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Venezuela Economic Outlook

By CNI Asesores Financieros

Here is our monthly summary of recent economic developments in Venezuela:

- Russian Foreign Minister Sergey Lavrov embarked on a trip to Latin America on Feb. 5-8 to visit Cuba, Mexico and Venezuela. During his visit to Venezuela on Feb. 7, Lavrov met with President Nicolás Maduro, Vice President Delcy Rodriguez and Foreign Minister Jorge Arreaza. Maria Zajarova, spokeswoman for the Russian Foreign Ministry, declared that Russia and Venezuela are cooperating in the energy, mining, transport, medicine, pharmaceutical and military technology sectors, as well as are reaching an understanding on different international issues to oppose sanctions policies against Venezuela.

- The Monetary Fund has published figures for Venezuela for 2019. The country's gross domestic product (GDP) in 2019 suffered a contraction of 35 percent, a recent unprecedented figure for a country not involved in armed conflict. The country's economy was reduced by more than 65 percent between 2013 and 2019. The projections for 2020 include a contraction of 10 percent, and by 2021, a contraction of 5 percent, thus ruling out a recovery in the short term.

- News organizations have reported that the government is exploring alternatives with some foreign companies (Rosneft, Repsol and Eni) to offer ways to control the operations of some oil assets, restructure debt of Petróleos de Venezuela, S.A. (PDVSA) and increase their shareholdings in some joint ventures. However, these transactions will require significant changes in existing legislation, approval by the National Assembly and changes in the U.S. sanctions that prohibit U.S. companies from carrying out business in Venezuela without special permits and discourage foreign companies from investing in Venezuela.

- The U.S. Department of the Treasury renewed once again its license to operate in Venezuela to Chevron and four other U.S. oil services companies for three months, until April 22, 2020.

- PDVSA published in a news release that its foreign financial debt is US$34.5 billion, including US$25.2 billion in bonds, US$2.65 billion in commercial debt with regard to its partnerships with foreign partners, plus other debts with suppliers. To date, it is estimated that it is in "default" for US$6.0 billion in interests and repayments of principal.

- Venezuela's oil exports declined 32 percent during 2019 to 1 million barrels per day, the lowest average in almost 75 years. Rosneft was the largest buyer of Venezuelan oil with 33.5 percent of total exports, followed by China National Petroleum with 11 percent and Cubametales with 7 percent. The main destination for Venezuelan oil exports during 2019 was China with 319,507 barrels per day, India was second with 217,739 barrels per day, Europe received 118,980 barrels per day, and Cuba was the fourth with 70,359 barrels per day.

- During 2019, Venezuela imported 155,674 barrels per day of fuel and diluent naphtha oil, which was insufficient to cover the deficit caused by the stoppages at the PDVSA refineries.

- PDVSA announced the total closure of its last two operational refineries – Amuay and Cardón – for repairs and maintenance. With the closing of these refineries, all gasoline production has halted until the repairs are finished.
- The depreciation of the bolívar soberano has come to a pause, within its tendency to increase. On Nov. 8, 2019, the price of the parallel dollar exceeded the barrier of 28,000 bolívares soberanos per dollar. A month later on Dec. 6, it was placed at 44,187 bolívares soberanos per dollar, a 58 percent increase. On Jan. 3, 2020, the parallel dollar reached 73,322 bolivares soberanos per dollar, a 162 percent increase in two months. One month later, on Feb. 3, it was fixed without major changes at 73,800 bolívares soberanos per dollar.
- "Transactional Dollarization" continues in the country. It is estimated that more than half of retail purchases are being made with dollars or euros in cash. The government's attempts to encourage the use of Petro as a Venezuelan cryptocurrency to evade U.S. sanctions have failed. Initially, the government announced that December oil sales would be carried out in Petros, as well as wharfage rights for tankers, aviation gasoline sales and payment to public servants. News organizations report that all mechanisms to make payments in Petros are currently in maintenance since Jan. 5, 2020, making these transactions impossible.
- Ron Santa Teresa, a liquor-producing company listed in the Caracas Stock Exchange, announced an initial public offering (IPO), the first in 11 years, to raise the equivalent of $3 million.

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Trinidad and Tobago, Venezuela terminate agreement for the unified exploitation of the Loran-Manatee gas field

By Holland & Knight

Keith Rowley, the Prime Minister of the Republic of Trinidad and Tobago, announced on Feb. 3, 2020, the joint decision of his government and the Bolivarian Republic of Venezuela to terminate the Unitization Agreement for the unified exploitation of the Loran-Manatee gas field. As the prime minister explained, the decision is due to the sanctions imposed by the U.S. government on the Bolivarian Republic of Venezuela, specifically those under which U.S. companies cannot conduct business with the state company, Petróleos de Venezuela, SA (PDVSA).

In accordance with the statement issued by the prime minister to the House of Representatives of Trinidad and Tobago[1], the aforementioned sanction has limited progress in rural field development, which is of concern to his government, and that of the Republic of Venezuela. In that regard, the prime minister indicated that "the Government of the Republic of Trinidad and Tobago and the Government of the Bolivarian Republic of Venezuela agreed to undertake separate and independent exploitation and development," therefore, "the Unification Agreement was thereby terminated and will be held to be inoperative. This instrument was replaced by a new Agreement between the countries, which allows the separate and independent exploitation and development of the Loran-Manatee gas field."

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[1] Statement by Prime Minister Keith Rowley on the Agreement for the Development of the Loran-Manatee gas field

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National Constituent Assembly Releases Constitutional Decrees Regarding Tax Law Reform

By Tinoco Travieso Planchart & Nuñez

The National Constituent Assembly released the following Constitutional Decrees that were published in the *Extraordinary Official Gazette* No. 6,507, dated Jan. 29, 2020. They include: 1) A Constitutional Decree that establishes the Organic Tax Code (COT); 2) A Constitutional Decree of the Partial Reform of a Decree issued with the Status, Validity and Force of Law of the Value Added Tax (LIVA) and 3) A Constitutional Decree that establishes the Reform of a Decree with the Status, Validity and Force of Law of the Organic Customs Law (LOA).

The most important aspects of this reform set forth in each include the following:

Constitutional Decree that establishes the Organic Tax Code (COT)

1. The tax unit will be used as a unit of account exclusively for taxes administered by the national government.

2. The tax unit for taxes will be payable on an annual basis and will be the unit in force at the end of the fiscal year.

3. The Tax Administration will adjust the tax unit without requiring the favorable opinion of the Permanent Finance Commission of the National Assembly, and without such adjustment being correlated to the variation of the national Consumer Price Index (CPI) published by the Central Bank of Venezuela (CBV).

4. The exoneration benefits granted by the Executive Branch shall remain valid for one year. Only nonprofit institutions dedicated exclusively to religious and worship activities, and those determined by the Tax Administration, will be exempt from these taxes indefinitely.

5. Fines against formal illicits that were established in tax units will now be expressed according to the "official exchange rate of the highest value currency, published by the Central Bank of Venezuela (CBV)," and the exchange value in force at the time of the fine payment.

6. Fines established in percentage terms will be calculated at the official exchange rate of the highest value currency, published by the CBV applicable at the time of the perpetration of the formal illicits, and will be canceled using the value of the same at the exchange rate that was in force at the time of the fine payment.

7. Amounts withheld or received outside the established deadline that are subject to, and discovered in, a verification or inspection procedure, will incur a fine of 1,000 percent of the withheld or collected taxes.

8. The list of precautionary measures in favor of the Tax Administration is extended to include the general ban on bank account transactions, as well as any others that, at the discretion of the Tax Administration, ensures the collection of tax obligations.

9. Payments, surcharges and sanctions will be made in bolívares soberanos, without prejudice to the exceptions established by the CBV, at the request of the ministry cognizant in the subject matter of finance.

10. The statute of limitations of certain administrative procedures is reduced.

11. The Tax Administration may exercise subsequent control over the results of a procedure, and decree its nullity if the following occurs: a) by virtue of any supervening cause they have knowledge of facts, elements or documents that, if known, would have produced a different result and b) if there are elements that suggest that the official who carried out the procedure incurred corruption.

12. As for the termination of criminal actions, in case of fraud, lack of tax advance payments by the tax withholding or collection agents, or fraudulent insolvency for tax purposes, the period for the admission of facts and the full payment of tax obligations was reduced to 10 business days, and its related charges and penalties were increased by 500 percent.

13. The aforementioned Constitutional Decree will enter into force within 30 days following its publication in the *Official Gazette*.

The Constitutional Decree of Partial Reform of the Decree with Status, Validity and Force of Law that Establishes the Value Added Tax (LIVA)

1. Elimination of the exemption of value-added tax (VAT) charges on hydrocarbon-derived fuel, as well as supplies and additives intended to improve the gasoline quality (ethanol, methanol, methyl tert-butyl ether or MTBE and ethyl-tert-butyl -ether or ETBE) and its derivations.

2. The general VAT rate, which had been temporarily increased by the Executive Branch from 12 percent to 16 percent, was definitively established at 16 percent until the Executive Branch sets a different rate.

3. A new rate was established for the consumption of goods and services rendered in foreign currency, cryptocurrency or cryptoactives other than those issued and backed by the Republic. These tax rates may be modified by the Executive Branch, and will be set within a minimum limit of 5 percent and a maximum limit of 25 percent. The Executive Branch may establish different rates for certain goods and services, but these may not exceed the limits provided. This new tax rate will enter into force 30 days following its publication in the Official Gazette. Any tax rates in addition to the operations carried out by the National Public Administration, and the diplomatic and consular agents accredited in the country, shall be exempt from the application of such tax rate.

4. The president of the Republic may exempt the payment of additional rates to certain goods, services, segments or economic sectors of the country.

5. An obligation was established to express in all invoices the currency, cryptocurrency or cryptoactives in which the transaction was paid and its equivalent amount in bolívares soberanos. Likewise, both amounts must be included in the invoice indicating the applicable exchange rate, tax basis, tax and total amount.

6. The Decree will enter into force 60 days following its publication in the *Official Gazette*.

The Constitutional Decree of Reform of the Decree with Status, Validity and Force of Law of the Organic Customs Law

1. The commercial policy will also be regulated by this Decree with Status, Validity and Force of Law and its Regulations, as well as by the customs norms set forth in International Treaties and Agreements signed and ratified by the Republic, and in the community obligations and other valid legal instruments related to the subject-matter.

2. The president of the Republic may exercise the powers indicated in Article 3 of the Law, without the participation of the Council of Ministers.

3. New powers for the president of the Republic are set forth in Article 3.

4. The modification of limits for the establishment of fees and determination of the amounts to be paid by the users of services rendered by the Customs Administration. This rate will not be calculated according to their equivalent tax units, but according to the equivalent official exchange rate of the highest value currency, published by the CBV.

5. The president of the Republic is fully entitled to tax all or some goods originating from and destined to a certain country, countries or persons, if these qualify as import, export or nontaxable transit. In essence, the limitation of these powers was eradicated.

6. The president of the Republic is fully entitled to increase and lower or eliminate import, export or transit charges, for all or some goods originating from or destined to a certain country, countries or persons. In essence, the limitation of these powers was eradicated.

7. The abolishment of powers of Nos. 4 and 5 of the Minister of Popular Power cognizant in the subject matter of Finance. The Minister is entitled to order the publication of the customs tariff, duly approved by the president of the Republic.

8. In the event, the Executive Branch does not establish an applicable term, the establishment, modification or elimination of a tax, fee, surcharge or other amounts shall be applied 15 days following its publication in the *Official Gazette*.

9. The tax limit referred to in Article 117, must be calculated according to the amounts of times determined in the regulations of the official exchange rate of the highest value currency, published by the CBV, and not according to tax units, that is, by units of the decimal metric system.

10. Fines will be converted to the official exchange rate of the highest value currency, published by the CBV, applicable at the time of the commissioning of the illicit act, and not according to tax units.

11. The president of the Republic may establish other suspension grounds for authorizations to act as an auxiliary of the Customs Administration through regulations.

12. Fines will be calculated according to the amounts of times determined in the regulations of the official exchange rate of the highest value currency, published by the CBV, and not according to tax units.

13. The regulatory norms that regulate the customs warehouses (in bond), will remain in force until the Executive Branch issues norms on the subject-matter.

14. The Constitutional Decree will enter into force 20 days following its publication in the *Official Gazette*.

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