’ delegates were unable to attend the Conference as their travel and subsistence expenses had not been covered by their governments. Apart from this amounting to a violation of the obligation under article 13, paragraph 2(a), of the Constitution to cover at least the expenses of a complete tripartite delegation, such a practice effectively prevents non-Government delegates from developing countries from attending the Conference.
15. These examples show that the non-attendance of delegates may sometimes be caused by the deliberate actions of governments. To the extent that those delegates are accredited, there is currently no automatic sanction, the reason being that article 4, paragraph 2, of the Constitution, which deprives a non-Government delegate in incomplete delegations of the right to vote, addresses the failure of the Government to nominate another non-Government delegate and does not deal with the situation in which a delegate already accredited is prevented from attending the Conference.
16. The ILO is not without any means to address the situations presented above, but they may not be expeditious and sufficient. While the second situation (paragraph 14(b) above) could be addressed within a different mechanism, namely the supervisory mechanism relating to freedom of association, and the third situation (paragraph 14(c) above) through complaints lodged with the Credentials Committee, there seems to be no adequate remedy for the first situation (paragraph 14(a) above). There is also no direct and immediate consequence for the right to vote at the Conference of another non-Government delegate.

⁵ *Provisional Record* No. 4B, International Labour Conference, 97th Session, 2008, para. 15.

17. In light of the above, the Governing Body may wish to consider whether any new measures may be appropriate to address the situation in which the Credentials Committee finds that the non-attendance of the Conference by an accredited delegate results from an action or omission of the Government.
18. These measures may include, for example, an extension of the mandate of the Credentials Committee and an involvement of the Officers of the Conference. Following guidance by the Governing Body, the Office may be requested to propose specific measures in a document to be submitted to the next session of the Governing Body.
19. *Consequently, the Committee may wish to recommend to the Governing Body that it:*
- (a) support the recommendation and measures indicated in paragraphs 9 and 11 above;*
 - (b) encourage the Office to continue the practice indicated in paragraph 12 above; and*
 - (c) provide guidance in relation to the issues formulated in paragraphs 16–18 above and request the Office to prepare a document for the next session of the Governing Body reflecting the specific proposals.*

Geneva, 3 October 2008.

Point for decision: Paragraph 19.