



Governing Body

326th Session, Geneva, 10–24 March 2016

GB.326/INS/6(Rev.)

Institutional Section

INS

Date: 14 March 2016

Original: Spanish

SIXTH ITEM ON THE AGENDA

Complaint concerning non-observance by Guatemala of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), made by delegates to the 101st Session (2012) of the International Labour Conference under article 26 of the ILO Constitution

Information on progress achieved

Purpose of the document

This document follows up on the request from the Governing Body in November 2015 that this matter be brought before it again at its March 2016 session.

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

Policy implications: This will depend on the decision taken.

Legal implications: None.

Financial implications: This will depend on the decision taken. The cost of a Commission of Inquiry would need to be approved by the Governing Body.

Follow-up action required: This will depend on the decision taken.

Author unit: International Labour Standards Department (NORMES).

Related documents: GB.316/INS/15/2; GB.317/INS/6; GB.319/INS/7(&Corr.); GB.320/INS/9; GB.322/INS/8; GB.323/INS/6(Rev.); GB.324/INS/4; GB.325/INS/8(Rev.1).

1. The Governing Body, at its 325th Session (October–November 2015):
 - (i) urged the Government to take, without delay, all the measures necessary to fully implement the key indicators and the roadmap, including the priority areas that continued to require additional and urgent action;
 - (ii) deferred until its 326th Session (March 2016) the decision on the appointment of a Commission of Inquiry;
 - (iii) requested the Office to provide the Officers of the Governing Body, at its March and November sessions, with updated information on the progress made, including information provided by the Government and the employers' and workers' organizations of Guatemala, in particular on the follow-up given to the key indicators and the points of the roadmap; and
 - (iv) invited the tripartite constituents of Guatemala to agree with the Office by the end of 2015 on the nature of an expanded mandate for the Special Representative in the country and asked the Office to allocate resources in order to extend the duration of its Special Representative's presence, as well as invited the international community to provide the necessary resources to enable the office of the Special Representative in Guatemala to strengthen its support for the tripartite constituents in the implementation of the Memorandum of Understanding and the roadmap.
2. The Guatemalan Government and social partners sent information on the follow-up given to the key indicators and the points of the roadmap in communications dated 15, 17 and 18 February 2016. The following is a summary of this information, structured around a list of nine key indicators adopted on 5 May 2015 by the Guatemalan tripartite constituents. This document also contains a summary of the principal measures and initiatives taken since November 2015, as well as a summary of the priority issues that continue to require further urgent action. The full text of these communications is available to constituents.

I. Information on progress measured against the key indicators

Key indicator 1: Significant increase in the number of cases of killings of union officials and members reported to the ILO that have been investigated and have led to convictions (before 31 October 2015) – related to points 1 and 2 of the roadmap

(Follow-up of the investigation into the 58 murders of trade union members reported to the ILO; the timely trial and conviction of the perpetrators and instigators of the crimes in order to ensure intolerance towards impunity.)

The Government

3. The Government provided information on 70 cases of murder (the 58 cases examined by the Committee on Freedom of Association at the time of the adoption of the roadmap by the Government of Guatemala in October 2013, and 12 further cases), reporting that: (i) on 31 December 2015, 14 verdicts, including 11 convictions, had been handed down in relation to the aforementioned 70 cases of murder; and (ii) of those 14 verdicts, six had been handed down between 2007 and 2013, six had been handed down in 2014 and two in 2015.

4. The Government provided further information regarding the inquiry into the murders of union officials and members for which verdicts are yet to be handed down. In this regard, the Government indicated that the cooperation agreement between the Special Investigation Unit for Crimes against Trade Unionists (hereafter, the Special Investigation Unit) and the International Commission against Impunity in Guatemala (CICIG) continues to be implemented. Under that agreement, the CICIG issues recommendations on the handling of the inquiries into the 12 murder cases reported by the trade union movement in Guatemala. Within this process, six joint working meetings were held between the CICIG and the Special Investigation Unit as of June 2015 (one in June, one in July, two in August and two in October).
5. The Government also indicated that it is implementing general directive No. 1-2015 of the Public Prosecutor's Office for the effective criminal investigation and prosecution of crimes against trade unionists, members of workers' organizations and other labour and trade union activists (hereafter, general directive No. 1-2015). By way of illustration, the investigation procedures contained in general directive No. 1-2015 were particularly useful in the case of the murder of Mr Mynor Rolando Castillo Ramos, member of the union of workers of the municipality of Jalapa, committed on 25 September 2015. Investigations enabled the Public Prosecutor's Office, in a short period of time, to make a formal accusation and initiate proceedings against the perpetrator of the crime.
6. Furthermore, the Government indicated that the Public Prosecutor's Office had held 15 meetings of the Trade Union Committee in 2015, with at least one meeting every month.

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7. The confederations reported that no major progress has been made in relation to the investigation of the murders of union officials and members. In particular, they indicated that: (i) the few murder cases that the Public Prosecutor's Office succeeded in bringing before the courts cannot be classed as anti-union cases, according to the inquiries made by that institution; (ii) as the Public Prosecutor's Office publicly admits, it does not have the budget or the necessary human and material resources to conduct its work effectively; (iii) the Trade Union Technical Committee of the Public Prosecutor's Office has not achieved the progress that had been expected because, at its meetings, the Public Prosecutor's Office only goes so far as to observe that the murders were committed a long time ago, that the appropriate investigation procedures were not conducted at the time of the events, that no witnesses have been found or that the murders cannot be classed as anti-union cases; (iv) the trade union movement is not aware of any agreement having been reached with the CICIG as regards the inquiry into the murders; (v) the witness protection system lacks the adequate mechanisms and sufficient resources to safeguard the integrity of those persons; and (vi) general directive No. 1-2015 has not been adequately implemented.
8. In the light of the above, the trade union federations expressed their belief that many of the murder cases will not be resolved owing to negligence and incompetence on the part of the Public Prosecutor's Office.

Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF)

9. The CACIF again emphasized the importance of the executive report of the CICIG entitled "Status of investigations into the deaths of trade unionists in Guatemala", submitted on 31 July 2014. It said that the report showed that there was no climate of anti-union violence in Guatemala, but rather unfortunate isolated incidents that should be clarified as quickly as

possible and that are part of the climate of violence affecting the whole population. In this regard, the employers' organization indicated that, according to the information provided by the national civil police, 20,557 violent deaths occurred in Guatemala between January 2012 and January 2016. According to the information in the media, only 12.77 per cent of the violent deaths between January 2012 and December 2015 have been the subject of a court ruling. Furthermore, the CACIF again drew attention to the adoption by the Public Prosecutor's Office of general directive No. 01-2015, the provisions of which the employer sector had been consulted about.

Key indicator 2: Conduct, together with the relevant trade union organizations, of risk studies for all threatened union officials and members and the adoption of appropriate protection measures (before 30 June 2015) – related to point 3 of the roadmap

(Strengthen the prevention, protection and response mechanisms in respect of threats and attempts against trade union officials, unionized workers and others seeking to organize themselves in trade unions.)

The Government

10. The Government said that the Ministry of the Interior received 76 requests for security measures in the last quarter of 2015 from trade union officials or members, and as a result has authorized ten personal security measures and 66 perimeter security measures. Furthermore, throughout 2015, in accordance with the protocol for the implementation of immediate and preventive security measures for human rights activists, the Public Prosecutor's Office requested the Ministry of the Interior to apply the preventive security mechanism to 28 cases relating to trade union officials and members. In this regard, the Government indicated that general directive No. 1-2015 also contributed to expediting the response by the Public Prosecutor's Office to the complaints of threats to the physical integrity of members of the trade union movement.
11. As regards the expenses of the national civil police officers assigned to the protection of individuals, the Government indicated that: (i) no one covered by a protection scheme is under an obligation to cover the food and lodging expenses of the national police officers assigned to their protection; (ii) however, owing to the State's financial situation, in 2015 the Office of the President of the Republic ordered the suspension of subsistence allowances in all government institutions; and (iii) given that the budget assigned to the national civil police and the Ministry of the Interior is not sufficient to cover the payment of subsistence expenses, an appropriate mechanism is being sought to improve the economic conditions of those assigned to the protection of individuals.

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12. The trade union federations stated that: (i) the representatives of the Ministry of the Interior indicate that they do not have sufficient resources to conduct their activities, in particular the technical studies in response to requests for protection measures; (ii) the Trade Union Technical Committee of the Ministry of the Interior has not enabled any further progress; (iii) the protocol for the protection of trade union members, jointly drafted by officials from the Ministry of the Interior and the trade union organizations has still to be signed by the ministerial authorities before it can be published and implemented; and (iv) in December 2015, on the initiative of the Secretary of the Presidential Committee on Human Rights of

Guatemala at the time, attempts were made, for reasons unknown, to end the precautionary protection measures ordered by the international courts in respect of various trade union officials.

The CACIF

13. The CACIF said that it had reiterated its request to the Tripartite Committee on International Labour Affairs for the inclusion of the employer sector in all dialogue forums for prevention and protection in respect of anti-union violence.

Key indicator 3: Setting up of a hotline for reporting acts of violence and threats against union officials and members (before 31 May 2015) – related to point 3 of the roadmap

(Strengthen the prevention, protection and response mechanisms in respect of threats and attempts against trade union officials, unionized workers and others seeking to organize themselves in trade unions.)

The Government

14. The Government recalled that the free telephone number 1543 is an emergency hotline specifically set up to receive reports from human rights activists with a view to enhancing and expediting prevention, protection and rapid response mechanisms for trade union members, journalists, activists and judicial officials. It said that the hotline operates 24 hours a day with the support of specialized staff who can immediately alert the national civil police units. Furthermore, responding to these calls generates synergy through inter-institutional coordination given that the complaint is transmitted to the Public Prosecutor's Office, the national civil police and the department for human rights of the Ministry of the Interior. Between October and December 2015, the hotline received 2,800 calls, of which only three were to report acts of violence or threats against human rights activists, including a case relating to a member of the trade union movement. The Government said that, despite these figures, the Ministry of the Interior is seeking to strengthen this mechanism to ensure that human rights activists receive the right level of attention.

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15. The trade union confederations indicated that: (i) they do not have updated statistics on the follow-up being given to the calls made by trade union officials; (ii) in some cases, the responses to calls were ineffective; and (iii) in some cases, calls were not answered.

The CACIF

16. The CACIF indicated that it does not have updated information regarding the telephone number 1543. According to the information communicated to the CACIF, in the three weeks following the activation of the hotline on 15 May 2015, 700 hoax calls and one real call had been received.

Key indicator 4: Drafting and tabling before Congress of a bill, based on the comments of the Committee of Experts on the Application of Conventions and Recommendations (CEACR), ensuring the conformity of national legislation with Conventions Nos 87 and 98 (before 30 September 2015) – related to point 5 of the roadmap

(The Government shall take urgent action, in consultation with the tripartite constituents, to propose amendments to the Labour Code and the other relevant laws, incorporating the amendments which have long been proposed by the ILO supervisory bodies).

The Government

17. The Government indicated that: (i) the new authorities of the Ministry of Labour and Social Welfare met on 11 February 2016 with the new Congressional Labour Committee to set objectives common to both institutions; (ii) on 1 February 2016, with the approval of the Tripartite Committee on International Labour Affairs, the request sent on 24 September 2015 to the Office of the Special Representative of the Director-General of the ILO in Guatemala, for technical assistance to the tripartite constituents was renewed with a view to establishing a comprehensive initiative for the revision of national labour laws, especially as regards their compliance with Convention No. 87; and (iii) that request should make it possible to hire a national consultant to develop a proposal to be presented to the Tripartite Committee.

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18. The trade union federations considered that the State has not met its obligations in this regard. Despite the proposal presented by the workers' delegation in the Tripartite Committee on International Labour Affairs, no further progress has been made. The subject is still on the agenda of the Tripartite Committee and it is expected that the completion of the consultation process in this area will make it possible to reach certain agreements that can then be submitted to Congress.

The CACIF

19. The CACIF reiterated the information provided for the previous session of the Governing Body, indicating that, since the end of 2014, a rapprochement has been initiated between the workers' and employers' sectors and the Congressional Labour Committee, with a view to developing proposals related to the reforms required by the CEACR in relation to Convention No. 87. The CACIF added that, in a letter of 1 February 2016, the new Minister of Labour and Social Welfare reiterated the tripartite request to the ILO, made on 24 September 2015, to provide constituents with technical assistance in drafting a bill reforming national labour legislation, paying particular attention to its compliance with Convention No. 87.

Key indicator 5: Significant increase in the percentage of reinstatement orders actually implemented for workers victim of anti-union dismissals (by 31 October 2015) – related to point 7 of the roadmap

(In order to strengthen the rule of law in Guatemala, it is important and urgent that the rulings of the labour courts are observed and executed.)

The Government

20. The Government firstly recalled a series of initiatives taken in recent years by the judiciary and the Supreme Court of Justice with a view to fulfilling the commitments undertaken in the roadmap, which included: (i) increasing the budget of labour and social welfare courts; (ii) establishing the first centre for labour justice in Latin America; and (iii) creating a centre for labour mediation which would facilitate inter-institutional coordination between the labour courts and the Ministry of Labour and Social Welfare. The Government also provided statistical data from the judiciary, according to which: (i) in 2015, there was a significant increase in the number of final decisions issued by the judiciary (5,682 final decisions in 2015 compared with 4,763 in 2014 and 2,066 in 2013), including rulings that ordered the reinstatement of workers entitled to immunity; and (ii) 29 per cent of the measures taken by the judiciary in 2014 and 2015 to monitor the enforcement of rulings (procedures and verification) were related to reinstatement orders.
21. The Government also indicated that: (i) the Supreme Court of Justice had drafted a proposal for the establishment of special criminal courts to try offences related to the freedom to work and freedom of association, but that the feasibility of the proposal was dependent on the economic situation of the judiciary; (ii) with support from the ILO, a compilation of labour court rulings based on ILO Conventions had been developed; and (iii) also with the support of the ILO, draft rules of procedure had been created for labour and social welfare courts, which allowed for the regulation of several legal loopholes in the Labour Code, particularly with regard to processes to reinstate workers who were entitled to immunity.

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22. The trade union federations reported a lack of will on the part of the public sector to reinstate workers who had been unfairly dismissed. In this regard, they drew particular attention to the refusal of the Office of the Attorney-General, which is responsible for ensuring that state bodies abide by the law, to comply with court reinstatement orders. To bring an end to the reported situation of labour impunity, the trade union federations requested the CICIG to investigate, within the framework of its mandate, all cases of obstruction of the work of the courts.

Key indicator 6: Review and resolution of conflicts by the Committee for the Settlement of Disputes before the ILO in the Area of Freedom of Association and Collective Bargaining (by 31 October 2015) – related to point 8 of the roadmap

(It is necessary to take measures to strengthen state institutions, including the Ministry of Labour and Social Welfare, the Public Prosecutor's Office, the Specialized Human Rights Unit of the Ministry of the Interior, the judiciary, the legislature, the Human Rights

Ombudsman, as well as the social partners, in the areas of freedom of association and collective bargaining, and in matters related to social dialogue.)

The Government

23. The Government provided information on the outcome of the work conducted by the Committee for the Settlement of Disputes before the ILO in the Area of Freedom of Association and Collective Bargaining (hereinafter, “the Committee for the Settlement of Disputes”) on Cases Nos 2978, 3035, 3040 and 3094 submitted to the Committee on Freedom of Association and four other disputes in which complaints had not been submitted to the ILO. Some progress had been noted in Cases Nos 2978, 3035 and 3094, and in two of the four other disputes mentioned above. The Government also indicated that the independent mediator, who chairs the Committee for the Settlement of Disputes, had resigned on 3 February 2016, but that this resignation would only become effective once it had been accepted by all three constituents of the Tripartite Committee on International Labour Affairs. Lastly, the Government noted that the Ministry of Labour and Social Welfare had submitted, on 4 February 2016, a proposal to the Tripartite Committee on International Labour Affairs for the strengthening of the Committee for the Settlement of Disputes. The proposal provides for: (i) the physical relocation of the Committee for the Settlement of Disputes to the offices of the Ministry of Labour and Social Welfare; (ii) the official announcement of a public competition for the appointment of a new mediator by consensus of the Tripartite Committee, based on criteria determined by the three constituents; and (iii) the intervention of an international mediator provided by the ILO until a new mediator has been appointed.

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24. The trade union federations stated that, as a result of the attitude of the former Government, the Committee for the Settlement of Disputes was experiencing serious difficulties. They drew particular attention to: (i) the Government’s attempt to replace the mediator despite the recommendations of the constituents of the Tripartite Committee on International Labour Affairs, in particular the Tripartite Committee’s instructions to extend the contract of the mediator for the first three months of 2016; and (ii) the determination of the previous Government to hinder the work of the Tripartite Committee for the Settlement of Disputes by failing to provide the economic resources necessary for its operation, and, particularly, by not paying the fees of the mediator for November and December 2015, which led to the mediator’s resignation.

The CACIF

25. The CACIF referred to the 17 December 2015 report of the mediator for the Committee for the Settlement of Disputes, which stated that the Committee for the Settlement of Disputes had considered nine new complaints that had been submitted to the Committee on Freedom of Association (Cases Nos 2203, 2341, 2609, 2811, 2978, 3035, 3040, 3062 and 3094) and that a further six complaints had been submitted directly to the Committee for the Settlement of Disputes. The CACIF once again emphasized that, of these cases, only Case No. 3040 involved the private sector, and that the Committee for the Settlement of Disputes had indicated that: (i) the timeline for the reinstatements proposed by the employers had already been completed; and (ii) in light of the difficult financial situation claimed by the enterprise, payment of the wage arrears for January 2016 was still pending. The CACIF also stated that: (i) although 90 per cent of the planned mediation sessions had been conducted, only 41 per cent of the executive sessions of the Committee for the Settlement of Disputes convened in 2015 had been held, owing to, in most of the cases, the absence of the workers; (ii) it

regretted the resignation, at the beginning of February 2016, of the independent mediator Mr Mario Pérez Guerra; and that (iii) the Tripartite Committee on International Labour Affairs had discussed the appointment of a future independent mediator.

26. Additional note: in a note sent on 19 February 2016, the Special Representative of the Director-General of the ILO in Guatemala reported that, during a meeting held on 18 February 2016 by the Tripartite Committee on International Labour Affairs, the employers and workers had not accepted the resignation of Mr Mario Pérez Guerra from his position as mediator, and had requested the Ministry of Labour and Social Welfare to: (i) notify the mediator of this decision so that he could be reinstated as soon as possible; (ii) ensure that the State provided the Committee for the Settlement of Disputes with the resources required for it to function independently; and (iii) take the necessary action to enable the Technical Institute for Training and Productivity, attached to the Ministry, to provide an area for the office of the Committee for the Settlement of Disputes.

Key indicator 7: Launch of a wide-scale awareness-raising campaign on freedom of association and collective bargaining (by 30 June 2015) – related to point 9 of the roadmap

(A major awareness-raising campaign on freedom of association, the right to work and the right of workers and employers to organize should be launched throughout the country.)

The Government

27. The Government provided information on the following actions taken to disseminate the awareness-raising campaign during the last quarter of 2015: (i) publication of information on the campaign in the *Official Journal*; (ii) dissemination on the Ministry of Labour and Social Welfare website and social networks; and (iii) broadcasting of a television advertisement on the government channel and of a radio advertisement on the station TGW Radio. Furthermore, in February 2016: (i) the campaign messages were translated into the Mayan languages Kaqchikel and K'iche' and advertisements were recorded in each of the languages; (ii) support was requested from the ILO for the funding of a media campaign to be disseminated on community radio stations; and (iii) plans were made to print 1,500 posters and 10,000 leaflets.

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28. The trade union federations indicated that the campaign messages had been published in the *Official Journal*, which had had a very small impact due to the limited circulation of the *Journal*.
29. The trade union federations reported, however, a major communications campaign against collective bargaining which was being carried out through social media by several state institutions and employer sectors, and which claimed that public sector collective agreements were the cause of government deficit, corruption and the lack of efficiency in the public service. A summary of the information sent by the trade union federations on the issue can be found in part II of this document.

The CACIF

30. The CACIF indicated that the awareness-raising campaign on freedom of association and collective bargaining had already been initiated through state media (*Official Journal*, Ministry of Labour and Social Welfare website), but that certain decisions taken by the Minister of Labour and Social Welfare in office during the transition period were seriously affecting the finances of the Ministry and could make it difficult to fully launch the campaign. Furthermore, the employers' organization reiterated that the campaign, despite having been agreed upon by all three constituents, had been disseminated with only the image of the Government as the campaign organizer, since the trade union sector had requested, at the end of August 2015, for the logo of its organizations not to appear on printed material.

Key indicator 8: Unimpeded registration of trade union organizations without hindrance in the Trade Union Register of the Ministry of Labour and Social Welfare (with an indication of the number and dates of the registration applications and the number and dates of both rejected and approved applications)

The Government

31. The Government reported that registrations of trade unions by the Ministry of Labour and Social Welfare had increased significantly since the last quarter of 2015. It indicated that the Ministry of Labour and Social Welfare had registered 52 trade unions in 2015, compared with 19 in 2014, and 35 trade unions in January 2016 alone. The Government also stated that the General Directorate of Labour was finalizing a draft ministerial agreement based on ILO Convention No. 87, which would reduce the time limits for the registration of trade unions.

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32. The trade union federations indicated that, as demonstrated by the publication of trade union registrations in the *Official Journal*, the transitional Government had resumed consideration of all of the registration applications that the previous Government had failed to process. However, they expressed regret for the interference of the General Labour Directorate in the registration process, as the Directorate was continuing to impose, in violation of trade union autonomy, changes to the statutes of workers' organizations. They also indicated that they still did not know how many organizations had been denied registration.

The CACIF

33. The CACIF indicated that, between December 2015 and February 2016, the legal status of 66 trade unions had been recognized.

Key indicator 9: Trends in the number of applications for registration of collective agreements on working conditions, with an indication of the industry concerned

The Government

34. The Government provided a list of eight collective agreements on working conditions (six in the public sector, one in a non-governmental entity and one in the banana sector) that had been registered between October and December 2015, and a further six collective agreements (all six agreements in the public sector) that had been signed during the same period and were in the process of being registered.

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35. The trade union federations stated that the negotiation and approval of collective agreements had been significantly affected by the obstruction of trade union registrations in recent years and by the very strong anti-union campaign mentioned above, which had particularly targeted collective bargaining in the public sector.

II. Other information provided by Guatemala's tripartite constituents

The Government

36. In a letter dated 9 March 2016 addressed to the Director-General of the ILO (see the appendix to this document), the President of the Republic, who assumed office on 14 January 2016, expressed his Government's willingness to continue to meet all of its commitments under the roadmap and timeline of related activities, as well as to respect all of the fundamental labour standards and principles, with the goal of strengthening a national decent work policy in Guatemala and promoting the country's economic development.
37. The Government referred to the Governing Body's invitation for the tripartite constituents of Guatemala to agree with the Office, by the end of 2015, on the nature of an extended mandate for the Special Representative of the Director-General of the ILO in the country. The Government recalled that this invitation had been extended following the requests made to the ILO in this regard by the Tripartite Committee on International Labour Affairs (3 September 2015) and by the President of the Republic (29 October 2015). The Government indicated that, on 26 November 2015, the tripartite constituents had approved, within the Committee, the suggestion made by the Director-General of the ILO to limit the definition of the Special Representative of the Director-General's mandate to providing support for each point of the roadmap approved in October 2013.
38. The Government also noted that: (i) the Tripartite Committee on International Labour Affairs and the Ministry of Labour and Social Welfare had publicly stated that dismissals of municipal employees should be avoided following elections of new mayors; (ii) these statements had been published on the Ministry website and had been sent to the National Association of Municipalities; (iii) in response to the controversy over certain public administration collective agreements, the Ministry of Labour and Social Welfare had issued, upon the request of the Tripartite Committee on International Labour Affairs, a

communication requiring that due consideration be given to collective bargaining mechanisms.

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39. The trade union federations reported the lack of progress made with point 6 of the roadmap concerning the adoption of legislative reforms that would enable the General Labour Inspectorate to fulfil its mandate of effectively ensuring the application of labour legislation. They also stated that Bill No. 4703, which had been submitted to Congress by the previous Government and supported by the employers' sector, was contrary to the indications of the high-level tripartite mission that had visited the country in September 2013, in so far as it did not provide for the restoration of the Inspectorate's capacity to impose penalties. They recalled that the trade unions, however, had submitted a proposal to the Tripartite Committee which provided for the restoration of this capacity.
40. With regard to point 10 of the roadmap on the proposals to reform the judiciary, the trade union federations indicated that: (i) the proposals for reforms had not been approved; and (ii) the trade union federations had requested a meeting with the President of the Supreme Court of Justice but had not received a reply.
41. Regarding their allegations of an aggressive campaign against collective bargaining, as mentioned in part I of this document, the trade union federations maintained that: (i) the campaign had been launched by several sectors, including employers, mass media and pro-corporate non-governmental organizations; (ii) in October 2015, during a national meeting of employers organized by the Foundation for the Development of Guatemala (FUNDESA), the leaders of the CACIF and FUNDESA had publically stated that the collective agreements on working conditions were detrimental to the country and should be nullified by the Office of the Attorney-General; (iii) within the framework of the National Alliance for Transparency, public institutions such as the Office of the Attorney-General, the Office of the Human Rights Ombudsman, the Public Prosecutor's Office and the Office of the Comptroller-General had immediately begun to take action against collective bargaining in the public sector, and had informally taken into account the CACIF's request; (iv) there was a public list of at least 15 agreements from different state institutions which were supposedly "detrimental" and needed to be revised; and (v) the current campaign posed a serious threat to institutional collective bargaining, the image and credibility of trade union organizations, and even to the physical integrity of trade union leaders, given the hate that the messages disseminated through the media sought to incite.
42. The trade union federations denounced the process to destroy the trade union organizations being carried out by the municipalities through mass dismissals, and the failure of the authorities to take the necessary measures to ensure the protection of freedom of association.
43. Lastly, the trade union federations stated that, although they had made every effort to contribute to the changes needed in the country regarding freedom of association and collective bargaining, they considered that, now more than ever, a Commission of Inquiry needed to be established in Guatemala.

III. Measures and initiatives taken since November 2015

44. It appears from the information communicated that the following measures and initiatives have been taken since November 2015: (i) the confirmation by the new Government of the

request addressed to the ILO for providing technical assistance to the tripartite constituents with a view to establishing a comprehensive initiative for the revision of national labour laws, especially as regards their compliance with Convention No. 87; (ii) the Committee for the Settlement of Disputes has achieved partial progress with regard to some of the cases currently before the Committee on Freedom of Association; and (iii) the number of trade unions registered by the Ministry of Labour and Social Welfare increased significantly as of the last quarter of 2015.

IV. Priority issues that continue to require further urgent action

45. It also appears from the information communicated that the following priority issues continue to require further urgent action: (i) the investigation, resolution and conviction of the perpetrators and instigators of all of the murders of trade union officials and members, as well as the other violent acts committed against trade union officials and members that were reported to the ILO; (ii) the conduct, together with the relevant trade union organizations, of risk studies for all threatened union officials and members and the adoption of appropriate protection measures; (iii) the adoption of the legislative reforms recommended by the ILO supervisory bodies in order to bring the legislation into line with Convention No. 87; (iv) the guarantee of a significant increase in the percentage of reinstatement orders actually implemented for workers who were victims of anti-union dismissals; (v) the consolidation of the Committee for the Settlement of Disputes, including by providing it with the resources and conditions required to function independently; and (vi) the immediate reinstatement of a major awareness-raising campaign on freedom of association and collective bargaining.

Draft decision

46. *Recalling that at its 325th Session, the Governing Body requested the Office to provide the Officers of the Governing Body, at its March (326th Session) and November 2016 (328th Session), with updated information on the progress made, including information provided by the Government and the employers' and workers' organizations of Guatemala, in particular on the follow-up given to the key indicators and the points of the roadmap, and, taking into account the information communicated by the tripartite constituents of Guatemala in this regard, the Governing Body decides to:*
- (a) urge the Government to take, without delay, all the measures necessary to fully implement the key indicators and the roadmap, including the priority areas that continue to require additional and urgent action;*
 - (b) defer to its 328th Session (November 2016) the decision to consider the appointment of a Commission of Inquiry;*
 - (c) include this item on the agenda of its 328th Session (November 2016); and*
 - (d) invite the international community to facilitate the necessary resources to enable the office of the representative of the Director-General in Guatemala to support the tripartite constituents in implementing the Memorandum of Understanding and the roadmap.*

Appendix

*Private Secretariat of the Office
of the President of the Republic
Guatemala, CA*

DSP-Rc-No. 02-2016

Guatemala, 9 March 2016

**His Excellency
Mr Guy Ryder
Director-General
International Labour Organization
Geneva, Switzerland**

Sir,

I have the honour to write to you to express my appreciation for your leadership of the International Labour Organization (ILO), at which the three stakeholders in the world of work – governments, workers' organizations and employers' organizations – are represented in an effort to build a future with decent work, prosperity and progress.

I took up office as President of the Republic of Guatemala on 14 January 2016 after a critical period in our political history. Almost a year ago, a rebirth and awakening of the Guatemalan people began, inspired by a collective rejection of corruption. There were public demonstrations, marches and peaceful gatherings, at which, without ideologies or personal interests, the people were calling for change. The recent elections further united us and we now have a new opportunity to make progress towards the country's development and well-being. It would be naive to claim that all of these changes have been achieved rather than acknowledging that the work has only just begun and it would be highly irresponsible of us not to take advantage of this opportunity.

We are aware of the social and political problems in Guatemala, but we firmly believe that social dialogue and tripartism are the basic tools to be used in forging communication links and transforming labour relations in the country. Our primary goal is to work towards the future of a country in need of change and to give priority to close cooperation between employers and workers so that the Ministry of Labour and Social Security, headed by Ms Aura Leticia Teleguario Sincal, can serve as a bridge for communication between them.

It is for this reason that I would like to refer to the complaint concerning non-observance by Guatemala of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), under article 26 of the ILO Constitution and to express my personal concern and that of my entire Cabinet at this situation. In that regard, I would like to inform you of my Government's firm undertaking and willingness to continue to meet all of its commitments under the roadmap and timeline and to respect all of the fundamental labour standards and principles with the goal of strengthening a national decent work policy in Guatemala and promoting the country's economic development.

We would be honoured if you and Ms Corinne Vargha, Director of the International Labour Standards Department, would visit Guatemala in order to see the progress made at the national level, which has been achieved with the ongoing support of the ILO through the Office ably led by Mr Sergio Paixão Pardo. I am convinced that, with the cooperation of the ILO, we will succeed in overcoming the remaining challenges.

I would like to reiterate that the new Government of Guatemala stands ready to engage in regular dialogue with a view to continued work on various initiatives designed to enrich our substantial collaboration by strengthening the existing links of cooperation and mutual trust between Guatemala and the ILO.

Thank you once again for the support that the ILO is providing to our country during this complex process and accept, Sir, the assurances of my highest consideration.

[Signature and Seal]

Jimmy Morales
Presidente de la República de Guatemala