First Quarter 2018 Report
– Venezuela –

April 2018

I. NEWS

This section highlights excerpts of relevant press releases and brief comments on our views regarding such.

"Maduro announced a new currency restructuration"

In another attempt to bring back to life the Venezuelan currency, the Government has decided to eliminate three digits to its denomination, effective from June 4th 2018. The new currency will be called "Bolívar Soberano".

Maduro stated that the purpose of this change is to stabilize the country. This would be the second currency restructuration in Venezuela in less than 10 years.

http://www.el-nacional.com/noticias/economia/maduro-anuncia-nueva-reconversion-monetaria_227997

"Trump signed a Decree that prohibits any transaction in Petros"

The President of the United States of America prohibited any transaction with the cryptocurrency; including particularly, any financing or transaction by a US citizen or person within the USA.

The Petro is a currency issued by the Venezuelan Government to attempt to avoid the sanctions imposed by the US Government. The National Assembly of Venezuela has officially stated this cryptocurrency is illegal.

Petro's value is determined by the price of a barrel of oil in the international market.

https://www.aporrea.org/economia/n322506.html

"Learn about how much the daily salary was fixed"

A new salary increase was declared by President Maduro in the amount of 58%. The new amount reached the daily sum of Bs. 13.088,2, which at the DICOM rate is 0,36 USD.

An increase to the Food Bonus was also set at about 67%.

http://www.el-nacional.com/noticias/economia/sepa-cuanto-quedo-nuevo-salario-integral-diario_225150

"PDVSA tendered to sell oil in Euros"

On February, PDVSA launched a special tender to sell four shipments of oil in the open market. This is an unusual offer, since all the exports made by PDVSA are normally under long term contracts.

http://www.el-nacional.com/noticias/petroleo/pdvsa-lanzo-licitacion-para-vender-crudo-euros_224736

"Saab: Two vessels were detained for oil smuggling"

The National General Prosecutor assured that high executives of PDVSA were involved in the illegal smuggling.

An investigation was initiated at the Terminal of Guaraguao after two vessels were trying to load crude oil under irregular circumstances. The two vessels were put at the order of the Public Ministry until the situation is clarified**.**

http://www.el-nacional.com/noticias/politica/saab-dos-embarcaciones-fueron-detenidas-por-trafico-combustible_222399

"The Petro will be accepted for the payment of taxes and public services"

The government is committed in promoting the use of Petros for the payment of taxes, public services and for other payments in the internal markets. It can be used to purchase goods and services and will initiate its first offer of 82 million.

http://www.avn.info.ve/contenido/petro-ser%C3%A1-aceptado-como-forma-pago-impuestos-y-servicios-p%C3%BAblicos

---

"Crystallex suspended their appeal against Venezuela"

There have been over 22 proceedings in respect to this dispute regarding the expropriation of the Las Cristinas mine.

The Canadian mining company suspended their appeal against the State of Venezuela at the Court of Appeals of the Third District of the United States of America in Delaware.

The goal of the suspension was to provide Venezuela with enough time to execute the initial terms of the settlement.

http://www.eluniversal.com/noticias/economia/crystallex-suspende-apelacion-contra-pais_685512

"Halliburton and Schlumberger assumed significant losses"

Both companies have provided oil services to PDVSA without getting paid; as shown in their financial reports.

In the last quarter of 2017, Halliburton wrote off about USD 385 million in accounts receivables for their operations with PDVSA.

The same happened to Schlumberger, who reported a loss of USD 938 million after they decided to eliminate their Venezuelan related assets from their balance sheets. They argued this decision on the recent political and economic events.

http://www.el-nacional.com/noticias/economia/halliburton-schlumberger-asumen-perdidas-millonarias-por-pdvsa_219933

II. CASE LAW

This section comments on relevant case law during the corresponding quarter and our brief comments to it.

Decision by the Constitutional Chamber of the Supreme Court of Justice of January 17, 2018 in the matter of the *State of Emergency requested by the President Nicolas Maduro.*

By Decree N° 3.239 of January 9th 2018, President Maduro declared a State of Emergency and Economic Hazard in all the National Territory for 60 days extendable for 60 more. Such Decree is subject to the review of the Constitutional Chamber for it to be declared within constitutional rules.

The provisions of the Decree awarded the President with full powers to undertake extraordinary, exceptional and necessary measures to preserve internal order and security, to guarantee the population with free use of their rights and uninterrupted access to goods and services.

In addition, the Supreme Court of Justice declared void and non-existent any action or statement from the National Assembly which disapproves this Decree.

Decision by the Political and Administrative Chamber of the Supreme Court of Justice of January 24, 2018 in the matter *Municipio Valencia del Estado Carabobo v. Ford Motor de Venezuela S.A*.

The regulations of the Municipality of Valencia stated the obligation of tax withholding regardless if the company had their permanent establishment in such Municipality. Clearly in strict violation of the Organic Law of Municipal Power which states in its article 216 that an activity can only be taxable if the company has a fixed or permanent establishment in such jurisdiction.

For these reasons, the Administrative and Political Chamber of the Supreme Court in exercising its constitutional duty to review and control any legislation, declared the regulation of the Municipality of Valencia inapplicable.

In case of transportation activities, the taxable event would be where the service is hired, but only as long as it has permanent establishment in that jurisdiction.

Decision by the Political and Administrative Chamber of the Supreme Court of Justice of January 31, 2018 in *Inversiones Canagua, C.A v. Instituto Nacional Del Turismo (INATUR)*

All administrative acts regarding tax content that produce particular effects have need to be notified – as provided in the Organic Tax Code – in order to be valid.

The general principle is to provide personal notice to the individual and for legal entities notice must be given directly to the president, director, manager or legal representative, but then again notice by correspondence and written notice at the domicile of the individual or legal entity is also an available procedure. For this last two options, notice will be considered effective after the fifth day that is proven in record.

III. LEGISLATION

This section expands on National and International Legislation adopted in the country and relevant to the industry.

National Decree N° 3.247 dated January 18th 2018.

The President authorized the Eco-socialist Corporation Ezequiel Zamora S.A., to nationally commercialize and export all kinds of ferrous and non-ferrous scrap, including naval, aeronautical, electrical and electronic scrap, in any condition.

Exchange Agreement N° 39 by the Ministry of Economy and Finance jointly with the Venezuelan Central Bank dated January 29, 2018.

This new agreement modifies once again the regulations for the operations in foreign currency in the National Financial System. The Complementary Fluctuating Exchange Rate (DICOM for its acronym in Spanish) remains available for any private interests.

Both individuals and legal entities will be authorized to submit bids on auctions throughout the web site www.dicom.gob.ve. The operation may only be processed throughout authorized Banks and will be administered, regulated and directed by an Bidding Committee.

Each quarter individuals will be able to access up to 420 Euros. Meanwhile, a legal entity may acquire the equivalent of 30% of their average monthly gross income as declared in their last income tax declaration, but only up to an amount of 340.000 Euros. The origin of the funds must be proven as well as their destination.

The Agreement also provides for the participation of Brokerage Firms in the exchange operations, within certain limits and within the control of the National Superintendence of Securities.

Special Provision N° 06/2018 by the Ministry of Transportation dated February 2, 2018.

Mr. José Adrián Contreras was appointed as Deputy General Manager of Bolivariana de Puertos S.A., (BOLIPUERTOS for its acronym in Spanish) in the Port of La Guaira**.**

Special Provision N° SNAT/2018/0017 from the Tax and Customs Administration Services dated March 1, 2018.

The Tax and Customs Administration Services have raised the Tax Unit from Bs. 300 to Bs. 500, starting this month of March

---

National Decree N° 3.332 dated March 22, 2018.

The Decree announces a restructuring of the Venezuelan currency starting June 4, 2018.

Any amount expressed today in national currency must be divided by 1.000 to obtain the new equivalence. This new currency will be called "Bolivar Soberano", as contrary to the "Bolivar Fuerte" from the restructuration of 2008 and the traditional "Bolivar" before that.

From May 1st all prices of goods and services must be stated in both amounts, i.e.: Bolivar Soberano (Bs.S) and the late Bolivar Fuerte.

Circular N° 006 by the National Institute of Aquatic Spaces dated March 23, 2018.

The Maritime Authority (INEA) informed all Shipping Agencies that starting March 23, 2018 all services rendered to foreign flagged vessels would be collected in the cryptocurrency Petro (PTR).

The official forms will still evidence the amounts in US Dollars, but the payment will be required in Petros.

In order to implement this new procedure, the Maritime Authorities have summoned the Shipping Agencies to a meeting in April to make the necessary arrangements.

IV. DRAFT REGULATIONS

This section lists draft regulations/bills being proposed and/or discussed in Congress or other entities.

The Maritime Authorities jointly with the shipping industry have been gathering efforts to determine the approach of Venezuela towards the two most recent and relevant Conventions entering into force:

1. MARPOL Attachment VI on Air Pollution which will enter into force on January 2020.

Representatives of the Ministry of Oil and PDVSA argued that the country was not technically ready to comply with the provisions of such attachment and advised that an extension to its enforceability should be requested.

The immediate solution for Venezuela when the Convention is enforceable would be to import low sulphur fuel or for the vessels to load their fuel in nearby Port, such as Curacao.

2. The Convention for the Control and Management of Ships' Ballast Water and Sediments which will enter into force on September 2018.

This is a very important Convention to Venezuela as a significant recipient of ballast waters in the Caribbean.

Venezuela today is not even close to ready to provide high technology to receive and give prop er treatment to ballast waters in its ports. It is the same case with its vessels, which do not have proper treatment plants on board and considering the congested Caribbean were it is very difficult to establish a safe water replacement zone. The possibilities of complying with the Convention are narrow.

Clyde & Co Caracas

© Clyde & Co LLP All rights reserved