

Third Quarter 2021 Report

–Venezuela–

October 2021

I. NEWS

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

“Spanish judge bans Maduro from using 25 million euros that were blocked to CVG”

A Court denied Maduro's request to use the 25 million euros blocked in Spain, that belong to the subsidiary of Corporación Venezolana de Guayana (CVG), which were held in 3 Spanish financial institutions.

Although, formally Juan Guaido's representatives have control of the company in Spain, the dispute with Maduro caused Spanish financial institutions to block the funds pending a final legal resolution.

In 2019, Juan Guaido appointed Enrique Castells as President of the Ad-Hoc Administrative Board of CVG and subsequently Maduro requested the suspension of such appointment.

<https://talcuadigital.com/juez-de-espana-prohibe-a-maduro-disponer-de-25-millones-de-euros-bloqueados-a-la-cvg/>

“US Treasury Department denied Crystallex's request for CITGO shares”

The Office of Foreign Assets Control (OFAC) rejected the sale of CITGO shares as payment for the debt to Crystallex since it is not consistent with their foreign policy.

Earlier this year, a judge approved the sale of the shares to satisfy the debt owed to Crystallex in the amount of \$1.4 Billion for the expropriation of their assets in Venezuela. However, the company requires a license from OFAC to complete the sale.

OFAC also extended until January the prohibition against claiming CITGO assets as collateral for the PDVSA 2020 bonds, so bondholders will not be able to exercise their rights until such date.

<https://www.elnacional.com/economia/departamento-del-tesoro-de-ee-uu-nego-a-crystallex-la-solicitud-de-acciones-de-citgo/>

<https://www.elnacional.com/venezuela/la-ofac-extendio-hasta-enero-la-proteccion-que-impide-reclamar-activos-de-citgo-como-garantia-del-pdvsa-2020/>

“China National Petroleum Corp (CNPC) could reactivate operations in Venezuela”

The Chinese oil company sent engineers and part of their commercial personnel to examine certain local companies and carry out some maintenance work in a joint venture company with PDVSA.

The Venezuelan government expects that the arrival of these investments might help triplicate their current crude oil production, boosting other joint ventures operated by PDVSA. However, experts say it is likely that all of CNPC's production will be exported to China to pay Venezuela's debt.

<https://www.eluniversal.com/economia/106016/principal-productor-petrolero-de-china-podria-reactivar-sus-operaciones-en-venezuela>

“ExxonMobil discovered another oil field in the coastal area of Guyana”

The discovery was made at the Whiptail well in the Stabroek block, offshore Guyana. Seventy-five meters of net production were found in high quality oil-bearing sandstone deposits.

The new discovery is located approximately 4 miles from the Uaru-1, which was discovered on January 2020, and about 3 miles from the Yellowtail field.

<https://www.elnacional.com/economia/petroleo/exxonmobil-descubrio-otro-yacimiento-de-petroleo-en-zona-costera-de-guyana/>

“Total Energies and Equinor have transferred their shares to Petrocedeño”

These two oil companies have joined the list of foreign companies leaving their assets in Venezuela. They transferred to PDVSA their 10% shareholdings in the Petrocedeño joint venture. Therefore, the state-owned company now owns the entire share capital.

The work of the latter is focused on operations in a field of the Orinoco Oil Strip and a heavy oil upgrader.

<https://www.elnacional.com/venezuela/totalenergias-y-equinor-transferieron-sus-acciones-en-petrocedeno-pdvsa-asumio-la-totalidad-de-la-empresa/>

“Repsol plans to continue their activities in Venezuela”

The Spanish oil company is taking measures to keep up their activity in Venezuela in compliance with US sanctions.

However, their activities could be affected if the political and economic situation in Venezuela continues, and if the US adopts new policies against the Venezuelan government.

<https://www.elnacional.com/economia/repsol-sigue-adoptando-medidas-para-continuar-su-actividad-en-venezuela/>

“Container shortages and increased freight rates affect trade”

The National Council for Trade and Services stated that due to the COVID-19 pandemic, there has been a shortage of containers, which influenced significantly the increase in ocean freight rates, affecting international trade and impacting the price of imported goods.

<https://www.elnacional.com/economia/consecomercio-la-escasez-de-contenedores-y-aumento-del-flete-afectan-el-comercio/>

“It might take months for the British Supreme Court to determine who will have control of the Venezuelan gold”

After more than a year of litigations between Juan Guaido and Nicolas Maduro in order to determine who will hold control over \$1 Billion Dollars in Venezuelan gold reserves. The British Supreme Court is turning to the British government as to whether or not they have effectively recognized Juan Guaido as head of state of Venezuela for all purposes.

So far, the English Courts have ruled twice, once in favour of each president, so at the end they appealed to the Supreme Court.

<https://www.elnacional.com/venezuela/maduro-o-guaido-corte-suprema-britanica-tardaria-meses-en-determinar-quien-tiene-el-control-del-oro-venezolano/>

“Cattle exports were resumed from Puerto Cabello”

Operations to carry live cattle from Puerto Cabello, State of Carabobo, to the Middle East were resumed successfully after shipments were suspended in early June.

The exported cattle is destined to Iraq, Lebanon and Egypt. Each piece needs to be in very good shape in order to withstand the journey of more than 30 days.

<https://www.eluniversal.com/economia/101959/exportacion-es-de-ganado-en-pie-desde-puerto-cabello-se-retomaron-con-exito>

II. CASE LAW

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

Judgement of the Social Cassation Chamber N° 075 of the Supreme Court of Justice dated 3 August 2021 in re *Claudia Susana Cisneros Fontanals*

In this decision the Chamber analyzes whether in Venezuela, according to the domestic legislation, it is mandatory to submit to exequatur the judicial decisions issued by foreign courts, even when those were issued within the scope of an International Treaty.

For such purpose, the Social Cassation Chamber restates the decision of the Political Administrative Chamber dated January 15th 2003, in which exequatur has been defined as a judicial means for decisions issued in a foreign State to be enforceable in another State.

Thus, the Chamber concludes that, in order for any foreign judgment to be valid and to produce legal effects, it must be submitted to the exequatur procedure, according to article 850 of the Civil Procedure Code, otherwise, it will not have any effect, neither as evidence, nor to produce res judicata, nor to be enforced and therefore, it will not be able to derive effects or acts that grant rights.

III. LEGISLATION

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

National Decree N° 6.644 dated 17 September 2021

The National Assembly approved a partial reform to the Organic Code of Criminal Procedure, which includes among others, the following modifications:

The definition of “accused” was added to persons under investigation by the Public Prosecutor's Office to whom the commission of a punishable act is attributed in an act of formal accusation before the Prosecutor.

The reform aims to expedite criminal procedures and reduce the time frame. Making sure the hearings are faster and to guarantee the accused's a due process.

The Prosecutors appeals will not suspend Court procedures and the period to resume the Oral Hearing was reduced from 15 days to 5 days.

The Public Prosecutor's must conclude the investigation phase, within 6 months of the individualization of the accused under the accusation. Upon expiration of this period, the accused or the victim may request the Control Judge to set a term of thirty days for the conclusion of the investigations.

The Ministry with jurisdiction over the penitentiary service must have an office in each Criminal Judicial Circuit, and in its extensions, for the reception and processing of admissions, discharges and transfers of individuals deprived of liberty.

National Decree N° 4.577 dated 2 September 2021

Jeyfren Sabas Casique Hernández was appointed as Vicepresident of the Instituto Nacional de Canalizaciones.

National Decree N° 4.553 dated 6 August 2021

Starting October 1st, the currency of the Venezuelan monetary system will remove six ceros to their denomination i.e. the amount of one million Bolivares (Bs. 1.000.000) on September 30th will be then referred to as one Bolivares (Bs. 1) on October 1st. This Bolivar will continue to be represented with the symbol Bs.

Consequently, any amount expressed in local currency prior to the aforementioned date, must be converted to the new unit, dividing by one million (1.000.000).

National Decree N° 4.539 dated 19 July 2021

Erick Jacinto Pérez Rodríguez was appointed as Vicepresident of Exploration and Production of Petróleos de Venezuela, S.A (PDVSA) and as President of the Corporación Venezolana de Petróleo (CVP).

Erwin Enrique Hernández was appointed as Vicepresident of International Matters of PDVSA.

Resolution N° 21-08-01 of the Venezuelan Central Bank

The Venezuelan Central Bank (BCV for its acronym in Spanish) issued the Rules Governing the New Monetary Expression, with the purpose of regulating the aspects related to the new monetary scale established by Decree No. 4.553.

As of 1 September 2021, any advertising or instructive material must include both the prices of goods and services under the new and old monetary scale. Such reference must be shown, offered or exhibited to the public.

This obligation does not apply to documents or instruments that generate legal effects or that are to be registered or notarized.

Certain banknotes from the former currency denomination may continue to circulate after 1 October 2021, until they are demonetized by the BCV. Other banknotes and coins with denominations lower than ten thousand Bolivares (Bs. 10.000) must be deposited in any banking institutions.

Provision N° 033 of the National Institute of Aquatic Spaces

Freddy Rubén Añez Pawlychym was appointed as Harbor Master of the Port of Ciudad Bolívar.

Provision N° 034 of the National Institute of Aquatic Spaces

Dave Jose Carrasquel Contreras was appointed as Harbor Master of the Port of Ciudad Guayana.

National Assembly Agreement dated 16 September 2021

The National Assembly insisted in their rejection to the decision of the International Court of Justice to assume jurisdiction over the validity of the Arbitration Award of 1899, based on Guyana's unilateral claim.

Guyana is urged to resume direct negotiations with the State of Venezuela, in order to reach a practical and mutually satisfactory settlement, solving amicably the resolution of the dispute, in accordance with international law and based on the Geneva Agreement of 1966. However, the terms of Guyana are in no way satisfactory to the interests and history of Venezuela.

The National Assembly agreed to ratify the historical and inalienable rights of Venezuela over the territory of Esequiba Guyana, according to which the eastern border of Venezuela is the median of the Essequibo River.

IV. BILLS

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

Entrepreneurs Bill

The President of the Permanent Commission of Economy, Finance and Development, informed that a new Electronic Commerce Bill will be submitted to the National Assembly for discussion in order to address and regulate the flourishing technological activity that has developed in Venezuela as a result of the pandemic.

The Bill applies to all activities of a public or private nature, related to the development of entrepreneurs in micro and small enterprises, whether private, public, mixed, popular, associative, community or artisan.

The bill allows for the participation of foreign entities or individuals wishing to contribute to national entrepreneurships.

Entrepreneurs will have benefits in terms of fees, income and requirements to incorporate their company as a business entity. Likewise, the authority will simplify the procedures for new companies in order to avoid excessive charges.

Anti-Drug Bill

This bill provides the controls and measures for the surveillance of all narcotics and psychotropic drugs operations; including any chemical, precursor and essential substances, that might be at risk of being diverted to the illicit manufacture of drugs; determine the crimes, felonies and penalties related to illicit drug trafficking, as well as the administrative infractions and their corresponding sanctions; regulate the social security measures applicable to the consumer and to regulate the prevention of drug consumption and the prevention of illicit drug trafficking.

The name of the National Anti-Drug Office is suggested to be changed to National Anti-Drug Superintendence, which will remain at their office in Caracas, and will be in charge of implementing the public policies of the State against illicit drug trafficking and drug abuse, as well as all the organization and supervision of the areas of drug use, prevention, treatment, rehabilitation and social reinsertion of drug abusers.

Anti-Corruption Reform Bill

The bill provides a broader concept of public patrimony, to include the different forms of popular organizations that receive public resources, funds and goods. For instance, the case of the “communes” and “communal councils” that are not mentioned in or provided in the current Law.

Under this bill, the Communal councils, communes and other associations, or organization will have the right to participate in the supervision and evaluation of the budget according to the corresponding political territorial reach.

Clyde & Co Caracas