



Venezuela Economic Outlook

By Arca Análisis Económico

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

- The fourth quarter is the time of the year with the highest public spending. It is during this time that the government begins to pay year-end bonuses. These expenditures started on the second week of October, earlier than usual, so it is believed that the idea is to distribute spending over time to minimize expansionary shocks on liquidity. These shocks exert more significant pressure on the dollar price and require more robust interventions. Therefore, the Central Bank of Venezuela (BCV) will counter the impacts of higher spending through foreign exchange interventions.
- The BCV went from injecting an average of US\$80 million to the banks' exchange tables in the first half of the year to placing up to US\$150 million per month so far in the second half of the year, an increase of 87.5 percent amid the precariousness of the foreign currency reserves. This measure attempts to contain the rise in the exchange rate, acting as an anchor to curb inflation growth.
- According to a report and estimates by Síntesis Financiera Caracas C.A., an economic and financial consultancy firm, apart from foreign exchange interventions through the sale of foreign currency in cash, tax collection is another of the most relevant contractionary variables. To give an idea of the importance of each of the variables, so far in 2021, foreign exchange intervention has offset 33 percent of public sector spending (up from 17 percent in 2020 and 14 percent in 2019). Meanwhile, tax collection on non-oil activity has offset 62 percent of public sector spending, rising from 52 percent in 2020 and 42 percent in 2019.
- On Oct. 29, 2021, the BCV suspended the procedures for establishing new Non-Banking Payment Service Processors (PSP), as outlined in Resolution 18-12-01. It is believed that this decision ratifies the intention of the BCV to limit the implementation of means of payment in foreign currency in the national territory, which are carried out outside its monitoring perimeter.
- It is worth remembering that in October 2020, the BCV ordered banks to suspend foreign currency payment services charged to local foreign currency accounts unless a correspondent bank abroad intervened. At that time, the BCV made it known that it had not authorized any company to operate as a Non-Banking Payment Service Provider in foreign currency.
- However, the BCV's decision seems to motivate a debate on how to handle the dollarization of the economy. While a group of "pragmatists" persists in maintaining a relatively broad policy with the phenomenon, which may favor financial intermediation in foreign currency, another more "orthodox" sector pushes for concrete measures to roll back the circulation of foreign currency and reinstate the primacy of the bolívar soberano.
- For now, the dollar has been imposed as the economy's functional currency in the economy and as a parameter for price determination. The data on the circulation of the bolívar soberano reflect that it seems difficult to reverse dollarization in practice. Monetary liquidity in bolívares



soberanos is equivalent to US\$697 million, about 16 percent of the foreign currency circulating in the economy. At the end of August, foreign currency deposits in Venezuelan banks were equivalent to 61.4 percent of the system's total deposits.

- After one month of the new monetary expression, the cash volume held by the public stands at only 5.29 percent because the circulation of the new currency has been restricted.
- According to the president of the Venezuelan Chamber of Electronic Commerce (Cavecom-e), the sector's growth in 2020 was 1,200 percent, and by the end of 2021 it is estimated to grow by more than 2,000 percent. He also highlighted that there is currently a massive incursion by businessmen, traders and entrepreneurs in this activity through different channels. One of the most important channels is the Mercado Libre Venezuela portal, where certified official stores have sold more than 270,000 products during the period of January-September 2021.
- According to Reuters, Venezuela's crude oil production rose to 800,000 barrels per day (bpd) in October (from 675,000 bpd in September), and exports rose to 711,000 bpd (from 402,000 bpd). The explanation lies in the access to derivatives obtained from Iran. On the other hand, Bloomberg reported the reduction of Petróleos de Venezuela, S.A.'s (PDVSA) production target for 2021 to 1 million bpd from the 1.5 million bpd proposed in January 2021. The plan includes producing 650,000 bpd (1 million bpd previously) in the Orinoco Oil Belt (FPO), and stabilizing production between 2022 and 2025.
- One of the recent attempts to alleviate pressures on the fiscal deficit was the increase in the cost per liter of subsidized gasoline, which now stands at 10 bolívar soberano cents (Bs.0.10), representing an increase of 1,900 percent. However, the new price is still insignificant: a 40-liter tank costs US\$0.92. Likewise, it should be noted that Venezuela has two gasoline price schemes: one subsidized (US\$0.023 to date) and the other at US\$0.50 per liter. In this sense, 1,500 service stations operate, where 500 frequently dispense subsidized gasoline, and another 500 regularly sell at dollar prices, according to Reuters data. The rest operate intermittently.

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Venezuela Executes Special Plan for Acting Prosecutors

By Holland & Knight

The Public Prosecutor's Office on Oct. 26, 2021, published Resolution 1953 of 2021 in *Official Gazette* No. 42,241, the legal requirements and other provisions that must be complied with by citizens holding the position of Acting Public Prosecutor to qualify for the position of Tenured Public Prosecutor of the Public Prosecutor's Office.

It is essential to mention that this Resolution was issued on Aug. 5, 2017, considering that the National Constituent Assembly of Venezuela decreed the emergency, and the restructuring and reorganization of all the organs of the citizen's branch. According to the framework of the restructuring and reorganization of the Public Prosecutor's Office, it was necessary to adjust the nature and classification of the new structure of the assigned administrative positions.

In compliance with the framework and implementation of the restructuring and reorganization of the administrative positions assigned to the Public Prosecutor's Office, the national government evidenced that *"there are currently Public Prosecutors with years of service in the Public Prosecutor's Office exercising the position on an acting basis that do not have the security of tenure to perform their duties more effectively."*

For the reasons stated above, the Public Prosecutor's Office executed the Special Plan for the Regularization of Active Acting Prosecutors in Resolution 1951, establishing that prosecutors with acting positions may apply for Tenured Public Prosecutor, provided they meet the following requirements:

1. have Venezuelan nationality
2. be over 25 years of age
3. be a lawyer
4. be of "notorious good conduct and recognized moral solvency"
5. be in the exercise of all civil and political rights
6. not be disqualified for the exercise of public office
7. not be subject to a criminal sanction issued by a final court decision for commissioning a crime
8. have completed a specialization program in a national or foreign duly accredited university
9. have experience as an Acting Prosecutor for a minimum of four years, and
10. pass the corresponding evaluations to be provided by the Public Prosecutor

The National Academy of Public Prosecutors will carry out these evaluations.



In this sense, Acting Public Prosecutors must meet the aforementioned requirements to qualify as Tenured Public Prosecutors.

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Judgment Enables Payment of Contractual Obligations in Foreign Currency

By Tinoco Travieso Planchart & Nuñez

The Civil Cassation Chamber on Sept. 29, 2021, published judgment number 4642, reiterating its criterion that enables the payment of obligations in foreign currency, provided that it is not expressly prohibited by law, specifically in Article 128 of the Law of the Central Bank of Venezuela (BCV).

With Francisco Ramón Velázquez Estévez presiding, the Chamber reviewed a claim for collecting professional fees in U.S. dollars. The claim discussed the validity of whether or not the collection of professional fees in foreign currency was appropriate.

Therefore, the Chamber considers that the obligation that gave rise to the litigation in which the lawyer rendered his services has a different source from the one that results in the obligation to pay fees, costs and legal fees.

"In effect, the obligation discussed in the lawsuit that gave rise to the fees claim was established by the parties through an agreement that also included a special provision, which transformed the legal framework so that the monetary obligation can be made in a currency other than the currency of legal tender in the Bolivarian Republic of Venezuela, which may be exceptionally established in those agreements if it is not expressly prohibited by law, under Article 128 of the Law of the Central Bank of Venezuela.

Consequently, the scope of application of the aforementioned Article 128 of the Law of the Central Bank of Venezuela is restricted to obligations arising from a legal act that includes a provision through which the obligor previously accepts the payment method in a foreign currency (as a unit of account or as an effective payment clause). It is also indispensable that the currency used be established by the parties before or when the obligation arises."

Therefore, the above criterion ratified that obligations in foreign currency are valid so long as they are expressly established and are permitted by law, provided that such currency is the same for the account and payment.

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