

FIRM

PRACTICE AREAS

MEMBERS

OFFICES

NEWSLETTER

EVENTS

CONTACT US

## TEHAR

### Caracas

Torre La Castellana, Piso 6, Avenida Principal, La Castellana.

### Maracaibo

Unicentro Virginia, Piso 2, Local 2-12, Avenida 3C con esquina calle 67, Sector La Lago.

### Valencia

Torre Movilnet, Piso 7, Oficina No. 3, Avenida Paseo Cabriales.

### Puerto la Cruz

Torre Banco Venezolano de Crédito (BVC), Piso 6, Oficina 6-J, Avenida Intercomunal, Sector Las Garzas.

### Maturín

Centro Comercial Petroriente (CCP), Nivel Oficinas 2, Oficinas 02-N19 y 02-N20, Ala Norte del Green Mall, Avenida Alirio Ugarte Pelayo.

### Introduction

On July 14, 2009, the Venezuelan government ordered the purchase of the assets of Venezolana de Prereducidos del Caroní, C.A. (VENPRECAR) Orinoco Iron, Complejo Siderurgico de Guayana (Comsigua), Materiales Siderúrgicas S.A. (MATESI) and Tubos de Acero de Venezuela (TAVSA) and their affiliates which are companies whose activities are related to the transformation of iron ore. This means that these companies will become State-owned companies.

### Energy

The Law approving the Treaty on the Prompt Notification of Nuclear Accidents, which was approved by the General Conference of the International Atomic Energy Agency, open for signature on September 26, 1986, was published in the Official Gazette of July 9, 2009.

The Law approving the Protocol of Amendment to the Treaty between Venezuela and Russia for Cooperation in Energy Matters was published in the Official Gazette of July 14, 2009. The purpose of the amendment was to establish that the area to be developed under it would be Junin 6 and not the two blocks currently part of the Carabobo Project, subject to public bidding among the 19 companies that are currently participating in this project.

The Ministry of the Popular Power for Energy and Petroleum provided by resolution published in the Official Gazette of July 8, 2009 that the mixed company Petrolera BieloVenezolana, S.A, incorporated by the Corporación Venezolana del Petróleo, S.A. and Unión de Empresas Productoras Belorusneft, will carry out its activities in the area of Oritupano Norte, located in the states of Anzoátegui and Monagas; Ostra, located in the state of Anzoátegui and, Bloque II Lagunillas, located in the state of Zulia.

### Contents

1. [Introduction](#)
2. [Energy](#)
3. [Exchange Control](#)
4. [Banking](#)
5. [Tax](#)
6. [Environmental](#)
7. [Miscellaneous](#)

FIRM

PRACTICE AREAS

MEMBERS

OFFICES

NEWSLETTER

EVENTS

CONTACT US

The Ministry of the Popular Power for Energy and Petroleum designated a new area in which PDVSA will carry out hydrocarbon primary activities. The area is called Sabaneta Suroeste, has an area of 152.04 km<sup>2</sup> and is located in the Municipalities of San Genaro de Boconoito, State of Portuguesa and Alberto Arvelo Torrealba and Rojas, State of Barinas. (Official Gazette of August 26, 2009)

The Ministry of the Popular Power for Energy and Petroleum issued the Norms for the granting of the authorization for companies that are providers of conformity of use of technology and import permits of equipment, components, accessories and/or storage cylinders of natural gas for vehicles and components, accessories and containers for the management of Liquefied Petroleum Gas (LPG). (Official Gazette of August 5, 2009)

As per Presidential Decree published in the Official Gazette of August 11, 2009, the Venezuelan University of Hydrocarbons was created. Among its main purposes, the university will form professionals for the hydrocarbons and energy industry providing undergraduate and post-graduate studies and will develop research projects taking into account the needs of the hydrocarbons industry.

The PETROCARIBE Energy Cooperation Agreement between Venezuela and Guatemala was published in the Official Gazette of August 11, 2009. Through this agreement Venezuela guarantees the direct supply of crude, refined products and liquid petroleum gas to Guatemala for up to 20,000 bpd. The payment of this supply will be financed from 15 to 23 years pursuant to the conditions of the Agreement.

### Contents

1. [Introduction](#)
2. [Energy](#)
3. [Exchange Control](#)
4. [Banking](#)
5. [Tax](#)
6. [Environmental](#)
7. [Miscellaneous](#)

### Exchange Control

On August 11, 2009, the Ministry of the Popular Power for Economy and Finance and the Venezuelan Central Bank published the Amendment to Exchange Agreement N° 9, which modified Article 5 of said Agreement in order to include the Mixed Companies created in accordance with the Organic Law for the Development of Petrochemical Activities in the group of companies that may maintain accounts in foreign currency outside Venezuela, in banking or other institutions of a similar nature, to receive income, for the purpose of making payments and disbursements that must be made outside Venezuela. The remaining foreign currency will be of mandatory sale to the Venezuelan Central Bank, at the rate of exchange set in accordance with Article 6 of Exchange Agreement N° 1. These companies will not have the right to

FIRM

PRACTICE AREAS

MEMBERS

OFFICES

NEWSLETTER

EVENTS

CONTACT US

obtain foreign currency from the Venezuelan Central Bank in order to fulfill their obligations and payments in foreign currency.

### Banking

The Venezuelan Central Bank modified the Norms that Regulate the Formation of the Legal Reserve that had been in effect since March 2009, as per Resolution No. 09-07-01, published in the Official Gazette of July 17, 2009. The revised norms incorporated article 16 which contemplates that development banks that have as their sole purpose to promote or finance micro-financial activities and whose credit intermediation index is equal to or greater than 70% will maintain a minimum legal reserve of 12% of the total amount of the Net Obligations Reserve Base and of the total amount corresponding to the Marginal Balance. The Resolution also defines the financial brokerage index as the one that results from dividing the gross micro-credits portfolio by the sum of the deposits from the public and other financing, multiplied by 100.

The Superintendency of Banks and other Financial Institutions (SUDEBAN – in Spanish) issued new principles and procedures for calculation of the adequate patrimonial level of financial institutions in relation to the assets and contingent operations measured by levels of risk. The banks and other financial institutions will determine, on a monthly basis, the measurement of risk of their assets and contingent operations, as well as the amount of patrimony required to sufficiently cover the quantification of risk. The resolution establishes the risk percentages that banks and financial institutions shall apply to the various entries of assets and contingent operations.

SUDEBAN issued the new Norms to Regulate Publicity and Advertising made by Banks, Savings and Loans Associations and Other Financial Institutions about Financial Products or Services through resolution published in the Official Gazette of July 16, 2009. These new Norms repealed Resolution N° 001-1098 of October 28, 1998 and, among other things, indicate that offering to the public interest rates between the minimum and maximum values established by the Venezuelan Central Bank is not considered promotion.

### Contents

1. [Introduction](#)
2. [Energy](#)
3. [Exchange Control](#)
4. [Banking](#)
5. [Tax](#)
6. [Environmental](#)
7. [Miscellaneous](#)

The Law of Credit for the Tourism Sector was published in the Official Gazette of August 27, 2009. The purpose of said law is to establish mechanisms to promote tourist activities by the granting of loans. The law establishes that the Ministry of the Popular Power for Tourism will establish the percentage of the

FIRM

PRACTICE AREAS

MEMBERS

OFFICES

NEWSLETTER

EVENTS

CONTACT US

credit portfolio of banks that will be allocated for loans to the tourism sector, during January of each year, which percentage cannot be lower than 2.5% or higher than 7% of the loan portfolio. The Venezuelan Central Bank shall also establish a preferential interest rate for loans, which will be fixed

The Venezuelan Central Bank established the maximum commissions to be charged by financial institutions for the operations and services that they offer. (Official Gazette of August 27, 2009)

The amendment to the Law on Benefits and Payment Facilities for Agrarian Debts of Strategic Items for Food Security and Sovereignty, which modifies articles 3, 4, 5, 6, 8, 9, 10, 12, 13 and 14 of the original Law, was published in Official Gazette N° 39.233, of August 3, 2009 and will be in force until December 31, 2010.

The Agreement between Venezuela and Russia on the establishment of the Russian-Venezuelan Bank, signed in Moscow on June 23, 2009, was published in the Official Gazette of August 11, 2009. The Russian-Venezuelan bank will be a corporation incorporated pursuant to Russian law between Bank VTB (Russia.) and Banco del Tesoro and PDVSA (Venezuela). The home office of the bank will be in Moscow and it will have a branch in Venezuela. Its activities will be directed to rendering services to corporate clients.

#### Contents

1. [Introduction](#)
2. [Energy](#)
3. [Exchange Control](#)
4. [Banking](#)
5. [Tax](#)
6. [Environmental](#)
7. [Miscellaneous](#)

#### Tax

The Calendar of Special Taxpayers and Withholding Agents was modified by the SENIAT for obligations to be fulfilled as from August 2009, pursuant to Administrative Ruling published in the Official Gazette of July 22, 2009.

The Partial Repeal of the Organic Law of the National Public Treasury was published in the Official Gazette of August 10, 2009. The majority of the articles that were repealed had already been included in special tax laws.

The Partial Regulations to the Organic Law against Unlawful Traffic and Consumption of Narcotics and Psychotropic Substances, regarding the contributions prescribed in articles 96 and 97 of said Law, were issued through Decree N° 6.777 of June 26, 2009, published in the Official Gazette of July 1, 2009. These

FIRM

PRACTICE AREAS

MEMBERS

OFFICES

NEWSLETTER

EVENTS

CONTACT US

Regulations became effective upon its publication in the Official Gazette. For the purposes of the same, taxpayers must begin to pay said contributions.

### Environmental

The Ministry of the Popular Power for the Environment issued (i) The Forestry Technical Norm on Selection and Conservation of Seeding Trees (Official Gazette of June 10, 2009); and (ii) The Forestry Technical Norm on Minimum Diameters for Cutting (Official Gazette of June 10, 2009).

### Miscellaneous

The Organic Education Law was published in the Official Gazette of August 15, 2009.

The National Contractors Service issued an Administrative Ruling ratifying that State-owned companies (including those where the State holds more than 50% of their corporate capital) do not need to be registered with the National Contractors Registry because their contracting is not subject to the Public Contracting Law.

In the Official Gazette of August 3, 2009, the Ministry of the Popular Power for Public Works and Housing published several resolutions declaring extinguished the authorizations for broadcasting on the following radio frequencies: 100.1 MHz, Channel 61, Class "B" in Valencia; 96.1 MHz, Channel 61, Class "B" in Punto Fijo; 105.7 MHz, Channel 91, Class "C" in Los Teques; 106.9 MHz in La Guaira; 1.530 KHz in Guatire; 730 KHz in San Antonio del Táchira; 107.5 MHz, Channel 98, Class "B" in Puerto La Cruz; 92.9 MHz, Channel 25, Class "A" in Porlamar; 1.550 KHz in Los Teques y 99.1 MHz, Channel 16, Class "A" in Porlamar.

### Contents

1. [Introduction](#)
2. [Energy](#)
3. [Exchange Control](#)
4. [Banking](#)
5. [Tax](#)
6. [Environmental](#)
7. [Miscellaneous](#)

The Ministry of the Popular Power for Internal Affairs and Justice issued the Instructions to Rule the Collection Procedure through Sole Banking Formats issued by the Autonomous Service of Registries and Notary Public's Offices (SAREN – in Spanish) (Official Gazette of August 25, 2009). These instructions establish that after reviewing the pertinent document, an official of the Registry and/or Notary Public's Office will calculate the amount of Fees, Taxes and processing of the document to issue the Sole Banking

FIRM

PRACTICE AREAS

MEMBERS

OFFICES

NEWSLETTER

EVENTS

CONTACT US

Format that will be delivered to the user for payment in the banking institutions indicated by the SAREN. The instructions also indicate that, before signing the pertinent document and the corresponding Sole Banking Format, the Registrar or Notary Public must also verify that all officials involved in the procedure have signed said format.

In the Official Gazette of August 5, 2009 the Ministry of the Popular Power for Tourism published a resolution establishing the requirements necessary for the registration of the Entities that provide Tourist Services with the National Tourist Registry. This resolution repeals resolution N° 075 of August 20, 2008 and entered into force upon its publication in the Official Gazette.

A resolution establishing the requirements necessary to obtain the Tourism License was also published. It establishes that the License will have a duration of two years and that the Entities that provide Tourist Services will have a ninety-day period after the date of publication of the resolution to comply with the provisions that it contains. This resolution repeals resolution N° 076 of August 20, 2008.

The Law of the Extinction of the Criminal Action and Termination of Lawsuits for the Cases of the Temporary Procedural System was published in the Official Gazette of August 6, 2009. The law entered into effect on the date of its publication and it establishes, among other things, that the criminal action will be deemed extinguished in those procedures of the Temporary Criminal Procedural System when more than fifteen years have elapsed from the date when the illegal act occurred or when the authorities had knowledge of it, provided that the accusation has not been made until that date. The crimes against human rights and those related to drug trafficking are excluded from the application of the law.

#### Contents

1. [Introduction](#)
2. [Energy](#)
3. [Exchange Control](#)
4. [Banking](#)
5. [Tax](#)
6. [Environmental](#)
7. [Miscellaneous](#)

The Law approving the Convention on the Right of Disabled Persons and its Optional Protocol was also published in the Official Gazette of August 6, 2009. The purpose of this convention is to promote, protect and guarantee that all disabled persons enjoy all fundamental human rights and liberties.

The Code of Ethics of the Venezuelan Judge was published in the Official Gazette of August 6, 2009 and entered into effect on the same date.

The Ministry of the Popular Power for Defense published a group of resolutions in the Official Gazette of August 27, 2009 pursuant to which the following norms were issues:

FIRM

PRACTICE AREAS

MEMBERS

OFFICES

NEWSLETTER

EVENTS

CONTACT US

- (i) General Norms and Procedures for the Control and Operation of Companies that Provide Private Security, Protection and Transport of Values;
- (ii) General Norms and Procedures for the Registration and Control of the Arms and Munitions of Sports Associations and Federations;
- (iii) General Norms and Procedures for the Registration and Control of Arms, Munitions and Special Equipment of Government Entities, Citizen Security Entities and State Security Entities with Police Functions;
- (iv) General Norms and Procedures for the Registration, Control and Operation of Companies that Commercialize Arms, Spare Parts, Accessories, Munitions and Similar Products;
- (v) General Norms and Procedures for the Authorization for Holding Arms to Private Security Services and Transport of Values Companies, Associations, Cooperatives, Shooting Associations and Federations and Schools for the Formation of Security Officials, Government Entities, Citizen Security Entities and State Security Entities with Police Functions;
- (vi) General Norms and Procedures for the Registration and Control of Companies and Government Entities that Manufacture, Store, Import, Export, Acquire, Commercialize, Use and Transport Explosives, Chemicals and Similar Substances;
- (vii) General Norms and Procedures for the Registration of Alternative Entities (Cooperatives and Micro-companies) for the Rendering of Services of Commercialization, Acquisition, Storage, Transport and Use of Chemicals and Similar Substances under Legal Regime No. 7 of the Schedule of Customs Duties.
- (viii) General Norms and Procedures for the Registration of Agricultural Associations that Acquire, Commercialize, Use, Store and Transport Chemicals and Similar Substances under Legal Regime No. 7 of the Schedule of Customs Duties;
- (ix) General Norms and Procedures that will Regulate the Storage of Explosives by Companies and/or Government Entities, Associations, Companies that Commercialize Them and Users;
- (x) General Norms and Procedures for the Registration and Control of Companies that Manufacture, Import, Export, Commercialize, Transport, Store, Acquire and Use Fireworks by Wholesale Stores, Retail Stores and Street Vendors;
- (xi) General Norms and Procedures that will Regulate the Registration of juridical entities (Companies, Associations and Cooperatives) that Carry Out Small and Medium-Scale Mining, as well as Connected Activities of Commercialization, Transport, Distribution, Acquisition, Storage, Transit, Possession and Use of Explosives;

## Contents

1. [Introduction](#)
2. [Energy](#)
3. [Exchange Control](#)
4. [Banking](#)
5. [Tax](#)
6. [Environmental](#)
7. [Miscellaneous](#)

FIRM

PRACTICE AREAS

MEMBERS

OFFICES

NEWSLETTER

EVENTS

CONTACT US

- (xii) General Norms and Procedures that Regulate the Assignment of Arms and their Accessories, Pieces and Munitions by the General Division of Arms and Explosives of the Ministry of Defense to Individuals and Juridical Entities of Public or Private Law.

The Law approving the Memorandum of Understanding between Venezuela and Iran for the transfer of technology and cooperation to build industrial units for production of pharmaceuticals was published in the Official Gazette of July 14, 2009.

Caracas, September 9, 2009.

#### Contents

1. Introduction
2. Energy
3. Exchange Control
4. Banking
5. Tax
6. Environmental
7. Miscellaneous

NOTE: THIS NEWSLETTER SHOULD NOT BE CONSTRUED AS LEGAL ADVICE ON ANY SPECIFIC MATTER, AND ITS CONTENTS ARE INTENDED AS A MANAGEMENT ALERT AS TO CURRENT DEVELOPMENTS IN VENEZUELA. ANY SPECIFIC LEGAL QUESTIONS REGARDING THE POSSIBLE APPLICATION OF NEW OR PROPOSED LEGISLATION TO PARTICULAR SITUATIONS SHOULD BE ADDRESSED TO TRAVIESO EVANS ARRIA RENGEL & PAZ.

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