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TEHAR

Caracas

Torre La Castellana, Piso 2,
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 September 30, 2009 the companies that are participating in the Carabobo Project bidding procedure (a project that involves upstream activities in the Orinoco Basin to produce extra heavy crude and its transport and upgrading) were invited to attend a meeting with the Minister of the Popular Power for Energy and Petroleum. The purpose of the meeting was to reactivate the project which had been put on hold since June of this year. A new schedule was announced indicating that the final terms and conditions will be distributed on November 12, 2009 and offers will be presented on January 28, 2010.

Energy

The National Assembly modified its *Acuerdo* contained in the Format of Mixed Company Contract incorporated with CVP as majority shareholder to regulate the distribution of the special advantage of 3.33% of the value of the crude extracted by each mixed company that all mixed companies must pay as a special consideration for having the right to carry out primary activities. Now, from said 3.33%, 30% of 1.11% will be distributed between the municipalities where the activities are carried out and the remaining 70% will be distributed among the rest of the municipalities where the primary activities are carried out in proportion to the population and human development index of each one of said municipalities pursuant to the guidelines to be established by the Ministry of the Popular Power for Energy and Petroleum; the remaining 2.22% is to be delivered to a Special Fund for the Popular Power to finance endogenous development projects pursuant to the National Development Plan. This modification has no impact on the mixed companies, which will continue to pay the same percentage; the impact is on the municipalities where said companies operate. In any event, this modification applies to the following Mixed Companies: Baripetrol, S.A., Boquerón, S.A., Lagopetrol, S.A., Petroboscán, S.A., Petrocabimas, S.A., Petrocuragua, S.A.,

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Petroguárico, S.A., Petroindependiente, S.A., Petrolera Kaki, S.A., Petronado, S.A., Petroperijá, S.A., Petroquiriquire, S.A., Petroregional del Lago, S.A., Petroritupano, S.A., Petroven-Bras, S.A., Petrowarao, S.A., Petrowayu, S.A., Petrocumarebo, S.A., Petrodelta, S.A., Petrokariña, S.A., Petrorinoco, S.A., Petrolera Mata, S.A., and Petrolera Sino-Venezolana, S.A.

The National Assembly issued its *Acuerdo* establishing the basic conditions for the mixed company Petroquiriquire, S.A., incorporated by Corporación Venezolana de Petróleo, S.A. and Repsol YPF Venezuela, S.A., carrying out its primary hydrocarbons activities in an area of 431.87 km², named Barúa-

Motatán, located in the State of Zulia. This *Acuerdo* was republished in the Official Gazette of September 24, 2009 to correct the name of the mixed company which is Petroquiriquire instead of Petrolera Petroquiriquire.

Reportedly, Russia and Venezuela signed several documents regarding oil investments in Venezuela during President Chávez two-day visit to Russia. Among said documents are an MOU with a consortium of Russian companies (TNK-BP, Rosneft, LUKoil, Gazprom Neft and Surgutneftegaz) to incorporate a mixed company to operate in the Junín 6 area of the Orinoco Oil Basin and an agreement with pipeline company Transneft to build infrastructure in the Orinoco Oil Basin.

Exchange Control

Please find attached hereto a memo addressing the new Administrative Ruling on Imports.

Banking

The Official Gazette of September 8, 2009 contains several official announcements issued by the Venezuelan Central Bank fixing interest rates for the following purposes: (i) interest rates applicable to credit transactions of the tourism sector; (ii) interest rates applicable to credit card loan operations; (iii) interest rates for purposes of calculation of employees severance benefits; and (iv) interest rates for the purchase of vehicles under the “balloon quota” mode.

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The Public Banking Corporation was created as a national office as per Presidential Decree published in the Official Gazette of September 18, 2009. The purpose of this national office is to organize and coordinate all public-banking institutions.

Tax

The SENIAT issued Administrative Ruling N° SNAT/2009/0091, which establishes the regulations for the use of different means for the issue of invoices and other documents by providers of mass services. The services covered by this ruling are: electricity, drinking water, domestic gas and trash collection, basic and mobile telecommunications, cable TV and Internet. This ruling constitutes an exception to the regular invoice regime established in Administrative Ruling N° SNAT/2008-0257 published in the Official Gazette of August 19, 2008. The ruling was published in the Official Gazette of September 8, 2009, and entered into effect on September 9, 2009.

The SENIAT issued an Administrative Ruling that regulates the compliance with information and payment duties regarding income tax withholdings. This ruling was published in the Official Gazette of September 22, 2009. As indicated by its name, it establishes the procedure for filing and paying Income Tax Withholdings.

The SENIAT issued an Administrative Ruling which establishes the timing for payment of taxes generated as a result of imports (Official Gazette of September 3, 2009). The ruling indicates how taxpayers are to proceed in order to obtain the appropriate bills and how payment should be made. The ruling entered into effect on October 5, 2009.

The Ministry of the Popular Power for Economy and Finance issued a resolution establishing that the importation of manufactured textile articles, shoes and their parts comprised in Chapters 61 through 64 of the Custom Duties may be carried out through any of the Customs Offices of the country. (Official Gazette of September 14, 2009).

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The SENIAT informed that the average weighted interest rate for loans of the six main commercial banks with the largest deposits established by the Venezuelan Central Bank for the month of August 2009 was 22.31%. (Official Gazette of September 21, 2009).

Labor

As of September 1, 2009, the second portion of the increase of the minimum salary established by Presidential Decree published in the Official Gazette of April 1, 2009, corrected by an announcement published in the Official Gazette of April 3, 2009, is in force, being the current minimum salaries the following: a) Bs. 967.50 per month for city workers of both the private and public sector, rural workers, concierges of buildings and domestics workers; and b) Bs. 719.40 per month for apprentices and teenagers.

Consumer Protection

Through Joint Resolutions, the Ministries of the Popular Power for Commerce, for Agriculture and Land, and for Food adjusted the Maximum Sales Price of bottled tomato sauce, coffee beans, ground coffee and green coffee. Said resolutions were published in the Official Gazette of September 1, 2009.

Miscellaneous

The Organic Law of the Civil Registry was published in the Official Gazette of September 15, 2009. Among the objectives of the law is the creation of an automatic system of Civil Registry and a digital archive which will have the value of evidence of public documents. This law also establishes that the Civil Registry system will be headed by the National Electoral Council (*Consejo Nacional Electoral*). In addition, the law indicates that the Civil Registry will be the basis for the Electoral Registry, because when each person registered in the Civil Registry reaches the voting age, their information will be incorporated to the Electoral Registry automatically. Furthermore, the law establishes the obligation of each person to inscribe his/her residence in the Civil Registry and to notify of any changes in this sense. All information about a person will be registered in a single file and each person will be assigned a unique identity number, which will have to be incorporated to all identification methods recognized by the State. This law will enter into effect one 180 days after its publication in the Official Gazette and it repeals several

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articles of the Civil Code, Civil Procedural Code, Organic Law of the Public Municipal Power, Organic Law of Protection of Children and Teenagers, Law of Nationality and Citizenship and of the Law of Public Registry and Notaries Public.

The amendment to the Organic Criminal Procedure Code was published in the Official Gazette of September 4, 2009.

The Resolution that establishes the Norms for Processing the Certificate of Conformity of Agrarian Projects was published in the Official Gazette of September 14, 2009. This certificate is mandatory for obtaining governmental financing for these projects.

The Ministries of the Popular Power for Commerce, Agriculture and Lands and Food issued a joint Resolution to establish the “Norms that Regulate the Receipt, Testing, Analysis and Calculation of the Profitability of Locally Produced Sugar Cane by the Sugar Cane entities in the National Territory.” (Official Gazette of September 14, 2009).

Caracas, October 15, 2009.

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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.

Annex

MEMORANDUM ON RULING 098 OF CADIVI

THAT ESTABLISHES THE REQUIREMENTS AND FORMALITIES FOR THE AUTHORIZATION FOR ACQUISITION OF FOREIGN CURRENCY FOR IMPORTATION

The new Ruling on importation was published in Official Gazette (O.G.) No. 39.252 of August 28, 2009. It repeals Administrative Ruling 085 published in O.G. of January 31, 2008.

The new Ruling on importation of goods has a more detailed content, the number of documents required for the different procedures is increased, and the content of the provisions is technically organized in a better way.

For further clarification of its content, we suggest to visualize it as per the Chapters that form the same as follows:

Chapter I General Provisions.

Chapter II Formalities

Authorization for Acquisition of Foreign Currency (AAD in Spanish).
Importation.
Verification.
Authorization for Provision of Foreign Currency (ALD in Spanish).
Payment on Demand

Chapter III Subsequent Control

Among the most significant changes, in our view, the following may be mentioned:

- 1- It imposes on users the obligation to keep the documentation supporting the request for AAD for five (5) years. Art. 5.
- 2- Although the abandonment of administrative proceedings already filed constitutes a right of every party subject to the authority of the administration, such right is expressly established in this Ruling. Art. 8.
- 3- It expressly establishes that the user may not make changes in the type of foreign currency requested, nor in the method of payment (regular methods, productive methods, payment on demand, or through ALADI payment and credit agreements). Art. 14.
- 4- The period of validity of the AAD will continue to be 180 calendar days, but now such period of time begins to elapse after the issue of the same and not after the notification as it was established before. If said period of time elapses and the request for ALD has been filed, but the inward customs clearance is not made, CADIVI will deny the ALD. Art. 15.
- 5- In order to process the second or subsequent request for AAD, the exchange operator must review and withhold the documentation filed until the closing of the importation is presented (this document is not defined in the text of the Ruling). Art. 16.
- 6- In the cases of refund to the Venezuelan Central Bank (BCV) of the foreign currency received for imported goods that are to be exported without having been subject to a modification or transformation procedure in the country, an explanatory letter to be presented to CADIVI is included as a requirement. Art. 19.
- 7- The different types of shipments and the dates applicable to them for the purposes of the importation are defined. Art. 20.
- 8- A period of fifteen (15) business days following the receipt of the last declaration and Certificate of Verification of goods that complete a multi-shipment importation is established in order to file the documents and request for ALD. Art. 21.
- 9- In case of differences between the codes of the schedule of customs duties that appear in the forms of request for AAD and those of the goods cleared in through customs, the ALD will be denied, as opposed to the former Ruling in which in the event of differences in any other data, the delivery of the foreign currency could be restricted to a lower amount. Art. 22.
- 10- In order for the physical verification of the imported goods, the number of documents to be presented is increased and they are listed with more details, as opposed to the former Ruling. The case of normal importation is differentiated from that of importation under special regimes. Art. 24.

- 11- A new period of twenty (20) business days following the customs verification is established in order to withdraw the Declaration and Certificate of Verification from said offices. Art. 26.
- 12- As in article 24, the number of documents to be presented for the request for ALD for normal importation is considerably increased, the documents required for importation under the ALADI regime are listed separately, and the number of documents for special regimes is increased. Art. 27 normal importation, Art. 28 ALADI, and Art. 29 special regimes.
- 13- In the cases of payment on demand, the period of one hundred and twenty (120) days for the inward customs clearance of the goods begins to elapse after the date when the ALD is granted and not after the date of the provision of the foreign currency as it was under the former Ruling. Likewise, it is expressly established that the user may not request the shipment of the goods prior to the obtainment of the ALD. Art. 33.
- 14- The concept of importation with payment on demand is modified, such being understood as the method of payment of goods to be imported in which payment is agreed to be totally or partially made prior to the shipment of the goods, as opposed to the former concept that established that payment was made prior to the inward customs clearance of the goods. Art. 33.
- 15- The liability of users is extended when compared to the former Ruling, given that this new Ruling establishes that failure to perform any of the obligations prescribed in Art. 33 results in the prohibition against making any other importation under the method of payment on demand. The penalty in the former Ruling was imposed at CADIVI's discretion and only with respect to the failure to observe the period of one hundred and twenty (120) days. Art. 33.
- 16- Finally, it is established that the method of payment on demand is reserved to the items previously authorized by the National Executive, which may suspend the application of the method when it deems it convenient.
- 17- The subsequent control measures confer on CADIVI the broadest powers of audit and supervision of both users and authorized exchange operators. As a preventive measure, the temporary suspension of the access to the system is implemented, as opposed to the unilateral termination that was formerly prescribed. Art. 35 and 36.
- 18- According to the temporary provision, the AADs granted before the entry into force of Ruling 098 continue to be in force for one hundred and eighty (180) days as from the notification of the same to the user in order for the user to make the shipment of the goods. If such shipment is not made on the date indicated, it will be understood that the user waived the request made.

Caracas, September 4, 2009.