



Governing Body

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Institutional Section

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Reply of the Government of the Bolivarian Republic of Venezuela to the report of the Commission of Inquiry appointed to consider the complaint alleging the non-observance 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)

1. At its 337th Session (October–November 2019) the Governing Body took note of the report of the Commission of Inquiry, as communicated to the Government of the Bolivarian Republic of Venezuela on 27 September 2019.
2. The Government replied to the report in a letter dated 27 December 2019 (reproduced in Appendix I).
3. In a letter of 31 January 2020, the Director-General acknowledged receipt of the reply and considered that it would be important for the Governing Body, in advance of its 338th Session, to receive the Government's stated position with regard to the two

specific points set out in article 29, paragraph 2, of the Constitution, namely: whether or not it accepted the recommendations contained in paragraph 497 of the report of the Commission; and if not, whether it proposed to refer the complaint to the International Court of Justice (the letter is reproduced in Appendix II).

4. In a communication dated 10 August 2020, the Government replied stating that "it does not accept the recommendations of the Commission of Inquiry because if it were to comply with them it would mean violating the Constitution, the separation of powers, rule of law, independence, sovereignty and self-determination of the Bolivarian Republic of Venezuela". Furthermore, in the same communication, the Government reiterated its commitment to broad and inclusive social dialogue and its willingness to improve compliance with the ILO Conventions ratified by the country on the basis of constructive suggestions issued by the ILO supervisory bodies, and to receive technical assistance from the ILO in the area of social dialogue, consultations, trade union representation and improvements in its practices, as far as may be required in the framework of Conventions Nos 26, 87 and 144. The Government also left open the possibility of making further progress on the basis of the recommendations it deems relevant and, that being so, it will continue to inform the ILO accordingly (the content of the communication is reproduced in Appendix III).
5. The Government also sent the ILO three other communications relating to certain elements of the recommendations contained in the Commission of Inquiry's report. In a communication dated 28 February 2020, the Government informed the ILO that on that date the Venezuelan Workers' Confederation, the Independent Trade Union Alliance (ASI), had been registered. The Government sent a copy of the registration form and pointed out that such official recognition was one of the recommendations made by the Commission of Inquiry. In a communication dated 2 March 2020, the Government stated that it was extremely important to be able to count on the assistance of the ILO in the near future in order to determine the representativeness of employers' and workers' organizations in the country. In a communication dated 4 September 2020, the Government informed the ILO that a pardon had been granted to Mr Rubén González, through a decree issued by the President of the Bolivarian Republic of Venezuela on 31 August 2020.
6. The Government's response to the Commission of Inquiry report was discussed at the 340th Session of the Governing Body (November–December 2020). On that occasion, the draft decision contained in document GB.340/INS/13 was the subject of the following proposed amendments and subamendments: (i) an amendment by Peru, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Honduras and Paraguay, which was the subject of subamendments proposed by the United States and Employers' group respectively; and (ii) an amendment presented by the Workers' group. Subsequently, a revised draft decision was presented jointly by the Employers' and Workers' groups, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Honduras, Paraguay, Peru, United States and the European Union and its Member States (the draft decisions, amendments and subamendments in question are reproduced in Appendix IV).
7. Since the last session of the Governing Body, in accordance with the recommendations of the Commission of Inquiry, the Committee of Experts on the Application of Conventions and Recommendations (CEACR) examined, at its meeting in November–December 2020, the application of the Conventions contained in the complaint. The corresponding CEACR observations are attached to this document (see Appendix V).
8. In a communication dated December 2020, sent to the Director-General, the Government referred once again to the possibility of availing itself of the Office's

technical assistance in relation to observance of the ILO Conventions and, especially, those that were the subject of the Commission of Inquiry (that communication and the Director-General's response are reproduced in Appendix VI).

9. In a communication dated 26 February 2021, of which the Office acknowledged receipt, the Government provided information concerning the establishment of dialogue forums with the employers' and workers' organizations of the Bolivarian Republic of Venezuela, such as: the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), the Venezuelan Federation of Craft, Micro, Small and Medium-Sized Business Associations (FEDEINDUSTRIA), the Bolivarian Socialist Confederation of Men and Women Workers in Urban and Rural Areas and Fishing of Venezuela (CBST-CCP) and the Independent Trade Union Alliance Confederation of Workers (CTASI). The Government indicated that it is planned to continue with the dialogue forums on a regular basis and that, on each occasion, the corresponding schedules will be drawn up and priority subjects identified; reference was also made to a series of additional initiatives. The Government also reiterated its request for technical assistance in order to determine, based on objective criteria that can be verified and fully respect freedom of association, the representative nature of the employers' and workers' organizations existing in the country. The Government stated that the assistance in question would allow progress to continue to be made with the representative organizations in the dialogue forums, and to envisage training programmes, in accordance with international labour standards and national laws. The Government's letter is contained in Appendix VII of the present document.

▶ Draft decision

10. **The Governing Body is invited to decide on action to be taken in light of the reply of the Government of the Bolivarian Republic of Venezuela to the report of the Commission of Inquiry, and further to the discussion held at the 340th Session (November 2020) of the Governing Body.**

► Appendix I

Initial reply of the Government of the Bolivarian Republic of Venezuela to the report of the Commission of Inquiry

Minister of Popular Power for
the Social Process of Labour

No. 2571

Caracas, 27 December 2019

**Mr GUY RYDER
DIRECTOR-GENERAL
INTERNATIONAL LABOUR OFFICE (ILO)**

Dear Mr Ryder,

Revolutionary greetings from the Government of the Bolivarian Republic of Venezuela.

I. We acknowledge receipt of your communication dated 27 September 2019, in which you sent to our Government the report of the Commission of Inquiry concerning our country, in accordance with article 29 of the ILO Constitution.

We note that the report in question relates to the complaint against our Government submitted by Employers' delegates under article 26 of the ILO Constitution, in respect 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).

II. In this regard, this is a timely opportunity to reaffirm our readiness to continue to cooperate with the different supervisory mechanisms of the ILO, to the extent that their actions are objective, impartial, transparent, consistent with the law and unconnected with political interests that are counter to the Government of the Bolivarian Republic of Venezuela.

It should be recalled that it was in this spirit of good faith that, in Communication No. 3251 of 16 November 2018, our Government decided to support the visit of the Commission of Inquiry, notwithstanding our previous extensive arguments rejecting such a mechanism, alleging and proving in law and in fact the procedural flaws and political considerations that compromised the objectivity, impartiality, transparency, ethics and strict observance of the law that must be present and must be respected in any supervisory mechanism.

In accepting the visit, our Government expressly demonstrated that it was giving further formal expression to its commitment to broad and inclusive social dialogue, which is characteristic of the Bolivarian revolution, providing further evidence of the belief that it would be possible to move forward by strengthening compliance with the aforementioned ILO Conventions.

III. As a fundamental premise, we have always kept in mind that, in accordance with the ILO Constitution and the rules of procedure adopted for the Commission of Inquiry on the Bolivarian Republic of Venezuela, *the Commission would produce a report containing such recommendations as it might think proper as to the steps which should be taken to meet the complaint.*

Even though the Commission, in the context of its work, could accept information and statements of relevance to the complaint concerning the Conventions in question from both employers and workers, this did not have the effect of transforming the Workers into claimants, complainants or other aggrieved parties and, for that reason, their aspirations, regardless of how valid they might have been in some hypothetical scenario, are not and were not the substance of any conclusions and, even less, of any recommendations that the Commission might have put forward in its report.

Failure to file a complaint, or a joint complaint, cannot be remedied by any statements, documents or interviews that are produced in the context of a complaint filed by other parties.

Taking the contrary view would result in an absurd and totally unacceptable situation, confirming and accepting that delegates of the International Labour Conference – from both the Employers’ and the Workers’ benches – could in practice file complaints under article 26 of the Constitution to cater to their interests and later, in an irregular procedure applied by the Commission appointed for that purpose, other social partners from a sector different to that which filed the complaint could send documentation and information and submit statements and the Commission would also include in its recommendations a sector that had not filed a complaint and was therefore not specifically a party to the complaint procedure.

IV. It is clear that the remit of the Commission of Inquiry appointed in this case was limited to the arguments set out in the complaint duly filed by the Employers’ delegates, which was considered receivable by the Governing Body, and in accordance with which the Commission was appointed to carry out the relevant investigations.

V. Our case must not be taken as a precedent that may be invoked with undesirable ramifications down the line in future cases that may arise with other ILO Member governments.

We place on record this clear and transparent position, expressed in a context of respect and dignity as a sovereign government that sets out its considerations in a timely manner, to ensure that bad experiences that further compound the unclear ILO doctrine on the subject are not overlooked. This could even be turned to constructive purpose to defend and repair the reputation of the ILO, which is something of concern to us.

The proper procedures under any worthwhile supervisory mechanism must be applied strictly within the mechanism’s sphere of competence, or it will risk losing respect and credibility, and at the same time they must be flexible and able to accommodate other unforeseen interests. Going beyond the complaint that has been filed, and even worse, taking a position and issuing opinions or recommendations on matters that are neither referred to nor raised in the complaint concerning the Employers, constitutes what is known in law as *ultra petita* – or *extra petita* – in other words *going beyond that which has been sought*; this language is used in the legal field to describe the irregular situation that arises when a judicial or administrative decision grants more than what was requested by either party, insofar as a decision, whether judicial or administrative, must be in accordance with what is requested or sought.

By appearing to ignore all this throughout the whole process, while the Commission of Inquiry was carrying out its work, we have been able to demonstrate and to obtain written proof of the extent to which the ILO supervisory bodies have been exceeding their mandate, as we have always claimed.

In the report, the *principle of correspondence*, or *principle of consistency*, should have been respected, which prohibits a judge or decision-making body from issuing, granting or denying something other than or beyond what is requested in the submission.

In this case, the Commission of Inquiry should not have taken a position beyond what was raised in the complaint that had been filed purportedly in accordance with the Employers' interests. This, precisely, was its remit and sphere of competence.

The work carried out by the Commission and the information, allegations, complaints and documentation received that went beyond that remit and sphere of competence ought to have been submitted or directed to the ILO's other supervisory bodies with competence in the matter, depending on the matter in question.

VI. It should be made clear that, in the text of the complaint under article 26 of the ILO Constitution filed by the Employers' delegates in June 2015, no reference was made to the Workers, and neither did the Workers subscribe to or form part of this complaint.

By way of example only, both paragraph 125 and footnote 79 of the report plainly confirm that the Commission acted in an arbitrary way and exceeded its mandate and, as it bears repeating at every opportunity, we specifically let this stand so that we would have written proof of the extent to which a supervisory mechanism without operational rules is exceeding its mandate and demonstrating incompetence in dealing with and taking a position on matters that do not fall within its remit. This is highly regrettable for the ILO, because it is its reputation that is being tarnished, although it could be turned to constructive purpose by establishing the principles for what should not be repeated in the future by a commission of inquiry.

As our Government has maintained and continues to maintain at every opportunity when it has been or is necessary to make this clear, when the Employers have made reference in documentation submitted after the complaint to "workers' organizations that are not close to the Government", this actually means, by contrast and based on attested experience at the national level, workers' organizations that are close to or controlled by the employers and that, from a political point of view, serve as the implementing arm for employers' actions, as these organizations are under the political sway of Venezuelan and international employers that are opposed to the Government of the Bolivarian Republic of Venezuela, and whose actions are always characterized by their interest in undermining through undemocratic means the legitimate and constitutional representative status of our Government.

VII. Without going into detail, these are what are known internationally as "yellow" trade unions, which are created and controlled by employers and as a result cater to their interests, thereby undermining the genuine and noble objective of workers' unions.

VIII. At the risk of being repetitive, we reaffirm that, in the Bolivarian Republic of Venezuela, the trade unions that the employers refer to as workers' organizations that are not close to the Government, and which are mentioned in the report, are actually no more than extensions of the employers, known in legal terms as yellow trade unions that are controlled and financed and which openly and blatantly serve the political and non-democratic interests of national and international employers' organizations that are opposed to the Government of the Bolivarian Republic of Venezuela.

IX. Without wishing to draw attention away from the subject, we recall a specific example that recently arose at the 337th Session of the Governing Body, in November 2019, when the Employers' group wanted consultative status to be granted to an organization that purportedly represented the interests of workers, and the Workers' group had to take a firm stance and even expressed its great concern in that regard; in its deliberations, the Governing Body decided not to grant the consultative status in question, in the face of the unwavering and shameless

arguments put forward by the Employers in favour of that so-called organization, which would serve their interests and by no means those of the Workers.¹

X. It should be kept in mind that, in order to avoid this response being extremely lengthy, we do not intend at this stage to refute in detail, paragraph by paragraph, each of the considerations that we do not accept in the above-mentioned report, as they will be the subject of further clarifications, if deemed necessary, that we will submit at an appropriate time.

That detailed and comprehensive response, which we will submit in due course, will be provided out of respect for the ILO as an organization with the noblest of aims and objectives, which in practice must be preserved for the sake of making the ILO respectable and making its seriousness, objectivity, transparency and non-politicization overall become tangible and demonstrable values. We, the respected Members of the ILO, look forward to the day when we can actually realize these values, which today remain ideals.

XI. Having clarified that important position, we are obliged to inform you of our regret that, based on a number of superficial and biased assessments by the Commission of Inquiry, it has been asserted that our Government has violated the Constitution and the separation of powers, rule of law, independence, sovereignty and self-determination of the Bolivarian Republic of Venezuela, among other claims that we have been able to discern, which have already been addressed in the various arguments duly put forward by our Government.

XII. We reiterate all the arguments that we made in our defence during the proceedings of the Commission of Inquiry. However, we would like to make some observations that provide evidence of the troubling and regrettable way in which the Commission of Inquiry exceeded its mandate, which, with all due respect, clearly arises from a lack of knowledge among the members of the Commission concerning the scope of their activities and the supervisory mechanism as such and from a lack of experience in this regard, rather than from a deliberate intent to be arbitrary.

Worse than that, we would rather not mention and draw attention to various actions of a political nature by some of its members, to whom we have always shown respect and consideration on account of the independence to which they were committed and which they were obliged to demonstrate in all their actions, by not making contacts or private visits of a political or ideological nature that were not scheduled in the framework of this complaint.

XIII. Obviously, by commenting on this occasion on the report of the Commission of Inquiry in some detail, we are guided by our interest in fully and legitimately defending the Government of the Bolivarian Republic of Venezuela.

At the risk of being repetitive, we now wish to specify for the record the overstepping of mandate, confusions and misinterpretations in the report, so as not to let stand the brash opinions and recommendations which, if not contradicted, will be claimed by the various ILO organs or bodies, tomorrow or the day after, as is usual in their poor or misguided practice, as equivalent to norms of the doctrine of the Organization that may subsequently be applied as presumably valid precedents against other sovereign member governments of the ILO, which in the future will be equally affected by the perverse assessments and arbitrary and politicized use of the ILO's supervisory mechanisms. Progress remains to be made towards achieving the desired objectivity and transparency that should prevail in these supervisory mechanisms:

¹ See document GB.337/INS/13/8 and the draft minutes of the discussion held during that session of the Governing Body, Institutional Section, paras 535–570, published on the ILO website.

1. As the Employer representative has stated before the Governing Body of the ILO, in repeated statements published in national and international social media, the Commission of Inquiry issued its final report containing *arguments extending beyond labour matters and delving, as the judges considered it appropriate, into republican aspects of the democratic life of our country.*²
2. Although our Government naturally continued to provide responses and to attend to all requests for information made by the Commission of Inquiry as a sign of our openness towards the various supervisory mechanisms of the ILO, the content of the report goes too far, as the fact remains that the Commission of Inquiry established under article 26 of the ILO Constitution on the basis of a complaint submitted only by Employers' delegates had a clear scope and mandate to observe.

It is hard to believe that the Commission of Inquiry was of the view that, in the context of this complaint, the Employers could represent the interests of the workers' organizations under their control (who did not even sign the complaint submitted by the Employers) unless the Commission considered the actions of the employers and the yellow trade unions – whose common interests make them indistinguishable – to be valid.

3. The Commission of Inquiry must have been aware that our Government's willingness to collaborate and provide all relevant information requested of it so that the Commission was duly informed and the information was transmitted to the competent ILO supervisory mechanisms in no way broadened the remit and the competence granted to the Commission of Inquiry solely on the basis of the Employers' complaint.
4. In this respect, **we note with concern that many of the aspects in relation to which the Commission of Inquiry exceeded its mandate are covered in the complaint submitted under article 26 of the ILO Constitution by Workers' delegates that was closed in accordance with the decision adopted by the Governing Body at its 329th Session (March 2017), on the basis of document GB.329/INS/16(Rev.).**
5. The Commission of Inquiry had no authority to express opinions and make recommendations in relation to the issues raised in that complaint that was closed by the Governing Body, as all matters related to Convention No. 87, to which the Workers' complaint referred, fall within the competence of the Committee on Freedom of Association (CFA). The CFA's examination of the matters raised by the Workers is contained in Case No. 3277, in relation to which it has yet to make a decision, and is linked to the follow-up before that supervisory body of Cases Nos 2763, 2827, 2917, 3006, 3016, 3036, 3059, 3082 and 3187.
6. It is common knowledge that Case No. 2254, which is currently before the CFA, is the only case linked to the article 26 complaint submitted by the Employers' delegates. The Office, the Employers' group and even the Workers' group are all aware of this. It is so stated in the text of the complaint, in all other communications from the

² See the press release published on 18 November 2019 by the granaldea.com portal, which was copied and redistributed by, among others, lapatilla.com and venezuelaunida.com (19 November 2019), with the headline "Venezuela en el banquillo de los acusados de la OIT" [Venezuela in the dock before the ILO], by Jorge Roig Navarro – Venezuela Unida (we will not begin to analyse the full text on this occasion so as not to exhaust ourselves from once again refuting the false assertions levied at our Government, which are plagued by proven political interests in support of a coup to destabilize peace and democracy in Venezuela).

Employers and even in the documents issued or adopted by the Governing Body concerning that complaint, and has always been stated in the reports of the CFA. Any other matters are extraneous to the Employers' complaint.

7. Having given this brief and crucial clarification, we also note that, despite the information provided, documented and proven by our Government, it is regrettable and extremely concerning that the Commission of Inquiry ignored offences committed under Venezuelan law referred to during this procedure, arbitrarily disregarding the principle of lawfulness that is expressly stipulated by ILO Convention No. 87, whose clear and fundamental provisions require no interpretation in that they categorically establish that:

In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land (Convention No. 87, Article 8(1)).

8. Continuing in the same order as the report in question, we recall that in accordance with Article 2(2) of ILO Convention No. 144, the nature and form of the procedures referred for tripartite consultations on international labour standards shall be determined in each country in accordance with national practice.

There is no predetermined model for consultation nor any model structure to follow. Moreover, it must be noted that the only matters that are subject to consultations are specified strictly and categorically by that Convention, namely: (1) items on the agenda of the International Labour Conference; (2) proposals to be made to the national authorities in connection with new Conventions and Recommendations adopted by the ILO with a view to their potential ratification and/or application; (3) re-examination of unratified Conventions and of Recommendations; (4) reports to be made to the ILO on ratified Conventions; and (5) proposals for the denunciation of ratified Conventions.

Under no circumstance or loose interpretation can it be acceptable to require tripartite consultation on any other matter on the basis of a purported predetermined or recommended structure, still less on matters related to a country's social or economic policy. Consequently, the Commission's overstepping of its mandate, the ambiguity of the report and the confused assessments it contains are concerning.

9. We recall that the complaint lodged by the Employers' delegates made no mention of the purported violations of tripartite consultation on international labour standards, which the Commission of Inquiry acknowledged in its report. During this supervisory procedure, with a view to collaborating and in the expectation that the framework of Convention No. 144 would be respected, our Government emphasized – including for pedagogical, academic and guidance purposes – that the Employers are confusing this tripartite consultation on international labour standards with social dialogue, with which our Government also complies.

The Employers and their supporters claim that the subject of consultation and tripartite social dialogue is the embodiment of their political aspirations. It is regrettable and surprising that the same confusion persists in the report of the Commission of Inquiry.

10. Furthermore, the machinery for fixing the minimum wage and the methods to be followed in its operation are open to participation by the employers and workers concerned, in such manner and to such extent as may be determined by national laws or regulations (Article 3 of ILO Convention No. 26); in other words, in accordance with

that Convention, there is no predetermined consultation model that must be applied. Nevertheless, as we have stated, there is always room to perfect its operation and we will continue working on it in practice.

11. It should be borne in mind that Venezuelan labour law and practice has always been advanced, and there can be no claim that what is not provided for in the ILO Conventions, which are international instruments providing minimum standards in that area, cannot be provided or developed for workers in national legislation, especially when such national legislation is clear and categorical.

This is the case in point with Workers' Production Boards, given that section 17 of the Constitutional Act on Workers' Production Boards provides unambiguously that *Workers' Production Boards are not by their nature trade unions and in the exercise of their functions shall not carry out trade union activities, nor impede or interfere in the exercise of the right to freedom of association and collective bargaining* (Act published in *Official Gazette* No. 41.336 of 6 February 2018).

It is worth emphasizing that, as we explained in detail to the Commission of Inquiry, Workers' Production Boards are not supervisory mechanisms, nor do they undermine the exercise of freedom of association.

12. As it is referred to in the report, special mention should be made of the Government's regret at the slowness observed in the Venezuelan justice system. It should be clearly understood that the lack of swifter progress in no way implies that there is any kind of impunity, given that investigations are, and continue to be, carried out with a view to ensuring that the appropriate judicial ruling is handed down.

The Executive Branch that we represent is always responsive, collaborating whenever appropriate and urging the Venezuelan judiciary to expedite the different cases and issue rulings where applicable. Moreover, whenever we have had any rulings, we have immediately referred them to the various relevant ILO supervisory bodies interested in hearing the facts of the cases.

13. Summonses and preventive detentions, issued under Venezuelan legislation for the purpose of conducting investigations and taking statements, are intended precisely to clarify the facts of each case so that the relevant judicial body can issue the corresponding decision in accordance with the law.

None of this can be interpreted as harassment, threats, intimidation or persecution, which is the subterfuge used by those who intend to subvert the Venezuelan order and the peace of the country through the purportedly legitimate activities of employers or trade union organizations backed by employers opposed to the democracy and constitutional legitimacy of our Government.

The provisions of Article 8(1) of Convention No. 87, referred to above, should not be overlooked, bearing in mind that respect for lawfulness also underpins the foundations of social justice.

14. By the same token, we reaffirm that the judicial proceedings and preventive and non-custodial measures provided for in the Venezuelan legal system are under no circumstances used to undermine freedom of association or any other right. This is something to which our Government is committed by virtue of the fact that in our country the State governs by the rule of law, following robust legal and constitutional rules.
15. In our country, any person who commits an offence provided for and sanctioned in criminal legislation is subject to the jurisdiction of the natural judge competent in the

matter. Ordinarily, civilians are not subject to military jurisdiction, unless they commit any of the offences specified in the Organic Military Justice Code, and there is no discussion or interpretation to the contrary, because judges of the ordinary criminal courts are not competent to hear or rule on such cases.

In the Bolivarian Republic of Venezuela, no person who commits a military offence can avoid trial by a natural judge of the military courts, otherwise trial by a civil judge or ordinary criminal court would be encroaching on military jurisdiction. Our Government would never support such action because it forms the basis of our judicial system. We regret the confusing findings on the matter contained in the report of the Commission of Inquiry.

16. It is worth clarifying that the lawful activities of employers' and workers' organizations and their officials do not constitute criminal offences in our country and are therefore not punishable or subject to any proceedings that carry a prison sentence. By contrast, however, all unlawful activities fall within the purview of Article 8(1) of Convention No. 87, like any offences defined as such in Venezuelan law.
17. Our Government has emphasized the need for, and continues to urge, all security agencies and national justice bodies to conduct investigations and proceedings within the framework of the law without delay and, above all, in an independent, objective and transparent manner, in line with their mandates. This is to ensure that the perpetrators and instigators are held accountable where applicable, while at the same time ensuring that any corresponding protection, sanction and compensation measures that may be required are adopted.

It is important to highlight once more that, in the Bolivarian Republic of Venezuela, these potential measures to secure financial compensation or the payment of damages are not automatic and are only referred to the judicial authorities at the request of the interested party. In other words, only the interested party can take the necessary prior action. No one, not even the Commission of Inquiry, can attempt to lodge a claim of this nature, or even agree on a claim, in favour of third parties who did not refer to the competent authorities in good time to claim the compensation anticipated.

The actions we take as the executive authority with regard to the judiciary are made on the basis of the *Principle of the Separation of Powers*, of joint collaboration and the independence maintained by the five branches of this country: Legislative, Executive, Judicial, Citizens' and Electoral.

18. Furthermore, it is not our Government's responsibility to ensure that employers' and workers' organizations are independent from a political or political party point of view, as we would otherwise run the risk of impeding their free development. As is well known, trade union activity that involves political activity is not prohibited.

For this reason, we have been unable to take any action even when FEDECAMARAS and certain workers' organizations have been aligning themselves with, supporting and openly participating in political forums and meetings with representatives of the National Assembly who are publicly opposed to the Government of the Bolivarian Republic of Venezuela. In this respect, if we cannot prevent such practices, then neither can we take any action when trade union organizations align themselves with political parties supportive of our Government.

19. Our Government has taken note of the suggestions for legislative reforms that might be relevant to efforts to improve Venezuelan legislation. Although those suggestions

could be presented in due course to the National Assembly, which is the competent body on the matter, at this point in time we are not in a position to do so.

The various ILO supervisory bodies have sufficient information provided by us in a timely manner regarding the contempt of the Legislative Power in our country, as upheld by the Supreme Court of Justice in repeated judgments. While the National Assembly remains in contempt, any actions taken by it are null and it is therefore not appropriate for the time being for us to proceed with any suggestion or possible draft reform of our laws.

20. It is worth reiterating again that, as we informed the Commission of Inquiry, we are always ready to improve our practices with respect to compliance with the various ILO Conventions ratified by our country.

Every mechanism, procedure and consultation can count on our full cooperation to work with it on the basis of constructive suggestions issued by the ILO supervisory bodies, but it should not be assumed that we must therefore accept the imposition of predetermined structures or models that are not provided for in the Conventions. Each country has its own particular circumstances and it is on that basis that best practices should be established, on compliance in particular.

21. Our Government will continue to strengthen social dialogue in a comprehensive manner, without exclusions, always encouraging the most representative workers' and employers' organizations to participate, without favouring any of them, to the extent that they wish to do so and comply with the laws of our country.
22. Our Government appreciates and has never objected to the specialized technical assistance offered by the ILO in the area of social dialogue, consultation, trade union representation and improvements in our practices, as far as may be required in the framework of Conventions Nos 26, 87 and 144, because we are interested in improving those areas in order to further our full compliance with those Conventions.
23. Furthermore, we clearly and categorically reject the superficial assessments of the Commission of Inquiry regarding the judgments issued by the courts of our country. It should be clear that the judgments are intended to be complied with, not to be interpreted, least of all by the Commission of Inquiry, which has no competence in this regard.
24. It is not appropriate that, notwithstanding the text of the judgments, the Commission should wrongly refer to other elements that were not raised at the respective trial but were alleged to have been submitted to the members of the Commission after the deadline, leading the Commission to presume the opposite of what was decided by the corresponding court. Such presumptions, which are biased and subjective, have no basis in fact, and we therefore depart unequivocally from the superficial considerations set out in its conclusions.
25. We note with regret that the Commission suffers from the misapprehension that it has become an appeal body for the national courts, which – we wish to make this absolutely clear – is not acceptable under any circumstances; especially given that the Commission is attempting in this way to make up for the fact that the interested party did not exercise the appropriate appeal to the respective superior court in the event that it did not agree with the findings of the corresponding judgment.

Our Government respects and adheres to the findings of the judgments of the evidence lodged in the respective depositaries, which are national courts, and it

rejects the opinions, superficial presumptions and unsubstantiated evidence on the basis of which the Commission has argued the contrary.

26. Furthermore, we do not accept the Commission's contrary opinions with regard to the "criminal charges" established in our legislation, as they are applied universally and without discrimination.

There is no possibility for distinctions in the rigorous application of these "criminal charges" on any person who commits such offences in our country, or for their non-enforcement or their limited or privileged enforcement on trade union leaders (employers or workers).

27. There is only one law and we must all come to terms with it. At the risk of being repetitive, we recall once again what the Commission seems to have persistently forgotten in its report:

In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land (Convention No. 87, Article 8(1)).

28. Although there is no need to give a lesson in law to those who presumably know it, it should be emphasized that, in the Bolivarian Republic of Venezuela, in criminal matters, the process is not based on a necessary contradiction between the allegations made by the Public Prosecutor's Office and the findings later made by the judge hearing the case.

It cannot be an indication that a court decision or judgment can be criticized, as the Commission of Inquiry has arbitrarily done in this report by finding that a decision or judgment is not sound or independent because the supervisory judge has not contradicted the prosecutor's allegations.

It should be kept in mind that a court's decision or judgment is based on the evidence lodged in the respective file, which is assessed by the judge hearing the case, and without knowledge of the file the contrary view cannot be maintained.

Many of the allegations or claims of which the Commission of Inquiry has been made aware are false, were argued without evidence and in every instance were never asserted in the corresponding trial or case; in other words, they are extrajudicial and extemporaneous allegations that provide no valid basis for the Commission to erroneously contradict and call into question the independence of Venezuelan judges.

29. Nor can we ignore the fact that, in some paragraphs and footnotes of the report, we have observed references to new allegations that the interested parties made to the Commission of Inquiry during its visit to our country without providing further details or evidence, to which the Commission alluded, yet these new allegations were never communicated to our Government to give us the opportunity to make the appropriate response.

In other words, it seems that the Commission considered those new allegations against our Government to be valid, according to its own scale of justice, with little or no regard for what it should have communicated to us, in the interests of objective and transparent procedure, so that we could give an official response. This is equivalent, as is often the customary practice of the ILO supervisory mechanisms, to a violation of the legitimate right to defence of the Bolivarian Republic of Venezuela.

30. Once again, we must emphasize the falsehood of many of the allegations made by employer or worker leaders who are recognized political opponents of our Government.

These assertions made without any evidence before the various ILO supervisory bodies, including at meetings with the Commission of Inquiry – to which they did not submit evidence because their claims are false – only seek notoriety and news coverage in the mainstream national and international media, since that is what they live by, politically speaking.

Unfortunately, it is well known that, in the Venezuelan business and union environment – with some honest exceptions – there is an abundance of incompetent officials who do not carry out the genuine union functions of employers and workers in favour of their members, and instead content themselves with fomenting political opposition to our Government, thus subsisting in their erratic and mythomaniacal world without fulfilling union objectives but giving priority to their political-partisan aspirations.

In view of all these considerations, which are by no means the only ones that could be put forward, the Government of the Bolivarian Republic of Venezuela reserves the right to continue to respond responsibly to the above-mentioned report of the Commission of Inquiry, which deserves a fuller and clearer assessment, with due respect and in a constructive manner, and it is not our intention to exhaust that assessment on this occasion.

The Government of the Bolivarian Republic of Venezuela, bearing in mind that the assessments contained in the report refer to actions by the five branches of the National State Authority, **will continue to analyse** the recommendations contained therein. We note with regret the many assertions, assessments, criticisms and conclusions that seem to be insuperable and opprobrious judgments against the branches of the National State Authority, on which the recommendations issued by the Commission of Inquiry are based, and on this occasion we have provided only a brief outline of our position. We leave open the possibility of making further progress on the basis of the recommendations we deem relevant and will inform the ILO accordingly.

We are always prepared to continue improving and perfecting compliance with the Conventions in question, in the context of any broad and inclusive social dialogue and consultations that may take place in the interests of the industrial peace that we are called upon to preserve in the Bolivarian Republic of Venezuela.

As always, we continue to be committed to full compliance with the above-mentioned Conventions and all those ratified by our country, and in this regard we will continue to submit reports and provide replies for follow-up by the Committee of Experts on the Application of Conventions and Recommendations, under article 22 of the ILO Constitution, and we will also provide the replies that must continue to be provided to the Committee on Freedom of Association and other supervisory organs and bodies that so require.

Finally, on behalf of the Government of the Bolivarian Republic of Venezuela, we once again convey to the Director-General the assurances of our highest consideration.

Yours sincerely,

(signed)

GERMÁN EDUARDO PIÑATE RODRÍGUEZ
Minister of Popular Power for
the Social Process of Labour

► Appendix II

The Director-General's letter to the Government of the Bolivarian Republic of Venezuela

Mr Guy Ryder

Director-General

International Labour Office (ILO)

31 January 2020

Mr Germán Eduardo Piñate Rodríguez

Minister of Popular Power for

the Social Process of Labour

Centro Simón Bolívar

Torre Sur, Piso 5

CARACAS

Dear Minister,

Thank you for your letter of 27 December 2019 which contains your Government's reply to the report of the Commission of Inquiry set up to examine the complaint lodged against the Bolivarian Republic of Venezuela for non-compliance with Conventions Nos 87, 144 and 26.

According to the applicable rules and procedures, the Commission's report and the Government's reply will be considered by the Governing Body at its forthcoming 338th Session taking place from 12 to 26 March 2020. To this end, I wish to draw your attention to the fact that under article 29, paragraph 2, of the ILO Constitution, your Government is expected at this stage to inform the Director-General whether it accepts the recommendations of the Commission of Inquiry, and if not, whether it wishes to refer the complaint to the International Court of Justice.

After careful examination of your communication of 27 December 2019, I believe that it would be important for the Governing Body, before its 338th Session in March, to be able to benefit from a clear statement of your Government's position in respect of the two specific points referred to in article 29, paragraph 2, of the Constitution, namely whether it accepts the recommendations of the Commission of Inquiry set out in paragraph 497 of its report, and if not, whether it intends to refer the complaint to the International Court of Justice for decision. I would, therefore, be grateful if your Government could inform me as soon as possible, and in accordance with the clear terms of the applicable constitutional provisions, whether it accepts the recommendations of the Commission of Inquiry, and if not, whether it intends to refer the complaint to the International Court of Justice.

Thank you for your urgent attention to this matter.

Yours sincerely,

(Signed) Guy Ryder

▶ Appendix III

Letter from the Government of the Bolivarian Republic of Venezuela (August 2020)

Minister of Popular Power for
the Social Process of Labour

No. 296

Caracas, 10 August 2020

**Mr GUY RYDER
DIRECTOR-GENERAL
INTERNATIONAL LABOUR OFFICE (ILO)**

Dear Mr Ryder,

Revolutionary and fraternal greetings from the Government of the Bolivarian Republic of Venezuela at a very difficult time for the whole world due to the COVID-19 pandemic, which is having regrettable consequences for all and a direct impact on the world of work, among other sectors, that we must confront.

From the Bolivarian Republic of Venezuela, we hope that each of the stakeholders involved, in accordance with their position and in keeping with their responsibility, will continue to contribute to the fight against this pandemic and to rebuilding a better world for current and future generations.

Director-General, this communication is to acknowledge receipt of your esteemed communication dated 31 January 2020, acknowledging receipt of our reply dated 27 December 2019 concerning the report of the Commission of Inquiry set up to examine the complaint submitted by Employers' delegates against the Bolivarian Republic of Venezuela, in accordance with article 26 of the ILO Constitution, with respect to ILO Conventions Nos 26, 87 and 144, to which we have been unable to reply sooner due to the abovementioned circumstances, which have also prevented us from acknowledging receipt of your communication dated 8 April 2020.

In this regard, our Government reiterates the reply contained in communication No. 2571 of 27 December 2019, reaffirming its commitment to broad and inclusive social dialogue, which is characteristic of the Bolivarian revolution, without exclusions, always encouraging the participation of all the most representative organizations of workers and employers, without privileging either the workers' or the employers' organizations, to the extent that they so wish and that they comply with the law of our country, as has been the case in the current difficult circumstances.

From a perspective of breadth and respect, and at the risk of being repetitive, we once again state that we are ready to improve our practices regarding compliance with the various ILO Conventions ratified by our country, with the understanding that every mechanism, procedure and consultation can count on our full cooperation to refine it on the basis of constructive suggestions issued by the ILO supervisory bodies. Under no circumstances do we accept the imposition of predetermined structures or models that are not provided for in the Conventions. Each country has its own particular circumstances and it is on this basis that best practices should be established, on compliance in particular.

Furthermore, as we have repeatedly stated, our Government appreciates and has never objected to the possibility of seeking ILO specialized technical assistance in the areas of social dialogue, consultation, trade union representation and improvements in our practices, as far as may be required in the framework of Conventions Nos 26, 87 and 144, because, as we have said, we are interested in improving those areas in order to further our full compliance with those Conventions.

In this connection, it is worth keeping in mind the respect trade union organizations deserve from us and the attention they receive from our Government. We recall our communication No. 20/2020 of 28 February 2020, addressed to the Director of the International Labour Standards Department. In this same context, our express request for technical assistance, addressed to your Office in a timely manner by way of communications Nos 22/2020 of 28 February 2020 and 344 of 2 March 2020, is of the utmost importance.

With regard to the clarifications based on article 29(2) of the ILO Constitution, in general terms, as we stated in our reply dated 27 December 2019, the Government of the Bolivarian Republic of Venezuela does not accept the recommendations of the Commission of Inquiry, since compliance with them would entail the violation of the Constitution of the Republic, the separation of powers, the law, the independence, the sovereignty and the self-determination of the Bolivarian Republic of Venezuela. We have left open the possibility of making progress on the recommendations that we consider relevant, and, if so, we will inform the ILO in a timely manner, as we have done up to now.

With no further points to raise, I once again convey to the Director-General the assurances of my highest consideration.

Yours sincerely,

(signed)

GERMÁN EDUARDO PIÑATE RODRÍGUEZ

Minister of Popular Power for

the Social Process of Labour

▶ Appendix IV

Amendments to the draft decision concerning the reply of the Government of the Bolivarian Republic of Venezuela to the report of the Commission of Inquiry appointed to consider the complaint alleging the non-observance of Conventions Nos 26, 87 and 144 (GB.340/INS/13)

1. Amendment submitted by Peru, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Honduras, Paraguay as subamended by the United States and by the Employers' group

Proposal to replace the text of the draft decision with the text below (changes suggested by the United States are in blue and those suggested by the Employers' group are in red)

The Governing Body:

1. endorsed the report and recommendations of the Commission of Inquiry, to put an end to violations of labor rights in the Bolivarian Republic of Venezuela by all appropriate means;
2. expressed its deep concern about the response of the Bolivarian Republic of Venezuela of 10 August 2020, by which, explicitly, the report and the recommendations of the Commission of Inquiry are not accepted;
3. deplored that the Bolivarian Republic of Venezuela has failed to implement the recommendations contained in paragraph 497 of the report of the Commission of Inquiry, ~~by as the deadline expired on~~ 1 September 2020;
4. decided to include on the agenda of its 341st Session (March 2021) an item entitled "Measures including recommendations under article 33 of the ILO Constitution to secure the Government of Venezuela's compliance with the recommendations of the Commission of Inquiry";
5. decided to place on the agenda of the 109th Session of the International Labour Conference (June 2021) an item entitled "Measures to be taken under article 33 of the ILO Constitution to secure compliance by the Bolivarian Republic of Venezuela of the recommendations of the Commission of Inquiry appointed to examine the complaint regarding the non-compliance by the Bolivarian Republic of Venezuela with 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 Labor Standards) Convention, 1976 (No. 144)";
6. recommended to the Conference that it adopt the following measures:

Measures recommended by Governing Body under article 33 of the Constitution:

- (a) to consider that the attitude and behavior of the Bolivarian Republic of Venezuela are grossly incompatible with the conditions and principles governing membership of the Organization;
- (b) to decide that the question of the application of the recommendations of the Commission of Inquiry and of Conventions No. 26, 87 and 144 by the Bolivarian Republic of Venezuela must be dealt with in future meetings of the International

Labor Conference, until it has been demonstrated that this Member complies with its obligations;

- (c) to recommend to all the constituents of the Organization, governments, employers and workers that, taking into account the conclusions of the Commission of Inquiry, they examine the relations they may maintain with the Member State in question and adopt the appropriate measures in order that the said Member may not use those relationships to perpetuate or develop the system of violation of labor rights highlighted denounced by the Commission of Inquiry, and to contribute as much as possible to the application of its recommendations;
- (d) to decide that the Bolivarian Republic of Venezuela should cease to benefit from any technical cooperation or assistance from the ILO, except for the purpose of direct assistance to implement immediately the recommendations of the Commission of Inquiry, until such time as it has implemented the said recommendations;
- (e) to resolve that the Bolivarian Republic of Venezuela should henceforth not receive any invitation to attend meetings, symposia and seminars organized by the ILO, except such meetings that have the sole purpose of securing immediate and full compliance with the said recommendations, until such time as it has implemented the recommendations of the Commission of Inquiry;
- (f) with regard to international organizations, to invite the Director-General to:
 - (i) circulate without delay the report of the Commission of Inquiry to the international organizations referred to in Article 12, paragraph 1, of the Constitution, and inform those organizations on the refusal of the Bolivarian Republic of Venezuela to comply with the recommendations issued by the Commission; ~~and~~
 - (ii) request the competent bodies of these organizations to examine, without delay and within the framework of their mandate and in the light of the conclusions and recommendations of the Commission of Inquiry, the cooperation links that they may have with the Member in question and, where appropriate, put an end as quickly as possible to any activity that could result in the consolidation of the violation of the imputed labor rights, directly or indirectly;
- (g) regarding the United Nations specifically, to invite the Director-General to transmit the report of the Commission of Inquiry without delay to the Human Rights Council, the relevant Special Procedures of the Human Rights Council, and the United Nations High Commissioner for Human Rights, and to inform them of the refusal of accepting the recommendations of the ILO Commission of Inquiry compliance;
- (h) to request the Director-General to give without delay wide visibility to the Report of the Commission of Inquiry through a communication campaign including in the ILO webpage;
- ~~(h)~~(i) to invite the Director-General to present an annual report to the Governing Body and update the International Labour Conference in the reports of the Director-General on the results of the actions undertaken in accordance with the objectives of subparagraphs (c) and (d) above, and to inform the relevant international organizations of any progress made by the Bolivarian Republic of Venezuela in applying the recommendations of the Commission of Inquiry.

2. Amendment submitted by the Workers' group

The Governing Body:

- (a) expressed its deepest concern regarding the Government's reply dated 10 August 2020 that it does not accept the recommendations of the Commission of Inquiry;
- (b) decided to include an item on the agenda of its 341st Session (March 2021) entitled "Consideration of all possible measures required to secure the Government of Venezuela's compliance with the recommendations of the Commission of Inquiry";
- (c) requested the Director-General to urgently intervene with the Government and discuss an agreement on establishing a Special Representative of the Director-General in Venezuela by March 2021 to ensure effective application of Conventions Nos 26, 87 and 144 in law and in practice in the country; and
- (d) requested the Director-General to present a report to its 341st Session (March 2021) on the results of the actions undertaken in accordance this decision.

3. Revised draft decision put forward jointly by the Employers' and Workers' groups, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Honduras, Paraguay, Peru, the United States and the European Union and its Member States to be considered by the Governing Body on 14 November 2020

The Governing Body:

- (a) deplored the Government's reply dated 10 August 2020 that it does not accept the recommendations of the Commission of Inquiry;
- (b) decided to include an item on the agenda of its 341st Session (March 2021) entitled "Consideration of all possible measures, including those foreseen in the ILO Constitution, required to ensure the Government's compliance with the recommendations of the Commission of Inquiry";
- (c) requested the Director-General to engage with the Government on the full implementation of the recommendations of the Commission of Inquiry by March 2021, and on the effective application of Conventions Nos. 26, 87 and 144 in law and in practice in the country, including by discussing a possible agreement on establishing a Special Representative of the Director-General;
- (d) requested the Government to establish and convene, with the support of the Office, before March 2021, a social dialogue forum, in line with point 4 under paragraph 497 of the Commission of Inquiry's report;
- (e) requested the Director-General to present a report to its 341st Session (March 2021) on actions taken by the Director-General, measures referred to in paragraphs (c) and (d), and relevant information on possible measures to ensure the Government's compliance with the recommendations of the Commission of Inquiry, including any progress made by the Government in implementing those recommendations.

► Appendix V

2020 observations by the Committee of Experts on the Application of Conventions and Recommendations concerning the application by the Bolivarian Republic of Venezuela of Conventions Nos 26, 87 and 144

Minimum Wage-Fixing Machinery Convention, 1928 (No. 26) (ratification: 1944) and Protection of Wages Convention, 1949 (No. 95) (ratification: 1982)

In order to provide a comprehensive view of the issues concerning the application of ratified Conventions on wages, the Committee considers it appropriate to examine Convention No. 26 (minimum wage) and Convention No. 95 (protection of wages) together.

The Committee takes note of the joint observations of the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) and the International Organisation of Employers (IOE) on the application of the Convention No. 26, received on 1 October 2020. The Committee also takes note of the observations of the following workers' organizations on the application of Conventions Nos. 26 and/or 95: the Confederation of Workers of Venezuela (CTV), received on 21 August and 30 September 2020; the Federation of University Teachers' Associations of Venezuela (FAPUV) and the Independent Trade Union Alliance Confederation of Workers (CTASI), received on 28 August 2020; the CTASI, received on 30 September 2020; the Confederation of Autonomous Trade Unions (CODESA), the General Confederation of Labour (CGT) and the National Union of Workers of Venezuela (UNETE), received on 1 October 2020; the National Union of Men and Women Public Officials in the Legislative Career Stream, and Men and Women Workers at the National Assembly (SINFUCAN) and the CTASI, received on 5 October 2020; and the Bolivarian Socialist Confederation of Men and Women Workers in Urban and Rural Areas and Fishing of Venezuela (CBST-CCP), received on 3 December 2020.

Minimum Wage

Follow-up to the recommendations of the Commission of Inquiry (complaint made under article 26 of the Constitution of the ILO)

Article 3 of Convention No. 26. Participation of the social partners in minimum wage fixing. The Committee recalls that in March 2018, in the context of the complaint alleging 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), submitted under article 26 of the ILO Constitution by 33 employer delegates to the 104th Session (2015) of the International Labour Conference, the Governing Body established a Commission of Inquiry to consider the issues raised in the complaint. The Committee notes that the Commission of Inquiry completed its work in September 2019 and that its report was submitted to, and noted by, the Governing Body, at its 337th Session (October 2019).

The Committee notes the document submitted to the Governing Body at its 340th Session in October 2020 (GB.340/INS/13) containing the Government's response

to the report of the Commission of Inquiry, and also notes the discussion that took place in the Governing Body, which will continue during its next session in March 2021. In its response, the Government indicates that it does not accept the recommendations of the Commission of Inquiry because if it were to comply with them it would mean violating the national Constitution, the separation of powers, rule of law, independence, sovereignty and self-determination of the Bolivarian Republic of Venezuela. However, the Committee observes that the Government has not made use of the prerogative provided by the ILO Constitution, of referring the complaint, within a period of three months, to the International Court of Justice. Moreover, the Committee notes that the Government expresses its willingness to improve compliance with the ILO Conventions ratified by the country on the basis of constructive suggestions issued by the ILO supervisory bodies, and to receive technical assistance for the Office. The Committee recalls that in previous occasions when following-up on recommendations of a commission of inquiry, it has observed that the ILO Constitution does not make the results of a Commission of Inquiry subject to the consent of the State concerned. In this regard, the Committee has recalled that under article 32 of the ILO Constitution, the only authority capable of affirming, varying or reversing the findings or recommendations of a Commission of Inquiry is the International Court of Justice, and that, therefore, a government which chooses not to avail itself of the possibility of referring the matter to the International Court of Justice ought to take account of the conclusions and act upon the recommendations of the Commission of Inquiry, in light of the provisions of the ILO Constitution.

The Committee takes note of the conclusions of the Commission of Inquiry regarding the allegations of adoption without tripartite consultation of increases to the minimum wage (paragraphs 437 to 442 of the report of the Commission of Inquiry, hereinafter, "the report"). In particular, the Commission of Inquiry concluded that "The information gathered thus reveals the Government's failure to comply with Convention No. 26. In addition to the numerous increases in relation to which the Government did not provide specific evidence of consultation, regarding the communications submitted by the Government to prove that consultation had taken place with employers' and workers' organizations, the Commission considers that the mere sending of such belated and/or generic communications, containing abstract requests for proposals "in relation to the minimum wage" over six months, without providing any information on the anticipated machinery for fixing and applying the minimum wage, cannot be deemed to comply with the provisions of the Convention, which establish the obligation of the Government to engage in effective consultations." (paragraph 442 of the report).

The Committee also notes the recommendations of the Commission of Inquiry (paragraphs 495 to 497), in which it observed "with the deepest concern the absence of effect given to the previous recommendations of the ILO supervisory bodies on the issues raised, as well as the gravity of the current situation", and considered that the competent authorities must give effect to those recommendations without further delay and complete their implementation by 1 September 2020 at the latest. The Commission of Inquiry urged the Government to avail itself of ILO technical assistance for implementation of the recommendations. With regard to consultations concerning minimum wages (paragraph 497(3)(i) of the report), the Commission of Inquiry recommended the adoption of the necessary measures to ensure due and effective compliance with the consultation requirements set out in Convention No. 26, and the ending of the exclusion from social dialogue and consultation of FEDECAMARAS and trade union organizations that are not close to the Government. In particular, the Commission of Inquiry recommended, through tripartite dialogue with the

representative organizations of employers and workers, the establishment of effective tripartite consultation procedures. In light of the serious deficiencies in social dialogue in the country, taking into consideration the recognition by the Government itself of the need to create mechanisms for social dialogue, the Commission of Inquiry advised the establishment in the very near future of bodies or other institutionalized procedures for social dialogue to facilitate compliance with the obligations of consultation.

Finally, the Committee notes that the Commission of Inquiry recommended “the creation and convocation in the very near future of the following dialogue round-tables in support of the application of its recommendations: (i) a round-table for tripartite dialogue which includes all representative organizations; (ii) a round-table for dialogue between the authorities concerned and FEDECAMARAS on questions relating to that organization [...], and (iii) another round-table for representative workers’ organizations to address subjects that are of specific concern to them.” The Commission of Inquiry considered that “prior to the session of the ILO Governing Body in March 2020, the round-tables should have been established and have a schedule of meetings and an independent chair who enjoys the confidence of the tripartite constituents in the country, as well as, at the request of any of the constituents, the presence and assistance of the ILO” (paragraph 497(4) of the report).

The Committee notes with **deep concern** the conclusions of the Commission of Inquiry regarding the failure of the Government to hold consultations on fixing the minimum wage in the country.

Furthermore, further to its previous comments on this matter, the Committee notes that the Government refers in its report to the communications it sent in reply to the report of the Commission of Inquiry. Moreover, the Government indicates that, given the impact of the health crisis on the country and the realities of the different social and economic sectors, and taking account the opinions expressed publicly by the employers’ and workers’ organizations, it raised the national minimum wage a second time in April 2020, in the midst of the pandemic and despite the paralysis of many sectors in the country. The Committee notes with **deep concern** that FEDECAMARAS and the IOE, and CODESA, the CGT and UNETE, the CTV, SINFUCAN, FAPUV and CTASI alike point out that the last two increases in the minimum wage (January and April 2020) were once again decided unilaterally and without consultation by the Government. FEDECAMARAS and the IOE indicate that even before the health emergency broke, there was no apparent progress in the establishment of a round-table for tripartite dialogue, and that neither that recommendation nor any of the other recommendations of the Commission of Inquiry, which should all have been implemented before September 2020, had been either partially or completely implemented by the Government. Several of the workers’ organizations that sent observations to the Committee also indicated that the Commission of Inquiry’s recommendations on social dialogue and consultation had not been implemented.

In these circumstances, the Committee deplores the failure of the Government to fulfil its obligation to consult in respect of fixing the national minimum wage. ***The Committee urges the Government to take the necessary measures without delay, including by taking into account the recommendations of the Commission of Inquiry, to ensure full compliance with the Convention. The Committee requests the Government to provide information in that regard.***

The Committee is aware of the on-going consideration being given by the Governing Body to the follow-up of the report of the Commission of Inquiry. In view of the grave violations of labour rights described above, the systemic failure to comply

with a number of ILO Conventions and the serious lack of cooperation from the Venezuela authorities with regard to its obligations, the Committee considers it critical that within the context of the ILO standards the situation in the country be given the full and continuing attention of the ILO and the ILO supervisory system in order to obtain robust and effective measures that can bring about compliance in law and in practice with the Conventions concerned.

Protection of wages

Article 4 of Convention No. 95. "Socialist cestaticket". In its previous comments, while noting the observations of the social partners, the Committee examined the system of the "socialist cestaticket" (a food benefit to protect the purchasing power of workers in relation to food, established by Decree No. 2066 of 2015; the Decree allows several modalities whereby the benefit may be provided, including payment in kind), and requested the Government to take the necessary measures to engage in dialogue without delay at the national level involving all the employers' and workers' organizations concerned so as to examine possible solutions that are sustainable over time, including any necessary adjustment to the "socialist cestaticket" system, with a view to ensuring full conformity with *Article 4* of the Convention. The Committee notes from the Government's report, that when the "socialist cestaticket" system is included in collective labour agreements, the choice of modalities of provision are adopted by common agreement of the interested parties. The Government adds that: (i) unions must guide workers as to the correct use of the coupons, tickets or electronic food cards; and (ii) the payment or provision of food is in addition to the actual wages paid; in no case does payment of the "socialist cestaticket" replace even partial, and still less full, payment of wages. However, the Committee notes the new observations submitted by the workers' organizations in this regard, reporting persistent difficulties in the application of this system. Under these circumstances, the Committee observes with regret that the Government has not taken steps to engage in dialogue at national level on these issues, as it has been requested to do in previous comments. ***The Committee is therefore obliged to reiterate its request to the Government to take the necessary measures to engage in dialogue without delay at the national level involving all the employers' and workers' organizations concerned so as to examine possible solutions that are sustainable over time, including any necessary adjustment to the "socialist cestaticket" system. The Committee requests the Government to provide information in this regard.***

Article 5. Electronic payment of wages. The Committee notes that the CTV, CTASI and FAPUV indicate that electronic payment of wages has become generalized, causing serious inconvenience to workers when they are obliged to make cash payments, and insurmountable difficulties in the many areas where there are no banking services, and also given that the banking system imposes limits on the amount of cash that can be withdrawn. The Committee recalls that *Article 5* provides that wages shall be paid directly to the worker concerned. The same provision allows a number of exceptions as may be provided by national laws or regulations, collective agreement or arbitration award or where the worker concerned has agreed to another arrangement. The Committee also recalls that it has considered that the payment of wages by bank transfer is compatible with the Convention to the extent that it fulfils the provisions of *Article 5* (2003 General Survey, Protection of wages, paragraph 84). However, the Committee considers that there is an issue of application in practice when the prevailing circumstances would make it difficult or even impossible for workers to obtain the corresponding amount in cash from the bank or institution where their wages has been paid, as is denounced by the workers' organizations in the present case. ***The Committee requests the Government***

to take the necessary measures to address this issue and to provide information in that regard.

Article 12. Delayed payment of wages. The Committee notes that the CTASI refers to several cases of delayed payment of wages, in particular in the case of National Assembly workers. ***Recalling the importance of the payment of wages at regular intervals, the Committee requests the Government to provide its comments in that regard.***

[The Government is asked to reply in full to the present comments in 2021.]

Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (ratification: 1982)

Follow-up to the recommendations of the Commission of Inquiry
(complaint made under article 26 of the Constitution of the ILO)

The Committee recalls that the Governing Body, at its 332nd Session (March 2018), approved the appointment of a Commission of Inquiry to examine a complaint made under article 26 of the ILO Constitution alleging non-observance by the Government of 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). The Committee notes that the Commission of Inquiry completed its work in September 2019 and that its report was presented to the Governing Body, which took note of it at its 337th Session (October 2019).

The Committee notes the document submitted to the Governing Body (GB.340/INS/13) with the Government's reply to the Commission of Inquiry's report, and also the discussion which took place on this matter at the 340th Session (October 2020) of the Governing Body and which will continue at its next session in March 2021. In its reply, and in its report to the Commission, the Government stated that it does not accept the recommendations of the Commission of Inquiry since compliance with them would entail the violation of the Constitution of the Republic, the separation of powers, the law, the independence, the sovereignty and the self-determination of the Bolivarian Republic of Venezuela. However, the Committee observes that the Government did not avail itself of the prerogative granted under the ILO Constitution – namely, to refer the complaint to the International Court of Justice within three months of receipt of the report. Moreover, the Committee observes that the Government expresses its readiness to improve its compliance with the Conventions ratified by the country on the basis of constructive suggestions from the ILO supervisory bodies and to receive technical assistance from the Office.

The Committee recalls that, in formulating comments on the application of the Convention by the Government of the Bolivarian Republic of Venezuela, it has been raising many of the issues examined by the Commission of Inquiry. The Committee observes that the Commission of Inquiry, after a detailed examination, confirmed a number of the concerns raised by the Committee, and also by the Committee on Freedom of Association and the Conference Committee on the Application of Standards, regarding the application of this fundamental Convention. In its report the Commission considered, in light of the gravity of the issues raised, that the situation and the progress achieved on its recommendations should be the subject of active supervision by the

ILO supervisory bodies concerned. In particular, it stated that the Government must submit to the CEACR the corresponding reports on the application of the Conventions covered by the complaint for examination at its session in November–December 2020.

The Committee notes that, with regard to observance of this Convention, the Commission of Inquiry recommended that the authorities concerned take without further delay – and with implementation to be completed no later than 1 September 2020 – the necessary measures: (1) to ensure the existence of a climate free from violence, threats, persecution, stigmatization, intimidation or any other form of aggression, in which the social partners are able to exercise their legitimate activities, including participation in social dialogue with full guarantees; and (2) to ensure full respect for the independence of employers' and workers' organizations, particularly in relation to the Government and political parties; and to suppress any interference and favouritism by State authorities – also encouraging the social partners to take any measures at their disposal to preserve the independence of their organizations in defence of their members' interests.

While noting that in its report the Government emphasizes its disagreement with the conclusions and recommendations of the Commission of Inquiry, the Committee recalls that in previous occasions when following-up on recommendations of a commission of inquiry the Committee has observed that the ILO Constitution does not make the results of an inquiry subject to the consent of the State concerned. In this regard, the Committee has recalled that under article 32 of the Constitution, the only authority capable of affirming, varying or reversing the findings or recommendations of a Commission of Inquiry is the International Court of Justice, and that therefore, a government which chooses not to avail itself of the possibility of referring the matter to the International Court of Justice ought to take account of the conclusions and act upon the recommendations of the Commission of Inquiry, in light of the provisions of the ILO Constitution.

The Committee also notes the observations, regarding the follow-up to the recommendations of the Commission of Inquiry and the application of the Convention in law and in practice, sent by the following organizations: the Confederation of Workers of Venezuela (CTV), the Federation of University Teachers' Associations of Venezuela (FAPUV) and the Independent Trade Union Alliance Confederation of Workers (ASI), received on 26 May 2020; the ASI, received on 30 September 2020; the CTV, received on 30 September; FAPUV, received on 30 September; the National Federation of Administrative Professionals and Technicians of the Universities of Venezuela (FENASIPRUV), the SPT 7 Union of Education Professionals and Technicians of the State of Táchira, the Social Movement 10 "The Voice of SIDOR Workers" (MS10) and the Association of Retirees and Pensioners of Alcasa (AJUPAL), received on 30 September 2020; the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), with the support of the International Organisation of Employers (IOE), received on 1 October 2020; the Confederation of Autonomous Trade Unions (CODESA), the General Confederation of Labour (CGT) and the National Union of Workers of Venezuela (UNETE), received on 1 October 2020; the ASI and the National Union of Men and Women Public Officials in the Legislative Career Stream, and Men and Women Workers at the National Assembly (SINFUCAN), received on 5 October 2020; and the Federation of Workers of the State of Bolívar (FETRA-BOLIVAR), received on 5 November 2020. Finally, the Commission takes note of the observations of the Bolivarian Socialist Confederation of City, Country and Fishing Workers of Venezuela (CBST-CCP) received on 3 December 2020, stating that the CBST-CCP has managed, in coordination with the Government and despite adverse conditions, to maintain

compliance with the Convention in the course of 2020. **The Committee requests the Government to send its observations in this regard.**

Civil liberties and trade union rights. Climate free from violence, threats, persecution, stigmatization, intimidation or any other form of aggression, in which the social partners are able to exercise their legitimate activities, including participation in social dialogue with full guarantees. The Committee notes that the Commission of Inquiry recommended: (i) the immediate cessation of all acts of violence, threats, persecution, stigmatization, intimidation or other forms of aggression against persons or organizations in relation to the exercise of legitimate employers' or trade union activities, and the adoption of measures to ensure that such acts do not recur in future; (ii) cessation of the use of judicial proceedings and preventive and non-custodial measures, including the subjection of civilians to military jurisdiction, for the purpose of undermining freedom of association; (iii) the immediate release of any employer or trade unionist who is imprisoned in relation to the exercise of the legitimate activities of their organizations, as is the case of Mr Rubén González and Mr Rodney Álvarez; (iv) the independent investigation without delay of all allegations of violence, threats, persecution, stigmatization, intimidation and any other forms of aggression that have not been duly elucidated, with a view to clarifying responsibilities and identifying the perpetrators and instigators, while ensuring the adoption of appropriate protection, penalization and compensation measures; (v) the adoption of the necessary measures to ensure the rule of law, and particularly the independence from the executive authorities of the other branches of State authority; and (vi) the organization of training programmes with the ILO to promote freedom of association, tripartite consultation and social dialogue in general, including on full respect for essential conditions and basic rules of social dialogue, in accordance with international labour standards.

In this regard, the Committee notes that the Government: (i) while regretting the slowness of the justice system, asserts that this does not signify impunity, that the actions of the executive authority with regard to the judiciary are taken on the basis of the principle of the separation of powers, that no person who commits a military offence can avoid trial by a natural judge of the military courts, that the judicial proceedings and preventive and non-custodial measures provided for in the legal system are under no circumstances used to undermine freedom of association or any other right and that the legitimate activities of employers and workers and their leaders do not constitute a crime in the country; (ii) indicates that summonses and preventive detentions for the purpose of conducting investigations and taking statements are intended to clarify the facts of each case and none of this can be interpreted as harassment, threats, intimidation or persecution; (iii) states that it continues to urge the security agencies and national justice bodies to conduct independent and transparent investigations and proceedings without delay with a view to clarifying the responsibilities of the perpetrators and instigators and ensuring the adoption of appropriate protection, penalization and compensation measures (the Government explains that any financial compensation or the payment of damages are not automatic and are only referred to the judicial authorities at the request of the interested party); and (iv) indicates that it continues to strengthen social dialogue and that, despite the COVID-19 pandemic, high-level meetings and dialogue round tables have been held between the Government and representatives of employers' organizations in the country, including FEDECAMARAS (in this regard, it refers to statements by employers' leaders – of FEDECAMARAS and its affiliates – supposedly recognizing the existence of a dialogue between the private sector and the Government).

Furthermore, the Committee welcomes the partial follow-up to one of the recommendations of the Commission of Inquiry through the granting of a pardon to

Mr Rubén González, by the Decree of 31 August 2020 of the President of the Bolivarian Republic of Venezuela. However, the Committee notes with **regret** that the Government has not proceeded with the release of the trade unionist Mr Rodney Álvarez and does not report any other tangible progress regarding the above-mentioned recommendations relating to civil liberties and trade union rights.

In addition, the Committee notes that numerous observations received from the social partners allege the absence of progress in giving effect to these recommendations and also additional violations of the Convention:

- (i) FEDECAMARAS indicates that there has been no progress and highlights the persistence of expressions of disrespect, disparagement and defamation against it (as illustrated by the derogatory, stigmatizing or discrediting remarks against FEDECAMARAS and against independent trade unionism contained in the Government's reply of 27 December 2019 to the report of the Commission of Inquiry). FEDECAMARAS states that it cannot be argued that either the limited meetings held between it and the Government to resolve operational issues in the context of the pandemic or the patchy responses aimed at tackling the crisis can be regarded as effective social dialogue, or even bipartite, especially when not the slightest consideration was given in these contacts to matters covered by the Commission of Inquiry's report. In this regard, and in view of the fact that the round tables recommended in the report have not been established, FEDECAMARAS and independent workers' organizations (including the CTV, UNETE, ASI, CGT and CODESA confederations) have launched an initiative for bipartite dialogue on the basis of the "Bipartite manifesto for decent and productive work and social justice".
- (ii) The CTV alleges that there has been no reduction in the persecution of workers' representatives (referring to several examples, such as the detention of the organizational secretary of the Union of the Socialist Fisheries and Aquiculture Institute (SINTRAPESCAVE) after making complaints against the authorities of the Institute for failure to uphold job-related benefits); that the courts continue to be used as a tool for restricting freedom of association, referring, inter alia, to the detention in February 2020 of leaders of the Single Union of Employees of the Sucre State Executive Authorities (SUEPPLES) during a peaceful protest at which they were calling on the Sucre government to pay debts to the workers, these leaders being accused of incitement to hatred, unlawful association and disruption of public order; and to the detention measure issued against a leader of the health union in the state of Monagas who denounced the meagre resources of the Dr Manuel Núñez Tovar University Hospital for tackling the pandemic and was accused of incitement to hatred, causing anxiety for the community, and unlawful association; and that the national executive branch controls almost all the public authorities of the State, except for the National Assembly, no measures having been taken to restore the rule of law in the country.
- (iii) The ASI confederation denounces the killing of another trade unionist in the construction sector in Sucre in 2019 and the detention of two trade unionists from the Agropatria enterprise. UNETE, CODESA and the CGT allege that the Government's violations of the Convention have grown worse since the publication of the Commission of Inquiry's report. Similarly, FAPUV states that acts of anti-union violence, threats and persecution by State officials are continuing, referring in this regard to new complaints presented to the Committee on Freedom of Association (such as Cases Nos 3385 and 3374) and to the preliminary study published on 1 May 2020 by PROVEA, a non-governmental organization for the defence of human

rights, concerning the follow-up to the recommendations of the Commission of Inquiry, in which many new cases are reported of anti-union actions in violation of the aforementioned recommendations. FAPUV reports other new cases of similar violations described by trade unions with diverse leanings in various sectors, and it also refers to its joint communications with the ASI and the CTV describing additional specific cases of trade unionists and other workers detained for reporting situations related to the pandemic or for asserting their labour rights during it. In addition, it alleges that the anti-union use of judicial proceedings persists, providing details of specific cases of trade unionists subjected to criminal proceedings or already convicted, with non-custodial measures involving periodic appearances before the authorities and, additionally in one case, a ban on leaving the country. On top of this, there are measures imposed orally, such as a ban on making statements. FAPUV also emphasizes that the detailed conclusions of the Independent International Fact-Finding Mission on the Bolivarian Republic of Venezuela, presented on 16 September 2020 to the 45th session of the United Nations Human Rights Council, confirm the concerns of the Commission of Inquiry regarding deficiencies with respect to the rule of law and the separation of powers in the country.

Expressing deep concern at the almost total absence of progress and at the gravity of the allegations of additional violations made in the observations of the social partners alluded to, the Committee reiterates the recommendations of the Commission of Inquiry set forth above relating to civil liberties and trade union rights. In this regard, the Committee firmly urges the Government to take the necessary measures to give immediate effect to the recommendations and also to investigate and take action promptly with regard to the new specific allegations referred to above in order to ensure a climate free from violence, threats, persecution, stigmatization, intimidation or any other form of aggression, in which the social partners are able to exercise their legitimate activities, including participation in social dialogue with full guarantees.

Articles 2 and 3 of the Convention. Respect for the autonomy of employers' and workers' organizations, particularly in relation to the Government or political parties, and suppression of all interference and favouritism by the State authorities. The Committee notes that the Commission of Inquiry recommended: (1) the adoption of the necessary measures to ensure in law and practice that registration is a mere administrative formality and that in no event can it imply previous authorization, and to proceed to the immediate registration of the ASI confederation; (2) the elimination of "electoral abeyance" and the reform of the rules and procedures governing trade union elections, so that the intervention of the National Electoral Council (CNE) is really optional and does not constitute a mechanism for interference in the life of organizations, the pre-eminence of trade union independence is guaranteed in election processes and delays are avoided in the exercise of the rights and activities of employers' and workers' organizations; (3) the elimination of any other use of institutional machinery or types of action that interferes in the independence of employers' and workers' organizations and their mutual relations. In particular, the Commission recommended the adoption of any necessary measures to eliminate the imposition of control institutions or mechanisms, such as Workers' Production Boards (WPBs), which may in law or in practice restrict the exercise of freedom of association; (4) the establishment, with ILO assistance, of criteria that are objective, verifiable and fully in accordance with freedom of association to determine the representativeness of both employers' and workers' organizations; and (5) in general, the elimination in law and practice of any provisions or institutions that are incompatible with freedom of association, including the requirement to provide

detailed information on members, taking into account the conclusions of the Commission and the comments of the ILO supervisory bodies.

In this regard, the Committee notes the Government's assertion that Venezuelan labour law and practice have always been advanced and that what is not provided for in the ILO Conventions – minimum standards – can be set out or developed for workers by national legislation. The Government states that this is the case with the WPBs and in this regard reiterates what was already indicated in its response to the Commission of Inquiry: that the Act establishing them provides that they “are not by their nature trade unions and in the exercise of their functions shall not carry out trade union activities, nor impede or interfere in the exercise of the right to freedom of association and collective bargaining”; and that they are not supervisory mechanisms, nor do they undermine the exercise of freedom of association. With regard to the representativeness of workers' organizations, the Government indicates that it sent the ILO a request for technical assistance in March 2020 and affirms in general that it has never objected to the specialized technical assistance offered by the ILO in the context of the Convention.

The Committee welcomes the partial effect given to one of the recommendations of the Commission of Inquiry, in that the National Registry of Trade Unions (RNOS), attached to the Ministry of People's Power for the Social Process of Labour, issued the registration certificate for the ASI confederation on 28 February 2020, four years after the initial application for registration.

With regard to the Government's request for technical assistance in relation to a specific recommendation – the establishment of objective and verifiable criteria which are fully in accordance with freedom of association to determine the representativeness of employers' and workers' organizations – the Committee observes that the Commission of Inquiry emphasized that, to implement its recommendations, it is necessary to ensure the essential conditions and basic standards for effective social dialogue with full guarantees and genuine impact. According to the Commission of Inquiry, this includes: the absence of any form of violence, aggression, harassment or intimidation; respect for the independence and autonomy of employers' and workers' organizations; recognition of the representative partners; mutual respect, including in the tone of the debate; the agreed determination of forms and timelines that allow for genuine and constructive participation and discussion; adherence to good faith and confidence building; and a genuine commitment to honour the agreements concluded. In this regard, the Committee observes that because the recommendations are inter-related and must be considered as a whole, they should be implemented in a holistic manner and in a climate where the social partners can exercise their legitimate activities, including participation in social dialogue with all guarantees and also full respect for the autonomy of employers' and workers' organizations.

Furthermore, the Committee notes with *regret* that the Government does not report any other progress on its part regarding the above-mentioned recommendations relating to respect for the autonomy of employers' and workers' organizations and also the suppression of any interference and favouritism by State authorities. The Committee also notes that numerous observations received from the social partners allege that no progress has been made as regards giving effect to these recommendations and that violations of the Convention persist.

The Committee notes the allegation of FEDECAMARAS that no progress has been made and emphasizes that the exclusion of FEDECAMARAS and discrimination towards it persist and favouritism continues to be shown to FEDEINDUSTRIA, the employers' organization with links to the Government and its political agenda (as illustrated by the

meeting on 22 January 2020 between the President of the Republic and the Government, on the one hand, and small and medium-sized enterprises, on the other, at which FEDEINDUSTRIA reportedly played a significant part, whereas no invitation had been issued to FEDECAMARAS or its chambers of commerce representing small and medium-sized industries). Furthermore, FEDECAMARAS alleges that the Government, instead of giving effect to the recommendation to abolish the WPBs, has continued to strengthen and promote them: (a) by promotional public activities undertaken by the President of the Republic (such as his participation in February 2020 in an action of the State petroleum company, at which he reportedly emphasized that the key instrument for transforming the economy, society and productive relationships are the WPBs, with the WPB supervisory body in that industrial sector having been established on that occasion); (b) by granting WPBs functions for controlling employers in the area of price fixing; and (c) by campaigns to promote and install WPBs in workplaces throughout the country (through national implementation in June 2020 or the holding of a public action with the President of the Republic on 3 September 2020, assigning the WPBs the task of being protagonists in the social process of labour, supported by the “combat corps” of the working class). FEDECAMARAS considers that there is clear interference from the Government and the imposition of its political and ideological agenda within labour relations, restricting the rights established in the Convention, and asserts that this interference from the WPBs not only affects workers’ organizations but also violates the freedom of association of employers, in obstructing relations between employers and workers and their organizations.

With regard to the observations received from workers’ organizations, the Committee notes the statement of the CTV that, apart from the registration of the ASI, no progress whatsoever has been made with respect to this set of recommendations. It indicates that, on the contrary, cases of non-observance have persisted – as illustrated by the acceleration in the creation of mechanisms to interfere in the autonomy of trade unions and employers’ organizations, such as the WPBs (according to statements from the President of the Republic himself, a total of 2,208 WPBs have been established, with the Ministry of Labour having declared that the WPBs are an organizational force of great importance because they will enable votes to be mobilized for the next elections). In addition, UNETE, CODESA and the CGT state that the WPBs – civic-military entities imposed on all workplaces and directly dependent on the Government – imply government interference in the operation of labour relations which restricts the exercise of freedom of association. While indicating their ongoing proliferation and the promotion thereof, the aforementioned confederations warn that the WPBs are the Government’s instrument of social control for eliminating the trade union movement. In addition, FAPUV: (i) indicates, with reference to specific examples, that government actions persist to disregard and attack legitimate majority trade unions and to encourage or favour minority organizations close to the Government; (ii) warns that the registration of trade unions continues to be an obstacle in relation to the exercise of freedom of association and that organizations which are up to date in their registration are increasingly few; (iii) states that interference from the State persists through proceedings relating to trade union elections – referring to various cases in which “electoral abeyance” continues to block action by workers’ organizations; (iv) emphasizes in this regard that a decision is needed from the labour authorities to secure recognition of the results of elections conducted by trade unions without intervention from the CNE; (v) states that in January 2020 more WPBs were sworn in and denounces the fact that at the State petroleum company the WPBs are taking the place of trade unions and their leaders, that at educational establishments in the state of Sucre the authorities only

allow entry to WPBs, arguing that trade unionists are “miserable and stateless”, and that the SUTISS trade union has been disregarded de facto (with the majority of its committee forced unlawfully into retirement) and replaced by WPBs, which do not allow the SUTISS leaders to enter the plant; and (vi) in relation to the same matter, warns about the integration of Bolivarian militias into basic industries in Guayana.

Reiterating its deep concern at the almost total absence of progress, and in view of the allegations of persistent violations of the Convention that would confirm the fears expressed in its previous comments (for example, regarding Workers’ Production Boards (WPBs) and their negative impact on the exercise of freedom of association), the Committee refers to the conclusions of the Commission of Inquiry and reiterates its recommendations set forth above regarding the need to ensure respect for the autonomy of employers’ and workers’ organizations, particularly in relation to the Government or political parties, and regarding the suppression of all interference and favouritism by the State authorities. Among other specific recommendations, this includes ceasing the imposition of control institutions or mechanisms which, like the WPBs, can restrict the exercise of freedom of association in law or in practice. The Committee firmly urges the Government to take the necessary measures to give immediate effect to all these recommendations.

Articles 2 and 3. Legislative issues. The Committee recalls that it has been asking the Government for several years to consult the most representative workers’ and employers’ organizations and take the necessary steps to revise the following aspects of the national legislation with a view to bringing it into conformity with the Convention:

- section 388 of the Basic Labour Act (LOTTT), to remove the requirement for unions to provide the list of their members to the National Registry of Trade Unions;
- sections 367 and 368 of the LOTTT, to remove, in the definition of the objectives to be pursued by trade unions, all those that relate to the specific responsibilities of the public authorities;
- section 402 of the LOTTT and other provisions that are in force so that: (i) they do not permit a non-judicial authority (such as the CNE) to decide on appeals respecting trade union elections; (ii) the principle of “electoral abeyance” is eliminated in law and in practice; (iii) the requirement to notify the CNE of the electoral schedule is removed; and (iv) the requirement to publish the results of trade union elections in the Electoral Gazette as a condition for their recognition is removed;
- section 387 of the LOTTT, so that the eligibility of leaders is not conditional on having convened trade union elections within the prescribed time frame when they were leaders of other trade unions;
- section 395 of the LOTTT, to remove the provision in the Act establishing that failure of members to pay their trade union dues invalidates their right to vote;
- section 403 of the LOTTT, to eliminate the imposition of specific voting systems on trade unions;
- section 410 of the LOTTT, to eliminate the system of holding recall referendums to remove trade union officers;
- section 484 of the LOTTT, to ensure that either a judicial or an independent authority determines the areas or activities which may not be subject to stoppages during a strike on the grounds that they prejudice the production of essential goods or services which would cause damage to the population; and

- section 494 of the LOTT, to ensure that the system for the appointment of the members of the arbitration board in the event of a strike in essential services guarantees the confidence of the parties in the system.

The Committee also notes that the Commission of Inquiry – which did not enter into some of these specific legislative aspects on the grounds that they were not issues covered by the complaint – recommended the submission to tripartite consultation of the revision of the laws and standards, such as the LOTT, giving effect to the Convention that raise problems of compatibility with it in light of the conclusions of the Commission of Inquiry and the comments of the ILO supervisory bodies. The Committee observes the Government's statement that it has taken note of the suggestions for legislative reforms to improve Venezuelan legislation but that, although those suggestions could be presented in due course to the National Assembly as the competent body, it is not in a position to proceed in this regard since the National Assembly remains in contempt (according to the rulings of the Supreme Court of Justice), and so its actions are null and void and it is unable to deal with legislative reforms. In this regard, the Committee considers that this should not have prevented the Government, before conveying the modifications to the legislative body, from giving effect to the Commission of Inquiry's recommendation to submit this major task to tripartite consultation. ***The Committee reiterates the recommendation and requests the Government, in the context of the tripartite dialogue round table referred to below, to submit to tripartite consultation without further delay the revision of the laws and standards which give effect to the Convention and raise problems of compatibility with it, starting with the LOTT, in light of the conclusions of the Commission of Inquiry (such as those relating to trade union registration, "electoral abeyance" or the WPBs) and the previous comments of this Committee.***

The Committee expresses its ***deep concern*** at the numerous serious violations of the Convention recorded by the Commission of Inquiry in its report, drawing attention to the existence of a complex web which harasses and undermines the action of employers' and workers' organizations that are not close to the Government. Although the Government once again asserts that it is continuing to work on improving compliance with the ratified Conventions, and even though the Committee recognizes that, as the Government indicates, the situation of the COVID-19 pandemic has also affected the country, the Committee is bound to note with ***deep regret*** the lack of action regarding almost all the recommendations that the ILO supervisory bodies, including the Commission of Inquiry in particular, have been making with regard to observance of the Convention. Even though the Commission of Inquiry provided a time frame of one year to give effect to its recommendations, this time frame has elapsed and, apart from the release of one trade union leader and the registration of one workers' organization, the Government has not made progress on giving effect to the recommendations which go to the core of the issues examined by the Commission of Inquiry. In particular, the Government has not taken any action to establish and convene dialogue round tables in support of the implementation of the recommendations in the report (which states that before March 2020 the round tables should have been established with a schedule of meetings).

In this regard, the Committee firmly urges the Government to proceed immediately with the establishment of the aforementioned round tables in the manner indicated in the report of the Commission of Inquiry: (i) a round table for tripartite dialogue which includes all representative organizations; (ii) a round table for dialogue between the authorities concerned and FEDECAMARAS on questions relating to that

organization; and (iii) another round table for representative workers' organizations to address subjects that are of specific concern to them.

Taking note of the Government's stated willingness to receive technical assistance from the ILO, and of the requests of social partners in this regard, the Committee considers it vitally important that this technical assistance is determined in a tripartite manner in the context of the dialogue round tables and in light of the considerations expressed above.

The Committee is aware of the ongoing consideration being given by the Governing Body to the follow-up of the report of the Commission of Inquiry. In view of the grave violations of labour rights described above, the systemic failure to comply with a number of ILO Conventions and the serious lack of cooperation from the Bolivarian Republic of Venezuela authorities with regard to its obligations, the Committee considers it critical that within the context of the ILO standards the situation in the country be given the full and continuing attention of the ILO and the ILO supervisory system in order to obtain robust and effective measures that can bring about compliance in law and in practice with the Conventions concerned.

[The Government is asked to reply in full to the present comments in 2021.]

Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144) (ratification: 1983)

Follow-up to the recommendations of the Commission of Inquiry
(complaint made under article 26 of the Constitution of the ILO)

The Committee recalls that the Governing Body, at its 332nd Session (March 2018), approved the appointment of a Commission of Inquiry to examine a complaint made under article 26 of the ILO Constitution alleging non-observance by the Government of 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). The Committee notes that the Commission of Inquiry completed its work in September 2019 and that its report was presented to the Governing Body, which took note of it at its 337th Session (October 2019).

The Committee notes the document submitted to the Governing Body (GB.340/INS/13) with the Government's reply to the Commission of Inquiry's report, and also the discussion which took place on this matter at the 340th Session (October 2020) of the Governing Body and which will continue at its next session in March 2021. In its reply, and in its report to the Committee, the Government states that it does not accept the recommendations of the Commission of Inquiry since compliance with them would entail the violation of the Constitution of the Republic, the separation of powers, the law, the independence, the sovereignty and the self-determination of the Bolivarian Republic of Venezuela. However, the Committee observes that the Government did not avail itself of the prerogative granted under the ILO Constitution – namely, to refer the complaint to the International Court of Justice within three months of receipt of the report. Moreover, the Committee observes that the Government expresses its readiness to improve its compliance with the Conventions ratified by the country on the basis of constructive suggestions from the ILO supervisory bodies and to receive technical assistance from the Office.

The Committee recalls that, in formulating comments on the application of the Convention by the Government of the Bolivarian Republic of Venezuela, it has been raising many of the issues examined by the Commission of Inquiry, which confirmed and examined in detail a number of the concerns raised by the Committee with regard to the application of this governance Convention. In this regard, the Commission of Inquiry considered in its report that, in light of the gravity of the issues raised, the situation and the progress achieved on its recommendations should be the subject of active supervision by the ILO supervisory bodies concerned. In particular, it stated that the Government must submit to the CEACR the corresponding reports on the application of the Conventions covered by the complaint for examination at its session in November–December 2020.

The Committee notes that the Commission of Inquiry, after finding that the Government did not provide evidence of compliance with the consultation requirements set out in the Convention, recommended that the authorities concerned take without further delay – and with implementation to be completed no later than 1 September 2020 – the necessary steps to ensure due and effective compliance with the consultation requirements set out in the Convention, and the ending of the exclusion from social dialogue and consultation of the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS) and trade union organizations that are not close to the Government. In particular, the Commission recommended, through tripartite dialogue with the representative organizations of employers and workers:

- (i) the establishment of effective tripartite consultation procedures. In light of the serious deficiencies in social dialogue in the country, taking into consideration the recognition by the Government itself of the need to create mechanisms for social dialogue, the Commission of Inquiry advised the establishment in the very near future of bodies or other institutionalized procedures for social dialogue to facilitate compliance with the obligations set out in the Convention, in relation to consultations to promote the application of international labour standards; and
- (ii) the institutionalization of dialogue and consultation covering the subjects envisaged in all ratified ILO Conventions or relating to their application.

While noting that in its report the Government emphasizes its disagreement with the conclusions and recommendations of the Commission of Inquiry, the Committee recalls that on previous occasions when following up on recommendations of a Commission of Inquiry the Committee has observed that the ILO Constitution does not make the results of an inquiry subject to the consent of the State concerned. In this regard, the Committee has recalled that under article 32 of the Constitution, the only authority capable of affirming, varying or reversing the findings or recommendations of a Commission of Inquiry is the International Court of Justice, and that therefore, a government which chooses not to avail itself of the possibility of referring the matter to the International Court of Justice ought to take account of the conclusions and act upon the recommendations of the Commission of Inquiry, in light of the provisions of the ILO Constitution.

The Committee notes the observations, regarding the follow-up to the recommendations of the Commission of Inquiry and the application of the Convention, sent by the following organizations: the Independent Trade Union Alliance Confederation of Workers (ASI), received on 30 September 2020; the Confederation of Workers of Venezuela (CTV), received on 30 September 2020; FEDECAMARAS, with the support of the International Organisation of Employers (IOE), received on 1 October 2020; the Confederation of Autonomous Trade Unions (CODESA), the General

Confederation of Labour (CGT) and the National Union of Workers of Venezuela (UNETE), received on 1 October 2020. Finally, the Commission takes note of the observations of the Bolivarian Socialist Confederation of City, Country and Fishing Workers of Venezuela (CBST-CCP) received on 3 December 2020, stating that the CBST-CCP has managed, in coordination with the Government and despite adverse conditions, to maintain compliance with the Convention in the course of 2020. **The Committee requests the Government to send its observations in this regard.**

Articles 2, 5 and 6 of the Convention. Effective tripartite consultations. The Committee notes that the Government once again states that it has always complied fully with the Convention and that the ILO supervisory bodies, including the Commission of Inquiry, are confusing the tripartite consultation provided for in the Convention on matters relating to the ILO with social dialogue in general, which the Government asserts that it also promotes. In this regard, the Committee notes with **regret** that, even though the conclusions of the Commission of Inquiry's report reminded the Government of the scope of the obligations contained in the Convention – conclusions to which the Committee refers – the Government does not provide any evidence of having held tripartite consultations on any of the matters referred to in *Article 5(1)* of the Convention, devoting its report to claiming that it promotes social dialogue in general. The Committee notes in this respect that the examples cited by the Government in its report to claim the existence of the aforementioned social dialogue (the Government indicates that it held meetings at the highest level with representatives of the employers, including FEDECAMARAS, CONSECOMERCIO and FEDEINDUSTRIA, and refers to public declarations by those representatives reportedly recognizing the existence of social dialogue with the Government), and also the measures connected with combating the pandemic that the Government describes (claiming that it has adopted them taking account of the various suggestions and recommendations of the various national sectors of production), do not contain any indication or evidence of compliance with the specific consultation requirements established in the Convention to promote the application of international labour standards.

At the same time, the Committee notes that the observations sent by FEDECAMARAS, the ASI, the CTV, UNETE, the CGT and CODESA allege that the Government is not complying with the tripartite consultation requirements contained in the Convention; they emphasize that the examples and measures referred to by the Government cannot be considered as effective social dialogue either; they express regret at the absence of social dialogue and tripartite consultation in the country; and they assert that the Government is unwilling to establish any tripartite mechanisms. In this regard, FEDECAMARAS indicates that the public declarations of its representatives referred to by the Government were transcribed partially and do not indicate the existence of agreement or of compliance with the Convention; and that it cannot be argued that either the limited meetings held between some of its representatives and the Government to resolve operational issues in the context of the pandemic or the patchy responses aimed at tackling the crisis can be regarded as effective social dialogue.

With regard to the forwarding by the Government of its reports on the application of ratified Conventions to employers' and workers' organizations, the Committee notes that almost all of the social partners' observations criticize delays in delivery of the reports and the lack of any tripartite consultation or discussion in this regard. From the information provided by the Government the Commission can only note, regarding the communication of reports, the application of article 23(2) of the ILO Constitution, which a number of organizations claim is done too late for it to fulfil its function (for example,

according to the notification of dispatch forwarded by UNETE, the CGT and CODESA, the reports were forwarded one day before the deadline established by the ILO Governing Body for sending them to the Committee).

The Committee observes, as the Commission of Inquiry already did, that even though the notifications of dispatch of the Government's reports to which it has had access refer to the Convention, the Government has not provided any evidence showing that these imply or are supported by the slightest intention of, or invitation to, genuine tripartite consultation. As regards the other matters for consultation referred to in *Article 5(1)* of the Convention to promote the application of international labour standards, the Government does not mention or provide any evidence or information on consultation procedures for complying with the Convention.

The Committee is therefore bound to note that the Government, once again, has not provided any information that gives evidence of compliance with the requirements of the Convention, either regarding effective consultations on matters relating to the ILO referred to in *Article 5(1)* or regarding the nature and form of consultation procedures in accordance with *Article 2(2)*.

In light of the above, the Committee notes with **deep regret** that no progress whatsoever has been made either with respect to compliance with the Convention or with respect to the implementation of the recommendations made by the Commission of Inquiry in this regard.

The Committee is aware of the ongoing consideration being given by the Governing Body to the follow-up of the report of the Commission of Inquiry. In view of the grave violations of labour rights described above, the systematic failure to comply with a number of ILO Conventions and the serious lack of cooperation from the Venezuelan authorities with regard to its obligations, the Committee considers it critical that within the context of the ILO standards the situation in the country be given the full and continuing attention of the ILO and the ILO supervisory system in order to obtain robust and effective measures that can bring about compliance in law and in practice with the Conventions concerned.

In the context of the COVID-19 pandemic, the Committee recalls the extensive guidance provided by international labour standards. The Committee encourages the Government to engage in the widest possible tripartite consultations and social dialogue as a sound basis for formulating and implementing effective responses to the profound economic and social effects of the pandemic. ***The Committee invites the Government to provide updated information in its next report on the measures taken in this respect, in accordance with the guidance provided in Article 4 of the Convention and Paragraphs 3 and 4 of the Tripartite Consultation (Activities of the International Labour Organisation) Recommendation, 1976 (No. 152), including on capacity-building measures for the tripartite constituents and measures to reinforce mechanisms and procedures, and also on the challenges and good practices that have been identified.***

[The Government is asked to reply in full to the present comments in 2021.]

▶ Appendix VI

Letter from the Government of the Bolivarian Republic of Venezuela (December 2020) and response of the ILO Director-General

Minister of Popular Power for
the Social Process of Labour

Caracas, 18 December 2020

No. 822

Mr GUY RYDER
Director-General of the International Labour Office
International Labour Organization – ILO
Geneva, Switzerland

Dear Mr Ryder,

Revolutionary greetings from the Government of the Bolivarian Republic of Venezuela. Please receive our best wishes for an improvement in 2021 in the situation in the world of work resulting from the COVID-19 pandemic.

As we stated during the 340th Session of the Governing Body, held in November 2020, this letter reiterates the content of our communication No. 22/2020, dated 28 February 2020, in which my Government reaffirmed the possibility of availing itself of the ILO's specialized technical assistance, in areas where it is justified, in order to enhance further observance of the ILO Conventions ratified by Venezuela, especially 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), which were the subject of the Commission of Inquiry.

In this regard, as we requested in the above communication, it is extremely important for our Government to rely on the ILO's technical assistance in order to determine the representative nature of the employers' and workers' organizations existing in Venezuela, committed as we are to the policy of giving consideration to all the most representative organizations in both sectors, without favouring either one of them, and in line with national legislation.

The above request for technical assistance was reiterated in our communications No. 344 of 2 March 2020 and No. 296 of 10 August 2020, and is now confirmed, owing to the fact that we have not to date received a response from the ILO on this subject.

We reaffirm the commitment to continue working together with the ILO and moving ahead in terms of observance of the Conventions that are the subject of the complaint lodged against the Government of Venezuela, based on article 26 of the ILO Constitution.

With no further points to raise, we once again convey to the Director-General the assurances of our highest consideration.

Yours sincerely,

(signed)

GERMÁN EDUARDO PIÑATE RODRÍGUEZ
Minister of Popular Power for
the Social Process of Labour

► **The Director-General**

Mr Germán Eduardo Piñate Rodríguez
Minister of Popular Power for
the Social Process of Labour
CARACAS
BOLIVARIAN REPUBLIC OF VENEZUELA

4 February 2021

Dear Minister,

I have the honour to acknowledge receipt of your communication of 18 December 2020 in which your Government again refers to the possibility of availing itself of the Office's technical assistance in the areas where it is justified, in order to enhance observance of the ILO Conventions ratified by your country, especially those which have been the subject of the Commission of Inquiry set up under article 26 of the ILO Constitution.

The content of your communication will be forwarded to the ILO Governing Body as part of its follow-up to the Report of the Commission of Inquiry, a subject which is included on the agenda of the Governing Body's 341st Session, to be held in March 2021.

I also take this opportunity to send you an advance copy of the observations of the Committee of Experts on the Application of Conventions and Recommendations (CEACR), put forward at its meeting in November and December 2020, relating to the Bolivarian Republic of Venezuela, which will be published in February 2021 as part of the CEACR's annual report.

Thank you in advance for the consideration which your Government will give to those observations which contain important guidance for achieving full observance of the Conventions ratified by Venezuela.

I remain at your disposal, as appropriate, and reiterate to you, Minister, the assurances of my highest consideration.

(Signed) Guy Ryder

▶ Appendix VII

Letter from the Government of the Bolivarian Republic of Venezuela of 26 February 2021

Minister of Popular Power for
the Social Process of Labour

Caracas, 26 February 2021

Mr GUY RYDER
DIRECTOR-GENERAL
INTERNATIONAL LABOUR OFFICE (ILO)

Re.

Revolutionary greetings from the Government of the Bolivarian Republic of Venezuela.

I wish to bring to your attention the fact that, in accordance with the agreement reached during the 340th Session of the ILO Governing Body, held in November 2020, the Government of Venezuela has made further progress in enhancing observance of the Conventions referred to in the proceedings of the Commission of Inquiry relating to Venezuela and, in this regard, it is timely to inform the International Labour Organization of the following aspects:

- In a context of consultation and open-mindedness, dialogue forums have been set up with representative employers' and workers' organizations in the Bolivarian Republic of Venezuela, such as: the Federation of Chambers and Associations of Commerce and Production of Venezuela (FEDECAMARAS), the Venezuelan Federation of Craft, Micro, Small and Medium-Sized Business Associations (FEDEINDUSTRIA), the Bolivarian Socialist Confederation of Men and Women Workers in Urban and Rural Areas and Fishing of Venezuela (CBST-CCP) and the Independent Trade Union Alliance Confederation of Workers (CTASI).
- Within the framework of these dialogue forums, aspects relating to the ILO international Conventions linked to the Commission of Inquiry were discussed, including other subjects of national interest, of which the Venezuelan Government took note with a view to reaching agreement on the relevant solutions and making progress.
- It is planned to continue the meetings of these dialogue forums in the next week and, subsequently, on a regular basis, to draw up the corresponding schedules and set the priority issues on each occasion, with the firm aim of making progress and taking specific action on all related matters.
- Once these bilateral aspects have been established, it is then planned to set up a dialogue forum in which all such representative employers' and workers'

organizations play a role, in order to reconcile their fair claims and produce results of benefit to the world of work at the national level, in accordance with the law.

- The comments and suggestions of the Committee of Experts on the Application of Conventions and Recommendations (CEACR), which were also ratified by the Commission of Inquiry, were forwarded to the National Assembly (legislative authority) concerning the revision of laws and standards contained in the ILO Conventions.
- The list of labour standards adopted by the International Labour Conference (ILC), pending ratification, was submitted to the National Assembly (legislative authority). In this regard, we note that consultations are being held on these international labour standards within the relevant dialogue forums, so as to move ahead in accordance with the Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144), and work together with the National Assembly.
- The same employers' and workers' organizations are holding meetings directly with the National Assembly – Special Commission for Dialogue, Peace and National Reconciliation, within the framework of consultation, and are communicating their priorities and aspirations with a view to being heard. We have no doubt that these organizations will be dealt with appropriately by the legislative authority, in accordance with the law.
- Similarly, communications have been sent, with an invitation to launch a dialogue with the remaining workers' organizations, so that they form part of the dialogue forums, i.e.: the Confederation of Workers of Venezuela (CTV), General Confederation of Labour (CGT), Confederation of Autonomous Trade Unions (CODESA) and the National Union of Workers of Venezuela (UNETE). We are waiting to receive acceptance from these organizations, in order to begin the formal dialogue with their representatives, during the week of 1 to 5 March.

The Venezuelan Government's firm intention is to enhance still further the dialogue forums mentioned and to continue to observe the ILO Conventions ratified by Venezuela, while keeping the ILO informed and involved, in accordance with the guidelines of which we are made aware, on a constructive basis.

We respectfully take this opportunity to confirm once again the request for technical assistance from the ILO, in order to determine the representative nature of the employers' and workers' organizations which exist in Venezuela. Pending receipt of such important technical assistance, we remain committed to our policy of giving consideration to the most representative organizations in different sectors, without favouring any one of them, in line with national legislation.

It is worth respectfully reiterating that such technical assistance from the ILO will be fundamental in determining the representative nature of organizations, subject to objective criteria that can be verified and observe fully the principles of freedom of association; all these factors will allow us to continue moving forward with such representative organizations on all aspects of the dialogue forums, including enabling us to envisage training programmes based on international labour standards and our national laws.

On behalf of my Government, I request that this information be made available to the Governing Body, for the purposes of its 341st Session, to be held in March 2021.

In this regard, my Government respectfully requests that the information be published in a revised document, GB.341/INS/10(Rev.1) or, failing that, be published as

an appendix to that document, so that the Governing Body is duly informed prior to the debate that will be held during the next session.

With no further points to raise, I take this opportunity to convey to the Director-General the assurances of our highest consideration.

Yours sincerely,

(signed)

GERMÁN EDUARDO PIÑATE RODRÍGUEZ
Minister of Popular Power for
the Social Process of Labour