



## Venezuela Economic Outlook

By Arca Análisis Económico

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

- Venezuela began the fourth quarter of the year experiencing a significant increase in public expenditure, which was reflected in a strong rise in the official exchange rate, accompanied by an electoral environment that opens the way to a possible range of actions after the approval of the Anti-Blockade Constitutional Law. For these reasons, high volatility is expected in the exchange rate, as well as in the money market and inflation, while the Central Bank of Venezuela (BCV) will have a fundamental challenge to counteract the effect of the growing public expense on the exchange rate, through exchange rate interventions.
- Likewise, several government statements throughout October indicate a seasonal increase in social expenditure, due to the increase in discretionary transfers related to Christmas Eve. These transfers could be carried out in the form of delivery of toys, food, micro-credits to Small and Medium-sized Enterprises (SMEs), and direct monetary aid through various government social welfare plans. In addition, a series of year-end transfers and bonuses to various segments of the public sector have been implemented since Oct. 15, 2020.
- The scope of the reforms that can be implemented under the protection of the Anti-Blockade Constitutional Law is broad and unprecedented. Several analysts agree that this law will allow for the execution of international agreements to manage, assign or hand over public sector assets; to restructure decentralized entities; to reserve information provided by public entities; to manage additional resources outside the regular administration of the National Treasury; to annul legal norms or court orders; to reconstitute the property of expropriated companies or suspended concessions to their owners; and to grant privileges to national and international private investors in key productive sectors. It is expected that the law will function as legal support for the administration to continue promoting reforms in the economic sphere.
- As for the oil sector, the COVID-19 outbreak is again threatening the oil demand and mitigating options for rising oil prices around the world. Oil demand is weak in Europe, the U.S. and Latin America, and will remain depressed as long as the COVID-19 pandemic continues in what appears to be the second wave of infections. Gasoline demand in Asia is strong, and even jet fuel demand is recovering strongly as this region approaches pre-pandemic demand levels.
- In Venezuela, new sectors of the economy have been allowed to operate despite the fact that as of Oct. 30, 2020, 91,589 people were infected and 793 died of coronavirus, according to the most recent COVID-19 report issued by the Presidential Commission. According to the local media, the National Institute of Civil Aeronautics (INAC) authorized Conviasa, Aeropostal, Láser and Estelar to reactivate their national and international routes as of the first week of December, since they already have complied with all the biosecurity and operational requirements. Flights in Venezuela, domestic and international, have been suspended since March 12, 2020, due to the pandemic.
- On the other hand, pressure on Venezuela has increased for fuel supply, after the statements of Elliott Abrams, the U.S. Department of State's special representative for Iran and Venezuela,



where he confirmed that the State Department has blocked the exchange of diesel for oil that had been allowed until last month. Diesel suppliers urged the Trump Administration to continue allowing the swaps, arguing that they were crucial for humanitarian purposes such as power generation and agriculture, as well as public transportation and freight services. This decision may have strong social repercussion because this fuel is used 85 percent by freight transportation and more than 20 percent by public transportation. More than 70 percent of the population depends on public transport for food and medicine. Likewise, this also adds risk to the country's thermoelectric generation, which is already severely affected by maintenance problems.

- As for the private sector, the BNY Mellon – Depositary Receipts reported on Oct. 30, 2020, to the FVI Fondo de Valores Inmobiliarios S.A.C.A. that the U.S. Securities and Exchange Commission (SEC) accepted the form submitted to it, which allows the increase in the number of American Depositary Receipts (ADRs) that can be issued in the U.S. market by the Venezuelan financial and real estate group.
- The ADR Program, under the name FNDOY U.S.: OTC, had a maximum limit of 100 million ADRs initially, and by virtue of this authorization was extended to a maximum amount of 800 million ADRs. Each of the ADRs packs 50 shares that are traded on the Caracas Stock Exchange (BVC) under the denomination fvi.b. Fondo de Valores Inmobiliarios, a Venezuelan financial and real estate company with 27 years in the national market. Fondo de Valores Inmobiliarios has listed its shares in the BVC since 1992 and has maintained a Level 1 ADRs program on the New York Stock Exchange (NYSE) since 1997. This is the first time in 12 years that there is news related to ADRs of Venezuelan companies, so it could be anticipating the potential dynamism of the local stock market sector.

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## Special Regulations Set on Election Campaigning and Propaganda

By Holland & Knight

The National Electoral Council issued on Oct. 26, 2020, by means of Resolution No. 201020-046, registered in the *Official Gazette* of the Bolivarian Republic of Venezuela No. 964, the Special Regulations on the Electoral Campaign for the 2020 National Assembly Elections, which will take place Sunday, Dec. 6, 2020. (See previous Venezuela Update, "[Opposition Leaders Have Opposing Views on Dec. 6 Elections](#)," Sept. 15, 2020.)

The aforementioned regulations seek to establish special rules that must be adhered to for electoral campaigns and propaganda, within the framework of the general rules that govern the Bolivarian Republic of Venezuela, as well as the special rules that have been issued because of the COVID-19 global pandemic. It should be noted that electoral propaganda and campaigns are allowed from Nov. 3, 2020, to Dec. 3, 2020 at midnight. Consequently, any electoral campaign propaganda or demonstrations outside such time frames is expressly prohibited.

Television advertising was authorized for a maximum of 5 minutes per day, both on open and pay television providers. Radio is allowed a maximum of 10 minutes per day, while written and digital press is permitted to print a half page and a maximum of one page per day. Advertising may not be contracted with advertising agencies who are not authorized for that effect.

Finally, in accordance with health standards, regulations state that political and indigenous organization activities during the campaign that require public meetings, demonstrations or mass events will be subject to the rules that have been issued to stop the spread of COVID-19.

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## National Assembly Releases Anti-Blockade Law

By Tinoco Travieso Planchart & Nuñez

The Anti-Blockade Constitutional Law for National Development and Guarantee of Human Rights, issued by the National Constituent Assembly, was published on Oct. 12, 2020, in the *Official Gazette* of the Bolivarian Republic of Venezuela No. 6,583. The purpose of the law is to establish a special and temporary normative framework that provides the Public Authority with the tools to address the so-called Unilateral Coercive Measures.<sup>1</sup> According to the constitutional law, the measures affect human rights, imply attacks against International Law and constitute crimes against humanity. Likewise, this law qualifies these measures as illegal and unlawful, and considers them to be a threat to national security.

The main purpose of the law is to guarantee that Venezuelan citizens fully enjoy their human rights, and to favor the development of the national economy, ensuring the self-determination and sovereignty of all Venezuelans. To fulfill its objectives, this constitutional law entitles the National Executive Branch to dictate measures for macroeconomic, commercial and investment stability. These measures apply to the national economy and its functioning at an international level of Venezuelan relationships with foreign investors that may be affected by Unilateral Coercive Measures.

All measures carried out by the Cabinet of Ministers of Venezuela require prior approval of the Venezuelan Ministry of Economy and Finance, and all legal business requires prior approval of the Attorney General's Office. Additionally, all enforcement measures of the constitutional law are also subject to the subsequent control of the Comptroller General of the Republic. The Council of State acts as a supervisory and monitoring body for the enforcement of this law and its effectiveness. The International Center for Productive Investment was also created, which includes the observatory on Unilateral Coercive Measures, dedicated to the study, follow up and evaluation of such measures, as well as the dissemination of their effects and the evaluation of productive projects that result from the enforcement of the constitutional law.

This law empowers the Executive Branch to disregard certain legal norms in specific cases when necessary to counteract Unilateral Coercive Measures, including the possibility of disregarding authorizations established in other laws for legal measures or business carried out by the Cabinet of Ministers of Venezuela. The faculty of the Cabinet of Ministers to terminate the legal order is considered a violation of constitutional principles such as legal certainty and the rule of law, to which the actions of the public administration must be subject.

Another characteristic of the constitutional law is that the measures that imply the cessation of legal norms are declared secret and reserved. In addition, in order to avoid compromising the effectiveness of the economic measures adopted by the Cabinet of Ministers, access to information established in administrative files and records may be limited or declared confidential. These powers are considered excessive limitations to the constitutional right to information, legal security and freedom of expression, in addition to the violation of the transparency principle that should govern the actions of the public administration.

As for the economic measures that can be enacted by the Cabinet of Ministers, the following stand out:



1. to create any kind of financial mechanism, for the purpose of protecting transactions involving financial assets of the Venezuelan Republic and its entities, including the use of cryptocurrencies
2. to execute legal acts or business for the protection of assets, in order to counteract threats of immobilization, dispossession or loss thereof
3. reorganizing decentralized entities for business purposes
4. modifying the mechanisms for the incorporation, ownership, management, administration and operation of joint ventures (especially aimed at the privatization of the oil industry, with the express exception of the state-owned company *Petróleos de Venezuela* or PDVSA), and
5. applying exceptional contracting mechanisms

All these measures imply the cessation of fundamental legal instruments that regulate the financial, organizational and contracting mechanisms of the public authority.

The duration of this law is established as of its publication in the *Official Gazette* of the Bolivarian Republic of Venezuela until the termination of the Unilateral Coercive Measures. The economic measures adopted by the Cabinet of Ministers will remain in force even when the constitutional law expires.

This constitutional law has caused great concern in the Venezuelan legal arena, since the granting of full powers to the Cabinet of Ministers and the secrecy stated in its actions, as well as fundamental constitutional norms and principles linked to the exercise of public service, citizens' access to information and their legal security, are ignored and dismissed. Furthermore, this instrument was issued by the National Constituent Assembly, which is not the legislative body established in the Constitution and there is no such "constitutional" law set forth in the Constitution of the Bolivarian Republic of Venezuela.

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<sup>1</sup> This is how the so-called Constitutional Law describes the sanctions imposed by the government of the United States of America and by other countries, which impact individuals and entities of the Venezuelan government. Additionally, the Constitutional Law includes the concept of "Other Restrictive Measures," which are defined as any action or omission, related or not to a Unilateral Coercive Measure, carried out by any international organization, public or private entity of any country that dictates the measure or of another country that executes it, extends its effects or takes advantage of it, in order to breach an action or omission of the laws, obligations or other measures that correspond to such law. Faced with this type of measure, the enforcement of this constitutional law is also further explained in the comments.

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