



Governing Body

331st Session, Geneva, 26 October–9 November 2017

GB.331/INS/14(Rev.)

Institutional Section

INS

Date: 6 November 2017

Original: Spanish

FOURTEENTH ITEM ON THE AGENDA

Complaint concerning non-observance by the Bolivarian Republic of Venezuela of the Minimum Wage-Fixing Machinery Convention, 1928 (No. 26), the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), made under article 26 of the ILO Constitution by several delegates to the 104th Session (2015) of the International Labour Conference

Purpose of the document

This document has been drawn up in response to the Governing Body's decision to consider this matter at its October–November 2017 session. The document contains the information provided by the Government of the Bolivarian Republic of Venezuela and the social partners on the issues raised in the complaint. It will be for the Governing Body to adopt the necessary decisions as to the procedure to be followed in respect of this complaint.

Relevant strategic objective: Promote and realize standards and fundamental principles and rights at work.

Main relevant outcome/cross-cutting policy driver: Outcome 2: Ratification and application of international labour standards.

Policy implications: None.

Legal implications: None.

Financial implications: Depending on the decision of the Governing Body.

Follow-up action required: Depending on the decision of the Governing Body.

Author unit: International Labour Standards Department (NORMES).

Related documents: GB.329/INS/15(Rev.); GB.329/PV.

1. At its 329th Session (March 2017), the Governing Body, noting that two meetings had taken place between the Government and the employers' organization, the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), but regretting the lack of progress in the establishment of a social dialogue table and action plan referred to in the past by the Governing Body; and recalling the recommendations made by the high-level tripartite mission that visited the Bolivarian Republic of Venezuela in January 2014, which had still not yet been implemented, the Governing Body decided:
 - (1) to urge the Government to implement as soon as possible the following actions:
 - (a) take measures to ensure that there were no acts of interference, aggression and stigmatization against FEDECAMARAS, its affiliated organizations and their leaders and to ensure that FEDECAMARAS and its member organizations, leaders and affiliated companies, as well as trade unions, could freely carry out their legitimate activities in line with the decisions of the ILO supervisory bodies relating to Conventions Nos 87, 144 and 26;
 - (b) institutionalize without delay a tripartite round table, with the presence of the ILO, to foster social dialogue for the resolution of all pending issues;
 - (2) to urge the Government to avail itself without delay of ILO technical assistance to these ends;
 - (3) to request the Director-General of the ILO to make available all necessary support in this regard and to provide for periodic visits to the country by the ILO;
 - (4) to defer the decision on the appointment of a Commission of Inquiry until its 331st Session (October–November 2017).
2. In order to follow up the Governing Body's decision, the Office contacted the Government in a communication dated 9 May 2017, indicating that it remained at the Government's disposal to facilitate the implementation of the Governing Body's decision and that it hoped to receive information from the Government in that regard. In a communication dated 12 October 2017, the Office reiterated that it stood ready to assist in the implementation of the Governing Body's decision.
3. Information was received from the Government in a communication dated 29 September 2017 and from FEDECAMARAS and the International Organisation of Employers (IOE) in communications dated 29 August and 15 October 2017. These communications are summarized in the appendix. Two additional communications were received after the initial publication of the present document – their content is summarized in the following paragraphs of this revised version. The full text of all communications received are available to constituents.
4. In a communication dated 30 October 2017, the Government reiterates its commitment to social dialogue and refers, as examples of positive developments, to two recent meetings between governmental authorities and the new board of FEDECAMARAS: (i) a meeting on 19 October, in which the Minister of Trade and International Investment stressed the importance for the State to work jointly with the private enterprise sector to build a new economy that meets the needs of the people – as a result of that meeting the Government has engaged to further contribute to national economic dialogue through the necessary institutional means; and (ii) a meeting on 25 October with the Minister of Labour, with very positive results, including the engagement to establish a jointly agreed agenda for dialogue in relation to topics of interest related to the world of work, as well as requesting FEDECAMARAS its opinion in relation to wages. Finally, the Government recalls that FEDECAMARAS has long admitted that it participates, through private sector representatives, in the National Council of the Productive Economy. The Government also notes that as part of the constituent assembly discussions, the President of the Republic submitted a proposal of eight laws for the economic protection of the people, including a

maximum price-setting system, to be implemented through a dialogue and consensus methodology (the Government notes that such dialogue processes involve all productive sectors, including FEDECAMARAS and its affiliates).

5. In a communication dated 31 October 2017 FEDECAMARAS informs that, while its leaders participated in a meeting at the Ministry of Labour on 25 October 2017, this was a courtesy visit to meet the new Minister. Although a willingness to dialogue with FEDECAMARAS was mentioned in that meeting, no concrete agenda was put forth. It was the type of meeting typically convened just before the Governing Body to influence the ILO's decision-making. Furthermore, FEDECAMARAS denounces the continuation of intimidatory attacks, with the proliferation, a few hours after that meeting, of unfounded accusations against FEDECAMARAS in the mass media by groups and persons close to the Government, including members of the constituent assembly, coupled with calls for popular mobilization against FEDECAMARAS and for the detention of its leaders. This led to public demonstrations against FEDECAMARAS in front of its offices in the Bolivar State and in Caracas on 26 and 27 October 2017. FEDECAMARAS expressed its concern over these new violations to the Ministry of Labour by a communication of 30 October 2017, in which it also relayed its concern over the Ministry's approach to consider wage adjustments as an exclusive and unilateral prerogative of the President of the Republic. FEDECAMARAS calls again for the need for a true and effective social dialogue, beyond isolated courtesy visits, so as to reach agreements to address the economic crisis and improve the living conditions of all citizens.
6. In accordance with article 26 of the ILO Constitution, it is for the Governing Body to take the necessary decisions concerning future action on this complaint.

Draft decision

7. *The Governing Body is invited to decide on the follow-up to be given to the complaint submitted by virtue of article 26 of the Constitution.*

Appendix

Summary of communications received

Government of the Bolivarian Republic of Venezuela

In its communication dated 29 September 2017, the Government states that, in response to the Governing Body's decision of March 2017, the country guarantees the free exercise of rights and once again denies having persecuted, harassed and threatened FEDECAMARAS, its affiliated organizations or their leaders, or having subjected them to any act of violence because of their trade union affiliation and for carrying out trade union activities. The Government emphasizes that it recognizes FEDECAMARAS as one of the most representative employers' organizations, that freedom of association and expression are freely exercised in the country and that there has been no violation of the Conventions that are the subject of the complaint.

The Government reiterates that, while at the international level FEDECAMARAS is seeking to legitimize its status as a representative employers' organization, at the national level it operates as a political organization in opposition to the legitimately elected Government. The Government states that this has been illustrated by the complacent attitude of FEDECAMARAS towards the politically destabilizing activities that have taken place in the country since April 2017, aimed at undermining the institutional framework and forcibly bringing down the established constitutional order and disregarding the democratically elected authorities. The Government states that, despite this, the country's President called on, and extended open invitations to, all sectors in the country, including FEDECAMARAS, to engage in a frank and open dialogue to promote the full economic and social development of the nation, but that the call was not taken up by FEDECAMARAS. Rather, it made public calls for the suspension of the Constituent National Assembly's election process. The Government therefore requests the ILO to refrain from continuing to allow self-serving political interests to be used in the campaign of attack against the Bolivarian Republic of Venezuela.

The Government states that, at the June 2017 International Labour Conference, the People's Minister for the Social Process of Labour requested the Director-General's support in organizing a tripartite meeting at ILO headquarters, with its representatives in attendance, in addition to FEDECAMARAS and the Bolivarian Socialist Confederation of Urban, Rural and Fisheries Workers (CBST) as the country's most representative employers' and workers' organizations. The Government states that, regrettably, FEDECAMARAS decided not to attend at the very last minute, somewhat arrogantly ignoring the fact that the CBST was the most representative workers' organization and claiming that the latter was politically linked to the Government. The Government points out that this attitude is a far cry from the persistent requests made by the FEDECAMARAS to the ILO for technical assistance in engaging in social dialogue with the Government.

The Government, emphasizing its commitment to making progress on reaching consensus and on social dialogue, reiterates its willingness to engage in dialogue with all stakeholders, in an atmosphere of mutual recognition and respect, including FEDECAMARAS and workers' organizations and other representative employers' organizations, with a view to exchanging ideas and opinions on matters of mutual interest in order to advance the socio-economic development of the country and to discuss full compliance with international labour standards. An example of this are the invitations extended to FEDECAMARAS from the highest government level to join the frank and politically impartial dialogue at a time when internal and external self-serving economic and political interests are seeking to undermine the institutional framework and rule of law in the country. The Government reports that, following this approach, a communication from

FEDECAMARAS was received on 2 August 2017 (informing it of the appointment of the organization's new management committee), to which the People's Minister for the Social Process of Labour responded by welcoming the suggestion put forward by FEDECAMARAS for a dialogue between it and workers' organizations and other employers' representatives to exchange ideas and opinions on matters of mutual interest. As evidence of its efforts to promote social dialogue, the Government also emphasized the work of the National Council on the Productive Economy, which includes representatives from all sectors that had decided to take part in the Constituent National Assembly's election process. The Government regrets FEDECAMARAS has not taken up the call to participate in this dialogue forum.

The Government welcomes the interest shown by the ILO in conducting and providing technical assistance for the dialogue being developed with the country's employers' and workers' organizations. However, the Government expressly reserves the right to ask for technical assistance and to accept periodic visits from the ILO, bearing in mind the lack of veracity in the arguments set out in the complaint. The Government indicates that, nevertheless, given its open, inclusive and democratic nature, it is currently considering whether to avail itself of such technical assistance.

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The Government reiterates that to appoint a Commission of Inquiry would be unwarranted, given that there has been no violation of Convention Nos 26, 87 and 144, or of any other ILO Convention, as the Government has reaffirmed and demonstrated from the outset in this complaint, which is unfounded and politically motivated against the Government. There are no grounds for establishing a Commission of Inquiry in relation to Convention No. 26, since the national minimum wage is universally protected and guaranteed in the country, without discrimination (in June 2014, the Government provided information on its application to the Committee on the Application of Standards, which had raised no concerns whatsoever, confirming that the Government holds consultations with employers and workers on minimum wages). There are no grounds for establishing a Commission of Inquiry in relation to Convention No. 87, since the Committee on Freedom of Association is examining, under Case No. 2254, the same arguments put forward by the employers and repeated in this complaint. There are no grounds for establishing a Commission of Inquiry in relation to Convention No. 144, since the written complaint contains no mention of any violation of the Convention, which applies solely to national tripartite consultations on ILO standards-related activities and does not cover the holding of consultations on issues relating to national social and economic policy (the Government recalls that the Committee of Experts had not identified any failure to comply in its recent reports). The Government also emphasizes that appointing a Commission of Inquiry would be counterproductive in the current Venezuelan context, which affords the conditions needed to continue strengthening social dialogue.

***The Federation of Chambers and Associations
of Commerce and Production of Venezuela
(FEDECAMARAS) and the International
Organisation of Employers (IOE)***

In their communications dated 29 August and 15 October 2017, FEDECAMARAS and the IOE denounce the persistent violations of Conventions Nos 26, 87 and 144 by the Government of the Bolivarian Republic of Venezuela.

FEDECAMARAS and the IOE report continued intimidating attacks against FEDECAMARAS and the business sector by government spokespersons, in particular: (i) the continued campaign of intimidation through social media and the State, namely verbal attacks and attempts to stigmatize and criminalize FEDECAMARAS, its affiliate

organizations and leaders, accusing them of political conspiracy, and of being responsible for waging an economic war and for the economic situation in the country (detailed examples were provided in this connection); (ii) attacks at the headquarters of the Tachira State Cattle Breeders Association (affiliated to FEDECAMARAS) by paramilitary groups linked to the Government, resulting in theft, fire and the destruction of its premises, as well as the Government takeover of productive land owned by the president of the Venezuelan Cattle Breeders Federation (an organization affiliated to FEDECAMARAS) – both acts were perpetrated in retaliation for these organizations taking part in a civil protest; and (iii) other attacks against the business sector such as levying sanctions against the businesses that took part in the civil strike of 19 and 20 July or the price control authority taking excessive measures, for example by monitoring businesses and obliging them to sell products at very low prices. FEDECAMARAS and the IOE point out that these attacks are leading to the closure of many enterprises and are contributing to unemployment and poverty in the country.

FEDECAMARAS and the IOE also report the absence of tripartite social dialogue and the continued exclusion of FEDECAMARAS from such dialogue by adopting measures that have an impact on business performance. Examples of this include the announcement, without tripartite consultation, of financial measures and eight new bills introducing new forms of control over and repressing the business sector; the establishment of the General Staff of the Working Class; and the use of workers' production boards (CPTs) as a mechanism for state intervention in business development, hindering not only the ability of companies to operate, but also the exercise of freedom of association – with the hierarchical structure meaning that trade unions are subject to CPT control (the boards are composed mostly of state representatives and include a military presence) and these new government-controlled structures interfere in labour relations and in decision-making within enterprises.

Moreover, the Government continued to approve further increases in the minimum wage and the socialist *Cesta Ticket* (food benefit) without consultation: in April 2017 (despite inviting FEDECAMARAS at the last minute to a meeting, two days before the approval of the increase, FEDECAMARAS was not provided with the minimum details on the proposed increase to enable it to formulate and give its views, and it did not comply with the ILO's requirements with regard to social dialogue); as well as in July 2017 (a further increase of 50 per cent in the minimum wage and *Cesta Ticket*) and in September 2017 (an increase of 40 per cent in the minimum wage – the fourth in 2017 – and in the *Cesta Ticket*). FEDECAMARAS emphasizes the impact that the absence of tripartite consultation has had on wage policy – underscoring that isolated wage increase measures are not useful and are counterproductive because they are not supported by macroeconomic stabilization measures and measures to promote the national economy. FEDECAMARAS and the IOE therefore stress the importance of establishing tripartite social dialogue to ensure the direct participation and effective interaction of the social partners in the establishment of machinery for fixing minimum wage increases, the principles of which continue to be violated by the Government, and which cannot be addressed through formal meetings that fail to involve effective dialogue mechanisms.

FEDECAMARAS and the IOE further report that the Government has failed to follow up on the specific recommendations on re-establishing social dialogue already recommended by the high-level tripartite mission in 2014 and subsequently by the Governing Body and the Committee on the Application of Standards of the International Labour Conference. In this connection, the action plan required has not been implemented, nor has a timetable been set for meetings with the social partners, including FEDECAMARAS. In addition, FEDECAMARAS is still not involved in the National Council on the Productive Economy, or consulted on other matters of fundamental importance for employer interests (for example, it was not invited to discuss concerted price policy), and since May 2017 no ministerial office has invited this organization to any meetings. Three previous meetings had been held, in January and April 2017, but, as reported earlier to the ILO supervisory bodies, none of these met the minimum requirements to be considered as tripartite or effective

dialogue meetings. During the June 2017 International Labour Conference, after being subjected to baseless accusations in the Committee on the Application of Standards by the Government representatives and the Workers' representatives headed by the trade union confederation linked to the Government, FEDECAMARAS had to turn down the opportunity to take part in a supposedly tripartite meeting convened by the Government, given that the country's independent trade union organizations had not been invited. Lastly, in response to a communication from FEDECAMARAS dated 2 August, the People's Minister for the Social Process of Labour replied in writing with a general invitation for it to become involved in the legal bodies, but without being specific – making no reference to the bodies concerned, in what manner it could become involved or dates – and taking the opportunity once again to criticize FEDECAMARAS (asking it to refrain from using the arguments it has been putting forward to justify actions that violate the Constitution). This again highlighted a lack of any real willingness by the Government to engage in dialogue with this most representative employers' organization and the absence of genuine social dialogue in the country, as well as the persistent violation of the recommendations of the ILO supervisory bodies.

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Given the time elapsed since the submission of the complaint and the serious and repeated violations of Conventions Nos 26, 87 and 144 and failure to comply with the decisions adopted by the Governing Body to date, which demonstrate the lack of willingness on the part of the Government to comply with the Conventions it has voluntarily ratified, FEDECAMARAS and the IOE consider that, having exhausted all mechanisms, the Governing Body should appoint a Commission of Inquiry to thoroughly investigate the violations described in the complaint, to establish all the facts of the case and to make recommendations on the measures to be taken to address the issues raised. FEDECAMARAS and the IOE trust that the establishment of a Commission of Inquiry would ensure compliance with Conventions Nos 26, 87 and 144 and allow the country to make progress in creating more and better decent jobs and social stability. This will serve as a basis for building a path of peace that will ensure the rule of law, in a democracy and with economic growth, and ensure social welfare for all Venezuelans.