



Miami 01/28/2013

**Honorable Ambassador Carmen Lomellin
U.S. Permanent Representative
U.S. Permanent Mission to the OAS
Room 5914
U.S. Department of State
Washington, D.C. 20520**

The Board of Independent Venezuelan American Citizens (IVAC), feels compelled to denounce the serious unconstitutional act that stemmed from the absence of the president-elect's inauguration last January 10, 2013, and the irregular extension of government functions of the current members of the cabinet with no legal basis, as detailed below.

The international community seems to have left Venezuelans alone to "fend for themselves." As you well know, this position and the deep polarization currently existing in the country can have serious consequences.

Given that:

1. Section 230 of the Constitution of the Bolivarian Republic of Venezuela indicates that presidential terms last six years. Section 231 of that same document describes it as a period beginning "on 10 January of the first year." Therefore, January 10, 2013, marks the end of the term of office for which citizen Hugo Chávez was elected in 2006, the inauguration of which took place on January 10, 2007.
2. To take office for the new term beginning January 10, 2013, the President elect must take the oath before the National Assembly, as required by Section 231 of the Constitution. The elected president's oath is not mere formality; on the contrary, it is a requirement imposed by the Constitution on the elected candidate in order to take office. Therefore, the failure of the President-elect in taking the oath makes it impossible for Chávez to become President.
3. The presidential election for a new term does not alter the strict application of Sections 230 and 231 of the Constitution, which bear no exceptions in case of reelection. Therefore the President, having been re-elected, must be sworn into office for the new term, without this being considered a "continuation" or "extension" of the previous period; a case that, again would not be allowed since presidential terms are by definition fixed and non-extendable. The President must swear an oath to constitute a new mandate and sign in for the salary and payroll procedures that would start as of that date.
4. Re-election does not mean therefore the continuation of the previous presidential term, which constitutionally lasts six years. A re-election simply assumes that a President whose term is ending may immediately take possession for the new period, provided this person fulfills the formalities imposed by the Constitution and, in particular takes the oath that formalizes his or her capacity to take office for the new term.

**7215 N.W. 46th Street, Miami, Florida 33166
Phone (305) 594-7474 Fax (305) 477-0699
E-mail ceo@ivac.org web page www.ivac.org**



5. According to a literal interpretation of Section 233 of the Constitution, the failure of Hugo Chávez Frías to take the oath before the National Assembly this past January 10th, makes it clear that the President of the National Assembly –the only authority constitutionally and democratically empowered to do so-- must temporarily act as President of the Republic if the conditions for the temporary absence of the President are met (Section 234 of the Constitution). These temporary absence conditions can only be enforced for a maximum of ninety days, and can be renewed for equal periods by decision of the National Assembly.

6. However, even now that the President-elect has not been sworn in and what is worse, without knowing what is the express will of Hugo Chávez Frías, government officials appointed for the previous presidential term have remained in the exercise of their duties, including Vice-President, Nicolas Maduro, without any legal basis.

To this end, said officers have tried to explain that there is a continuation of the period, something that has not been set out in our Constitution, and that therefore citizen Hugo Chávez retains his official presidential capacity until he can take his oath of office.

7. The temporary exercise of the Presidency by the President of the National Assembly is a solution that is, therefore, in line with the Constitution, and one that respects the people's will as expressed on October 7. In addition, this exercise ensures the normal operation of the national government institutions and the constitutional continuity of the Presidency.

It is for this reason that we, as Venezuelan American Citizens, respectfully request an urgent meeting with you to promote the application of Articles 1 and 2 of the Democratic Charter of the OAS to the case of the Bolivarian Republic of Venezuela, as follows:

Article 1

The peoples of the Americas have a right to democracy and their governments have an obligation to promote and defend it. Democracy is essential for the social, political and economic development of the peoples of the Americas.

Article 2

The effective exercise of representative democracy is the basis of the rule of law and the constitutional regimes of the member states of the Organization of American States. Representative democracy is strengthened and deepened by permanent, ethical, and responsible citizenship in a legal framework conforming to the respective constitutional order.

We look forward to the opportunity to discuss these issues in person, and remain
Sincerely, for the Board of Directors

Ernesto Ackerman
IVAC President

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