Venezuela

RISK & COMPLIANCE REPORT

DATE: January 2017

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Executive Summary - Venezuela	
Sanctions:	The US has imposed sanctions blocking property and suspending entry of certain persons contributing to the situation in Venezuela.
FAFT list of AML Deficient Countries	No
Higher Risk Areas:	US Dept of State Money Laundering assessment Not on EU White list equivalent jurisdictions Corruption Index (Transparency International & W.G.I.)) World Governance Indicators (Average Score) Failed States Index (Political Issues)(Average Score) International Narcotics Control Majors List - Cited
Medium Risk Areas:	Compliance with FATF 40 + 9 Recommendations

Major Investment Areas:

Agriculture - products:

corn, sorghum, sugarcane, rice, bananas, vegetables, coffee; beef, pork, milk, eggs; fish

Industries:

petroleum, construction materials, food processing, textiles; iron ore mining, steel, aluminum; motor vehicle assembly, chemical products, paper products

Exports - commodities:

petroleum, bauxite and aluminum, minerals, chemicals, agricultural products, basic manufactures

Exports - partners:

US 39.1%, China 14.3%, India 12%, Netherlands Antilles 7.8%, Cuba 4.6% (2012)

Imports - commodities:

agricultural products, livestock, raw materials, machinery and equipment, transport equipment, construction materials, medical equipment, pharmaceuticals, chemicals, iron and steel products

Imports - partners:

US 31.7%, China 16.8%, Brazil 9.1%, Colombia 4.8% (2012)

Investment Restrictions:

The Venezuelan National Assembly passed legislation in 2010 designed to create a communal state and economy, privileging public-sector economic institutions and reducing the space for private-sector participation.

Venezuela's legal framework for foreign investment requires equal treatment for both foreign and local companies, with the exception of a few sectors in which the state or Venezuelan nationals must be majority owners, including hydrocarbons and the media. In practice, however, foreign investors encounter hurdles.

Foreign investors need to register with the Superintendent of Foreign Investment (SIEX) within 60 days of the date of their investment. Foreign companies may open offices in Venezuela without prior authorization from SIEX as long as they do not engage in certain sales or business activities that would require registration. No prior authorization is required for technical assistance, transfer of technology, or trademark-use agreements provided they are not contrary to existing legal provisions. Decree 2095 reserved three areas of economic activity to “national companies”: (1) broadcast media, (2) Spanish-language newspapers, and (3) professional services regulated by national laws. These professional services include law, architecture, engineering, medicine, veterinary medicine, dentistry, economics, public accounting, psychology, pharmacy, and management. A “national company” (as defined in Article 1 of Andean Community Decision 291) is a company in which Venezuelan nationals hold more than 80 percent of the equity. Foreign capital is therefore restricted to a maximum of 19.9 percent in the areas noted above.

Contents

Section 1 - Background

Venezuela was one of three countries that emerged from the collapse of Gran Colombia in 1830 (the others being Ecuador and New Granada, which became Colombia). For most of the first half of the 20th century, Venezuela was ruled by generally benevolent military strongmen, who promoted the oil industry and allowed for some social reforms. Democratically elected governments have held sway since 1959. Hugo CHAVEZ, president from 1999 to 2013, sought to implement his "21st Century Socialism," which purported to alleviate social ills while at the same time attacking capitalist globalization and existing democratic institutions. Current concerns include: a weakening of democratic institutions, political polarization, a politicized military, rampant violent crime, overdependence on the petroleum industry with its price fluctuations, and irresponsible mining operations that are endangering the rain forest and indigenous peoples.

Section 2 - Anti – Money Laundering / Terrorist Financing

FATF status

Venezuela is no longer on the FATF List of Countries that have been identified as having strategic AML deficiencies

FATF Statement - 22 February 2013

The FATF welcomes Venezuela's significant progress in improving its AML/CFT regime and notes that Venezuela has established the legal and regulatory framework to meet its commitments in its Action Plan regarding the strategic deficiencies that the FATF had identified in October 2010. Venezuela is therefore no longer subject to FATF's monitoring process under its on-going global AML/CFT compliance process. Venezuela will work with the CFATF as it continues to address the full range of AML/CFT issues identified in its Mutual Evaluation Report.

Compliance with FATF Recommendations

The last Mutual Evaluation Report relating to the implementation of anti-money laundering and counter-terrorist financing standards in Venezuela was undertaken by the Financial Action Task Force (FATF) in 2009. According to that Evaluation, Venezuela was deemed Compliant for 6 and Largely Compliant for 12 of the FATF 40 + 9 Recommendations. It was Partially Compliant or Non-Compliant for 5 of the 6 Core Recommendations.

Key Findings from latest Mutual Evaluation Report (2009):

The "Bolivarian Republic of Venezuela", situated in the northern part of South America, has an area of approximately 912,050 square kilometres, and 28,800,000 inhabitants. Petroleum and its derivatives are the mainstay of the economy, which boasts one of the highest per capita incomes in the region.

Because of its geographical location, Venezuela is a transit country for illicit drugs, which account for the largest proportion of money laundering activities. Other sources of illicit funds are corruption, which accounts for the largest number of cases analysed by the FIU, after those related to drug trafficking.

Up to the present time no cases of financing of terrorist activities have been discovered in the Republic of Venezuela.

Legal systems and related institutional measures

As regards criminalisation of money laundering, Article 4 of the Organic Law Against Organised Crime (LOCDO) criminalises and sanctions money laundering under the title of "Legitimisation of Capital". It embodies all the characteristic elements and modalities set out in the 1988 UN Convention against the Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna Convention) and the 2000 UN Convention against Transnational Organised Crime (Palermo Convention). All offences enumerated in the LOCDO constitute predicate offences, and in general terms almost all serious crimes are covered as predicate to money laundering. A person may be prosecuted for laundering assets derived from crimes committed abroad, and a person may be convicted for laundering the proceeds of offences committed by himself (self-laundering).

As regards evidence, for purposes of conviction for money laundering, intent on the part of the accused may be inferred from the objective circumstances of the case. Evidence may also be introduced on the basis of the principle of libertad probatoria (full admissibility of evidence) embodied in Article 198 of the Organic Code of Criminal Procedure (COPP). The offence is an independent one, and therefore a prosecution for money laundering does not require previous conviction for the offence from which the illicit assets were derived. Finally, criminal liability of legal persons is recognised, except for the State and State enterprises. In the period 2004-2008 there were 5 instances of convictions confirmed by the Supreme Court. None of them, however, was obtained under the LOCDO, but rather under anti-narcotics legislation.

Financing of terrorism is also criminalised, together with the financing of criminal organisations or armed gangs with terrorist objectives, as well as the financing of terrorist organisations and acts of terrorism. Only financing of individual terrorists is not covered. There have been no convictions for financing of terrorism.

As regards provisional measures and confiscation, Venezuelan law stipulates that seizure or confiscation of assets are necessarily accessory to the basic sanction. Acts intended to hinder the identification, blockage or seizure of assets derived from or related to an offence may be voided, but this may not be done in the case of goods of equivalent value. Preventive securing of assets may be performed without prior notification. No figures concerning application of provisional measures or confiscation were provided. There are no mechanisms to enable terrorist assets to be frozen or confiscated, as embodied in Special Recommendation III. 6

In the area of competent authorities, Venezuela has a National Financial Intelligence Unit (as part of the financial supervisory structure) which receives suspicious transaction reports and which may request, receive, analyse, record and forward to the competent authorities the financial information it needs to carry out its investigations. In practice the FIU suffers from certain shortcomings in the analysis of information.

The bodies acting as law enforcement agencies are the right ones, but they lack specialised money-laundering departments. Permitted investigative techniques include undercover operations and wiretapping, but these have not yet been used in the area of money laundering or financing of terrorism.

Investigative authorities may collect all information of interest by means, inter alia, of statements, inspection of persons, vehicles, and public places; by means of raids, recordings, interception of calls or correspondence, requests for data held by financial institutions, accounting records and commercial registers, always provided the requirements of legality, relevance and usefulness, which are the governing principles of evidence in criminal prosecution, are met.

US Department of State Money Laundering assessment (INCSR)

Venezuela was deemed a Jurisdiction of Primary Concern by the US Department of State 2016 International Narcotics Control Strategy Report (INCSR).

Key Findings from the report are as follows: -

Perceived Risks:

Conditions in Venezuela make for ample opportunities for financial abuses. Venezuela's proximity to drug source points and its status as a drug transit country, combined with weak AML enforcement and lack of political will, limited bilateral cooperation, and endemic corruption, make Venezuela vulnerable to money laundering and financial crimes. The porous border between Venezuela and Colombia has also created a burgeoning black market. Furthermore, Venezuela's highly distorted multi-tiered foreign exchange system and strict price controls open numerous opportunities for currency and goods arbitrage, including to facilitate money laundering. Although the Venezuela-Colombia border was closed in August 2015 under the auspices of the Venezuelan government's "state of exception," nevertheless a robust black market continues to function in the border regions. Colombian law enforcement and customs officials reported that more than 90 percent of commerce in the border region was related to black market goods and services. Illicit trade and illegal financial activity are common in the border regions. Laundered funds primarily come from drug trafficking, but informal traders offering products ranging from shampoo to gasoline are also profiting through currency manipulation. A series of recent U.S. legal actions against Venezuelan citizens have exposed questionable financial activities related to money laundering and terrorism finance.

Money laundering is widespread in Venezuela, and can be seen in a number of areas, including government currency exchanges, commercial banks, gambling, real estate, agriculture, livestock, securities, metals, the petroleum industry, and minerals. Trade-based money laundering remains a common and profitable method. One such trade-based scheme is the black market peso exchange, through which money launderers provide narcotics-generated dollars from the United States to commercial smugglers, travel agents, investors, and others in Colombia in exchange for Colombian pesos. In turn, those Colombian pesos are exchanged for Venezuelan bolivars at the parallel exchange rate and then used to repurchase dollars through the Venezuelan currency control regime at a much stronger official exchange rate. Sources report some black market traders ship their goods through Margarita Island's free trade zone (FTZ). Increased Venezuelan money laundering activity has also been reported in the FTZs of Panama and Ecuador. A more recent black market trade in bolivar currency notes has become increasingly profitable in the border states of Tachira and Zulia and neighboring states of Merida and Barinas.

Do financial institutions engage in currency transactions related to international narcotics trafficking that include significant amounts of US currency; currency derived from illegal sales in the U.S.; or illegal drug sales that otherwise significantly affect the U.S.: YES

Criminalization of money laundering:

"All serious crimes" approach or "list" approach to predicate crimes: All serious crimes

Are legal persons covered: criminally: YES ***civilly:*** YES

Know-your-customer (KYC) rules:

Enhanced due diligence procedures for PEPs: Foreign: YES ***Domestic:*** YES

KYC covered entities: Banks, leasing companies, money market and risk capital funds, savings and loans, foreign exchange operators, financial groups, credit card operators; hotels and tourist institutions that provide foreign exchange; general warehouses or storage companies; securities and insurance entities; casinos, bingo halls, and slot machine operators; notaries, public registration offices, and Venezuela's tax revenue office, Servicio Nacional Integrado de Administración Aduanera y Tributaria (SENIAT)

REPORTING REQUIREMENTS:

Number of STRs received and time frame: 862: January 1 – June 30, 2015

Number of CTRs received and time frame: 1,704,647,526: January 1 – June 30, 2015

STR covered entities: Banks, leasing companies, money market funds, savings and loans, foreign exchange operators, financial groups, and credit card operators; hotels and tourist institutions that provide foreign exchange; general warehouses or storage companies; securities and insurance entities; casinos, bingo halls, and slot machine operators; notaries and public registration offices

money laundering criminal Prosecutions/convictions:

Prosecutions: 274 in 2014

Convictions: 8 in 2014

Records exchange mechanism:

With U.S.: MLAT: YES ***Other mechanism:*** YES

With other governments/jurisdictions: YES

Venezuela is a member of the Caribbean Financial Action Task Force (CFATF), a FATF-style regional body.

Enforcement and implementation issues and comments:

Since 2003 the Venezuelan government has maintained a strict regime of currency controls. Private sector firms and individuals must request authorization from a government-operated currency commission to purchase hard currency to pay for imports and for other approved uses (e.g., foreign travel). Government ministries that spend hard currency on public procurements also must request dollars from an intra-governmental committee coordinated by the central bank. Private sector banks and financial institutions cannot hold their own deposits of foreign currency, so virtually all dollars laundered through Venezuela's formal financial system pass through the government's currency commission, the central bank, or another government agency.

Venezuela's official exchange rate remains 6.3 bolivars per U.S. dollar, but the parallel exchange rate has increased to 873 bolivars per U.S. dollar. The huge margin achievable by defrauding the currency commission has reduced the incentive to traffic goods through duty exempt zones such as Margarita Island because the money saved by avoiding import taxes is insignificant when compared to the profit margins gained by trade-based schemes. According to banking compliance experts, trade-based schemes make it extremely difficult for banks to differentiate between licit and illicit proceeds. More recently, a sharp rise in the demand for 50 and 100 bolivar notes along the Colombian border has created a currency black market where these notes can earn up to 150 percent of their face value and provide a profitable way to launder proceeds. Venezuelan authorities have not revised Venezuela's CTR regulations to keep pace with Venezuela's high inflation. A 10,000 bolivar (approximately $1,580 at the official exchange rate) withdrawal is now an ordinary transaction. The 10,000 bolivar threshold has been in effect since 2010.

Legal experts say 2014 revisions to the 2012 Organic Law Against Organized Crime and Financing of Terrorism are a step in the right direction, but they caution that the law lacks the same mechanisms to combat domestic criminal organizations. The revision also provides government an enormous range of options to prosecute under an "organized crime" umbrella. The revision includes roughly 900 types of offenses that can be prosecuted as "organized crime." One legal expert noted such a broad mandate gives the government too much power.

In November 2014, the Venezuelan government revised the Anti-Corruption Law and created a new law enforcement organization to combat corruption. The reform also creates a criminal penalty for bribes between two private companies. However, the law differentiates between private and public companies and includes exemptions for public companies and government employees.

In March 2015, the U.S. Department of Treasury's Financial Crimes Enforcement Network (FinCEN) released a Notice of Finding (NOF) that identifies Banca Privada d'Andorra (BPA) in Andorra as a foreign financial institution of primary money laundering concern by Venezuelan officials. FinCEN reports BPA helped launder over $4 billion from Venezuela, of which $2 billion was "siphoned" from Petróleos de Venezuela S.A.

In April 2015, an investigation conducted by *El Universo*, a newspaper in Ecuador, and the Miami-based *El Nuevo Herald*, exposed dozens of companies that made transfers to Ecuador in exchange for fake exports to Venezuela. The payments were deposited in banks in the United States and Panama before the merchandise arrived, and the shipments were never delivered. Panamanian officials report exporters had invoiced $1.4 billion in shipments to Venezuela, of which $937 million was for goods that never materialized.

In September 2015, judges in the Southern District of Florida unsealed indictments against Pedro Luís Martín, a former head of financial intelligence for Venezuela's secret police, also known as Servicio Bolivariano de Inteligencia Nacional (SEBIN), and Jesús Alfredo Itriago, a former antinarcotics official with Venezuela's investigative police, also known as Cuerpo de Investigaciones Cientificas Penales y Criminalísticas (CICPC). U.S. officials believe Itriago is a key connection between drug traffickers and members of Venezuela's military, security services, and government, as well as a primary financial manager responsible for laundering drug trafficking proceeds for top Venezuelan officials.

Venezuelan government entities responsible for combating money laundering, terrorist financing, and corruption are inefficient and lack political will. The National Office against Organized Crime and Terrorist Finance has limited operational capabilities. Venezuela's financial intelligence unit, La Unidad Nacional de Inteligencia Financiera (UNIF), is supervised by the Superintendent of Banking Sector Institutions, which prevents UNIF from operating independently. An increasingly politicized judicial system further compromises the legal system's effectiveness and impartiality and although the Venezuelan government has organizations to combat financial crimes, their technical capacity and willingness to address this type of crime remains inadequate. The Financial Crimes Enforcement Network (FinCEN), the U.S. financial intelligence unit, suspended information sharing with the UNIF in 2006 due to an unauthorized disclosure of information that FinCEN had shared with the UNIF. The suspension remains in effect until FinCEN can have assurances that its information will be protected. The UNIF should operate autonomously, independent of undue influence. The Government of Venezuela should increase institutional infrastructure and technical capacity to effectively implement its AML/CFT legislation and legal mechanisms.

Current Weaknesses in Government Legislation (INCRS Comparative Tables):

According to the US State Department, Venezuela conforms with regard to all the government legislation required to combat money laundering and the terrorism of financing.

EU White list of Equivalent Jurisdictions

Venezuela is not currently on the EU White list of Equivalent Jurisdictions

World Governance indicators

To view historic Governance Indicators Ctrl + Click here and then select country

Failed States Index

To view Failed States Index Ctrl + Click here

Offshore Financial Centre

Venezuela is not considered to be an Offshore Financial Centre

Reports

US State Dept Narcotics Report 2016 (introduction):

Venezuela remained a major drug-transit country in 2015. Venezuela is one of the preferred trafficking routes for illegal drugs, predominately cocaine, from South America to the Caribbean region, Central America, the United States, Western Africa, and Europe, due to its porous western border with Colombia, weak judicial system, sporadic international counternarcotics cooperation, and permissive and corrupt environment.

In 2015, traffickers moved increased amounts of marijuana cultivated in Colombia through Venezuela, primarily to the Caribbean Islands. There is insufficient data to determine current drug consumption trends within Venezuela, but marijuana is believed to be the most commonly consumed illicit drug, followed by "crack" cocaine and "basuco" (cocaine paste).

Limited coca cultivation occurs along Venezuela's border with Colombia. Some precursor chemicals used to produce cocaine are trafficked through Venezuela, but the quantity is unknown. In 2015, Venezuelan authorities did not release statistics on seizures of drug labs or precursor chemicals. The Venezuelan government has not reported the production or trafficking of new psychoactive substances in Venezuela.

In 2015, the President of the United States determined that Venezuela had failed demonstrably to adhere to its obligations under international counternarcotics agreements, though a waiver allowing for continued assistance was granted in the interest of U.S. national security.

In 2015, the Venezuelan government engaged in minimal bilateral law enforcement cooperation with the United States. Venezuelan authorities do not effectively prosecute drug traffickers, in part due to political corruption. Additionally, Venezuelan law enforcement officers lack the equipment, training, and resources required to significantly impede the operations of major drug trafficking organizations.

US State Dept Trafficking in Persons Report 2014 (introduction):

Venezuela is classified a Tier 2 (watch list) country - A country whose government does not fully comply with the Trafficking Victims Protection Act's minimum standards, but is making significant efforts to bring themselves into compliance with those standards.

Venezuela (Tier 3*) is a source, transit, and destination country for men, women, and children subjected to sex trafficking and forced labor. Venezuelan women and girls, including some lured from poor interior regions to urban and tourist centers, such as Caracas, Maracaibo, and Margarita Island, are subjected to sex trafficking within the country. Victims are often recruited through false job offers. Venezuelan women are transported from coastal areas by small boats to Caribbean islands, particularly Aruba, Curacao, and Trinidad and Tobago, where they are subjected to forced prostitution. Venezuelan children are forced to work as domestic servants within the country. Venezuelan officials have reported identifying trafficking victims from Colombia, Peru, Haiti, China, and South Africa in Venezuela. Ecuadorian children, often from indigenous communities, are subjected to forced labor in the informal sector and in domestic servitude, particularly in Caracas. There were reports that some of the estimated 30,000 Cuban citizens, particularly doctors, working in Venezuela on government social programs in exchange for the Venezuelan government's provision of resources to the Cuban government experienced forced labor. Indicators of forced labor include chronic underpayment of wages, mandatory long hours, and threats of retaliatory actions to the citizens and their families if they leave the program. During the year, Venezuelan officials identified women from Ethiopia and the Philippines in domestic servitude in Venezuela, and the South African government reported repatriating a South African woman who was a victim of domestic servitude exploited in Venezuela.

The Government of Venezuela does not fully comply with the minimum standards for the elimination of trafficking and has been placed on Tier 2 Watch List for the last two consecutive years. The Trafficking Victims Protection Act provides that a country may remain on Tier 2 Watch List for only two consecutive years, unless that restriction is waived because the government has a written plan to bring itself into compliance with the minimum standards for the elimination of trafficking. Venezuela does not have a written plan; therefore, Venezuela is deemed not to be making significant efforts to comply with the minimum standards and is placed on Tier 3. Venezuelan authorities continued to train a significant number of government officials on human trafficking. The government did not publicly document progress on prosecutions and convictions of trafficking offenders or on victim identification and assistance. Victim services appeared to remain inadequate, and the extent of efforts to investigate internal forced labor or to assist children in prostitution was unclear.

US State Dept Terrorism Report 2015

Venezuela is currently identified by the US Secretary of State as a Safe Haven for International Terrorism.

Overview: In May, for the tenth consecutive year, the U.S. Department of State determined, pursuant to section 40A of the Arms Export Control Act, that Venezuela was not cooperating fully with U.S. antiterrorism efforts.

The International Development Bank, a subsidiary of the Development and Export Bank of Iran, continued to operate in Venezuela despite its designation in 2008 by the U.S. Treasury Department under E.O. 13382 ("Blocking Property of Weapons of Mass Destruction Proliferators and their Supporters").

There were credible reports that Venezuela maintained a permissive environment that allowed for support of activities that benefited known terrorist groups. Individuals linked to the FARC, National Liberation Army, and Basque Fatherland and Liberty (ETA) were present in Venezuela, as well as Hizballah supporters and sympathizers.

Legislation, Law Enforcement, and Border Security: The Venezuelan criminal code and additional Venezuelan laws explicitly criminalize terrorism and dictate procedures for prosecuting individuals engaged in terrorist activity. The government routinely levies accusations of "terrorism" against its political opponents. Following a wave of anti-government protests early in 2014, the Venezuelan government introduced a series of counterterrorism laws likely intended to suppress future public demonstrations.

Venezuelan military and civilian agencies perform counterterrorism functions. Within the Venezuelan armed forces, the General Directorate of Military Counterintelligence and the Command Actions Group of the National Guard have primary counterterrorism duty. The Bolivarian National Intelligence Service and the Division of Counterterrorism Investigations in the Bureau of Scientific, Penal, and Criminal Investigative Corps within the Ministry of Interior, Justice, and Peace have primary civilian counterterrorism responsibilities. The degree of interagency cooperation and information sharing among agencies is unknown due to a lack of government transparency.

Border security at ports of entry is vulnerable and susceptible to corruption. The Venezuelan government routinely did not perform biographic or biometric screening at ports of entry or exit. There was no automated system to collect advance Passenger Name Records on commercial flights or to cross-check flight manifests with passenger disembarkation data.

In August, Venezuelan authorities closed multiple border crossings between Colombia and the western states of Tachira and Zulia as part of the "states of exception" declaration seeking to curb smuggling and paramilitary activity in the border region.

Venezuela did not respond to a request from the Spanish government to extradite former ETA member José Ignacio de Juana Chaos, wanted in Spain since 2010 for the alleged killing of 25 people in acts of terrorism.

Countering the Financing of Terrorism: Venezuela is a member of the Caribbean Financial Action Task Force (CFATF), a Financial Action Task Force (FATF)-style regional body, and the Inter-American Drug Abuse Control Commission Anti-Money Laundering Group. Its financial intelligence unit, Unidad Nacional de Inteligencia Financiera, is a member of the Egmont Group. In 2014, the CFATF determined that Venezuela had made sufficient progress on the recommendations in Venezuela's FATF action plan to warrant moving the country from the standard follow-up process once every six months to periodic review once every two years. CFATF noted Venezuela still needed to improve its compliance with several recommendations as well as its implementation of various anti-money laundering/ counterterrorism financing (AML/CFT) laws and regulations. Venezuela's existing AML/CFT legal and regulatory framework criminalizes the financing of terrorism. There was no publicly available information regarding the confiscation of terrorist assets.

International and Regional Cooperation: Venezuela participated as an official observer in ongoing peace negotiations between the Colombian government and the FARC. Venezuelan and Colombian foreign ministers met several times throughout the year to address the reduction of smuggling of illegal goods, narcotics trafficking, and the activity of illegally armed groups.

International Sanctions

The US has imposed sanctions blocking property and suspending entry of certain persons contributing to the situation in Venezuela.

On July 10, 2015, the Office of Foreign Assets Control (OFAC) issued regulations to implement the Venezuela Defense of Human Rights and Civil Society Act of 2014 (Public Law 113–278) and Executive Order 13692 of March 8, 2015 ("Blocking Property and Suspending Entry of Certain Persons Contributing to the Situation in Venezuela").

Read More

Bribery & Corruption

Index	Rating (100-Good / 0-Bad)
Transparency International Corruption Index	17
World Governance Indicator – Control of Corruption	6

US State Department

Transparency International's 2013 Corruption Perceptions Index ranked Venezuela 160 out of 177 countries, the lowest ranked country in Latin America. Venezuela has anti-corruption laws that criminalize accepting bribes. Venezuela singed the UN Convention Against Corruption on December 10, 2003, and ratified it on February 2, 2009. Venezuela has not adopted the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

Corruption and Government Transparency - Report by Global Security

Political Climate

For decades, Venezuela has been characterised by great social inequality and rampant corruption, which have periodically led to a popular disillusionment with politics. This situation formed the basis for the election of President Hugo Chávez Frías in December 1998 on the promise of massive social reforms, nationalisation of strategic sectors, fighting corruption and a break from the long-ruling political elite, infamous for its interlocking system of privileges. Chávez's controversial policy of '21st century socialism' has led to radical political and social changes, and political unrest and deep social cleavages between supporters and opponents have been characteristic of Chávez's time in office. While Chávez remains popular among the poor majority of Venezuelans, mainly because of his social programmes, he is extremely unpopular among the Venezuelan elite and business community. The opposition accuses the government of being undemocratic, disrespecting private property rights and inhibiting freedom of speech. In the September 2010 parliamentary elections, Chávez's party won the majority of seats (90) in the National Assembly, but failed to hold on to the two-thirds majority when the opposition gained as much as 59 seats. Up until now, Chávez's government controlled the legislature, judiciary, the state oil company and the majority of state governments. Chávez's health has deteriorated since 2011, when it was announced that he had cancer. In May 2012, it was declared in that the treatment he had received in Cuba had been successful.

The fight against corruption is on the political agenda in Venezuela. Since his inauguration, Chávez has openly declared a zero tolerance policy towards corruption, which has been demonstrated by several public initiatives. His administration has passed an Anti-Corruption

Law (in Spanish) in 2003 and established a number of agencies that are mandated to deal with corruption, gathered under an umbrella institution called Poder Ciudadano (in Spanish). However, despite the anti-corruption agencies' formal independence, the government has been criticised for interfering in their affairs in order to secure political support, and for using them as tools to investigate and prosecute opposition members. An example of this is the accusation of corruption and illicit enrichment made by the Public Prosecutor's Office in March 2009 of former presidential candidate and mayor of Maracaibo, Manuel Rosales. According to several sources such as Herald Tribune and Reuters, thousands of opposition supporters protested in Maracaibo against the attempt to arrest the opposition leader, claiming that it was a case of political persecution. Rosales fled to Peru where he was granted political asylum in May 2009. In June 2008, the opposition protested in Caracas after a top anti-corruption official unveiled a blacklist of people, primarily of opposition members, under investigation for corruption. The list could be used to bar key opposition candidates from running in future elections. However, critics claim that the ban is unconstitutional, as none of the individuals on the blacklist had been convicted of a crime. A more recent example is of Leopoldo Lopez, a presidential candidate who was barred from holding office by a government ruling due to alleged corruption, according to Freedom House 2012. This ruling was challenged in the Inter-American Court of Human Rights (IACHR) who stated that Lopez must be allowed to run as he had not been tried in court. The Venezuelan Supreme Court rejected this verdict as it contradicted the constitution and violated Venezuelan sovereignty. In January 2012, Lopez withdrew his candidacy for the presidency as he was in the absurd position of being allowed to run for office but not allowed to hold office if he won.

Corruption is a significant problem in Venezuela, and a systemic culture of corruption exists at most levels of society. At state level, an increasing overlap between Chávez's United Socialist Party and the state has led to the abuse of public resources for electoral campaigns, according to the Bertelsmann Foundation 2012. Similarly, Freedom House 2012 points to the non-transparent administration of state resources, reporting that several large development funds are controlled by the executive branch without any oversight and discrepancies in their figures remain unexplained. According to Global Integrity 2011, the Comptroller General, which has the power to provide oversight of public funds, is controlled solely by the ruling party. The lack of controls and oversight provides fertile ground for corruption. According to Transparency International's Global Corruption Barometer 2010, nearly 65% of the surveyed households perceive the government's actions against corruption to be 'ineffective'. According to the same report, 25% report having paid a bribe the previous year, while the police are reported to be the most corruption-prone public institution. According to the regional survey Latinobarómetro 2011, 23% Venezuelan households would pay a bribe to obtain public services and utilities while 49% is of the opinion that the government needs to reduce corruption further in order to improve democracy. On the other hand, 61% of surveyed households perceive crime and social insecurity to be larger problems than corruption and 62% believe that the government is able to fight it. Hence, Chávez's strong rhetoric against corruption seems to have had an effect on Venezuelans' perception of the problem as while most perceive the level of corruption to be an increasingly pervasive problem in the country, the majority also perceives government anti-corruption efforts and institutions as positively affecting the situation. Still, however, petty corruption is a large problem in the country, and the Global Corruption Barometer 2010 reveal that Venezuela ranks among the countries in the region where most households have been victims of corruption themselves.

Business and Corruption

The management of Venezuela's oil wealth has been a dominant economic and political issue for most of the past 100 years. Venezuela has a huge investment and economic growth potential and its natural resource wealth has made it an attractive place to invest. Officially, Venezuela welcomes foreign investment and provides equal treatment to local and foreign companies. Nevertheless, political and regulatory uncertainty has seriously weakened Venezuela's capacity to attract foreign investment, as reported by companies in the World Economic Forum Global Competitiveness Report 2011-2012. Other factors too, such as foreign currency regulations, inefficient bureaucracy and corruption inhibit the business climate and should be noted by investors considering doing business in Venezuela. Similarly, the US Department of State 2011 reports that foreign direct investment in Venezuela has been lower in recent years than in most other Latin American countries as a result of a cumbersome business climate as well as a restrictive legal framework in the country.

Access to foreign exchange is a major barrier to trade in Venezuela. Foreign exchange control is administrated by the Foreign Exchange Commission (Comisión de Administración de Divisas - CADIVI), which authorises the purchase and sale of foreign currency. The Transparency International Global Corruption Report 2009 reports that the government's management of foreign currency makes access to foreign currency a cumbersome bureaucratic process. Applicants fulfilling all the requirements to obtain foreign currency might still have their application denied and there are no appeal mechanisms. The same report also reveals that CADIVI's officials allegedly request illegal commissions of up to 30% of the total value of the currency request in order to speed up the process.

Several sources indicate that corruption is a key constraint for doing business in Venezuela. In Transparency International Global Corruption Barometer 2010, the private sector scores 3.1 on a 5-point scale (1 'not at all corrupt' and 5 'extremely corrupt'). According to the World Bank & IFC Enterprise Surveys 2010, 38% of the companies surveyed identify corruption as a major constraint to doing business. They also cite transport security, customs and ports as serious problems for their business activities. The informal or shadow economy in Venezuela is less of a hindrance to business than in the region, according to the World Bank & IFC Enterprise Surveys 2010. The source reports that only 10% of companies surveyed report that they identify the practices of competitors in the informal sector as a major constraint compared to the regional average of 30%. Furthermore, public procurement is tainted by corruption and lack of transparency. Thus, the US Department of State 2011 reports that a great majority of public contracts are awarded without open competition, while Global Integrity 2011 reveals that political considerations prevail in most procurement cases, with conflicts of interest constantly present. Foreign investors considering establishing themselves in Venezuela are generally advised to consult with experienced attorneys and to develop, implement and strengthen integrity systems, and carry out extensive due diligence before committing funds or when already doing business in the country.

Regulatory Environment

According to Global Integrity 2011, Venezuela's regulatory environment continues to suffer from inefficiency, and companies investing in the country often face inconsistent application of regulations. Thus, cumbersome bureaucracy is a major constraint on business operations in Venezuela, presenting opportunities for rent-seeking and encouraging corruption. Similarly, business executives surveyed in The World Economic Forum Global Competitiveness Report 2011-2012 perceive government administrative requirements to be quite burdensome, especially foreign currency regulations. Moreover, business executives also report that government policy-making is fairly opaque and that government officials usually favour well-connected companies and individuals when deciding on policies and contracts. Commercial regulations can be ambiguous and inconsistent, and the lack of transparency increases start-up and overall operational costs. Given the often time-consuming process of obtaining licenses, many companies resort to irregular methods in order to shorten the waiting time and hire an agent, a so-called 'gestor', with connection to decision-makers, as pointed out by Global Integrity 2009. This overall perception is corroborated by figures from the World Bank & IFC Doing Business 2012, which illustrate that, when compared to the regional averages, starting a company and obtaining business licences in Venezuela can be very time-consuming and bureaucratic. On the other hand, the process is relatively inexpensive and no minimum capital is required. According to the World Bank & IFC Enterprise Surveys 2010, almost 28% of senior management time is spent dealing with regulatory requirements and 23% of the surveyed companies identify licensing and permits as a major constraint for doing business. Both figures are higher than the regional averages.

According to the US Department of State 2011, the Venezuelan Constitution of 1999 (in Spanish) governing foreign investment generally gives equal treatment to local and foreign companies, except in certain sectors such as media, engineering and pharmacy in which Venezuelan nationals or the state must hold at least 80% of the equity. Nationalisation of important economic sectors of society is a high priority for the Chávez administration, and several sectors have already been subject to the nationalisation reform, most notably the oil sector. The Hydrocarbons Law (in Spanish) ensures that all oil production and distribution activities are the domain of the Venezuelan state. As a result, foreign companies already operating in this sector in 2001 had their operating agreements and licences invalidated, and royalties for certain projects were raised considerably. In 2007, foreign-owned companies operating in the Orinoco Belt, such as ConocoPhillips, Chevron, ExxonMobil, BP, Statoil and Total were forced into joint ventures with the state-owned oil company, Petróleos de Venezuela, S.A. (PDVSA). These controversial regulatory measures have led to reluctance on the part of international oil companies to further invest in Venezuela. Foreign companies considering investing in Venezuela are advised to contact the Venezuelan Council for Investment Promotion (CONAPRI - Consejo Nacional de Promoción de Inversiones), which is a private non-profit organisation providing relevant information on investment legislation, registration requirements, visas and licences.

Companies operating in Venezuela have experienced a change in conditions under Chávez's presidency. After his re-election in late 2006, Chávez proclaimed that he would accelerate the drive towards '21st century socialism' by further nationalising the economy, and, according to the US Department of State 2011, some of Chávez' reforms have led to reduced property rights. The Bertelsmann Foundation 2012 also states that property rights are not sufficiently protected in Venezuela, as the government has started taking over so called 'strategic interests' of the people, for example food production, processing and distribution, construction materials, utilities, media, telecommunications, buildings, real estate and hotels. Acting in 'the people's interest' the government requires no proof in order to seize private goods. Private investment has generally been deterred by this uncertain legal and regulatory framework, although many companies with existing investments in Venezuela have been recording high profits thanks to high economic growth.

Venezuela's judicial system is accessible to foreign entities seeking to resolve investment disputes and foreign investors may pursue property claims through court. US Department of State 2011 reports that while the judicial system is often slow, inefficient and corrupt, foreign entities do not generally suffer discrimination in legal proceedings. Nevertheless, business executives surveyed in the World Economic Forum Global Competitiveness Report 2011-2012 report that the judiciary is often politically influenced by members of government, individual citizens or companies. Venezuela is a member of the International Centre for the Settlement of Investment Disputes (ICSID) and the New York Convention of 1958, however, there are special regulations that define which arbitration body Venezuelan state-owned companies can use. For instance, the 2001 Hydrocarbon Law prohibits the PDVSA from entering into agreements that provide for international arbitration. Access the Lexadin World Law Guide for a collection of legislation in Venezuela.

Section 3 - Economy

Venezuela remains highly dependent on oil revenues, which account for roughly 96% of export earnings, about 45% of budget revenues, and around 12% of GDP. Fueled by high oil prices, pre-election government spending helped spur GDP growth in 2012 to 5.6%. Government spending, minimum wage hikes, and improved access to domestic credit created an increase in consumption which combined with supply problems to cause higher inflation - roughly 20% in 2012 and rising to more than 56% in 2013. Former President Hugo CHAVEZ's efforts to increase the government's control of the economy by nationalizing firms in the agribusiness, financial, construction, oil, and steel sectors hurt the private investment environment, reduced productive capacity, and slowed non-petroleum exports. In 2013, Venezuela continued to wrestle with housing and electricity crises, and rolling food and goods shortages, resulting from the government's unorthodox economic policies. The budget deficit for the public sector reached 17% of GDP in 2012 and was trimmed to under 10% of GDP in 2013. The Venezuelan government has maintained a regime of strict currency exchange controls since 2003. Venezuelan law now sanctions a three-tiered exchange rate system, with rates based on the government's import priorities.

Agriculture - products:

corn, sorghum, sugarcane, rice, bananas, vegetables, coffee; beef, pork, milk, eggs; fish

Industries:

petroleum, construction materials, food processing, textiles; iron ore mining, steel, aluminum; motor vehicle assembly, chemical products, paper products

Exports - commodities:

petroleum, bauxite and aluminum, minerals, chemicals, agricultural products, basic manufactures

Exports - partners:

US 39.1%, China 14.3%, India 12%, Netherlands Antilles 7.8%, Cuba 4.6% (2012)

Imports - commodities:

agricultural products, livestock, raw materials, machinery and equipment, transport equipment, construction materials, medical equipment, pharmaceuticals, chemicals, iron and steel products

Imports - partners:

US 31.7%, China 16.8%, Brazil 9.1%, Colombia 4.8% (2012)

Banking

As of December 2010, Venezuela's banking system consisted of 42 institutions, 30 of them Venezuela's Central Bank (BCV), which designs and implements monetary policy; the Superintendency of Banks (SUDEBAN), which monitors the sector and ensures the financial soundness of all financial operators; the Deposit Guaranty Fund (FOGADE), which guarantees deposits in the banking system; and the Ministry of Finance, which sets overall policy.

The banking sector has been challenged by state takeovers of multiple banks in the past two years. The government arrested bankers and issued corruption-related arrest warrants for others who had fled the country.

Stock Exchange

Venezuela's 1999 Constitution generally provides equal treatment for foreign and domestic investors, although investment in some sectors is restricted. As long as the foreign investor has registered with the National Securities Superintendency, it can buy or sell stocks and bonds in Venezuelan capital markets. Foreign investors may also buy shares directly in Venezuelan companies. Although no prior registration is generally required prior to making foreign investments, subsequent registration with the Superintendency of Foreign Investments is required. On January 31, 2011, the GBRV launched the Bicentennial Public Securities Exchange to sell government and corporate bonds. This new market will compete with the private Caracas Stock Exchange, but will function differently in that entities that can participate by issuing bonds include "organized communities" and state entities.

Section 4 - Investment Climate

Executive Summary

Civil unrest, state interventions in the economy, macroeconomic distortions, corruption, and a volatile regulatory framework make Venezuela a difficult climate for foreign investors. These problems are unlikely to be resolved in the short- to medium-term and present a poor outlook for the investment climate. President Nicolas Maduro inherited a flagging, inflationary economy after the March 2013 death of former President Hugo Chavez. Venezuela finished 2013 with 1.6 percent growth, 56.2 percent inflation, and nearly 30 percent of consumer goods unavailable in the Caracas metro area. Private-sector analysts forecast less than one percent growth, with risks of contraction, and 60 percent inflation in 2014.

The energy sector dominates Venezuela's import-dependent economy, with petroleum providing roughly 96 percent of export earnings, 40 percent of government revenues, and 11 percent of GDP. Stagnant oil exports and a mismanaged foreign-exchange regime have deprived multinational firms of hard currency to repatriate earnings and to import inputs and finished goods. Insufficient access to dollars, price controls, and rigid labor regulations have compelled U.S. and multinational airlines, auto manufacturers, consumer-goods producers, and pharmaceutical companies, among others, to reduce or stop their Venezuelan operations. Venezuela has traditionally been a destination for U.S. direct investment in the energy and manufacturing sectors, as well as an importer of U.S. machinery, medical supplies, chemicals, agricultural products, and vehicles. Such investment and trade links have been undermined in recent years by Venezuelan government (GBRV) efforts to build commercial relationships with ideological allies; strained U.S.-Venezuelan relations; and the deteriorating investment climate.

The GBRV's policy response to Venezuela's economic woes has lacked a clear orientation. Since his election in April 2013 to replace former President Chavez, President Maduro has varied his message to the private sector, mixing calls for dialogue to address the economy's ills with threats and deeds of expropriation, compulsory price cuts, and criminal prosecutions for "hoarding" and "speculating." President Maduro has used decree powers granted to him for twelve months beginning in November 2013 to pass laws that embrace former President Chavez's Second Socialist Plan for 2013-2019; increase the state's role as the primary buyer and marketer of imports; tighten the currency control regime; and empower the GBRV to cap business profits and regulate prices throughout the economy. At the same time, the GBRV has promulgated regulations to provide international oil companies a more favorable exchange rate for new investment inflows and to open an alternative foreign exchange mechanism for the private sector to buy dollars. The GBRV has implemented these new rules to varying degrees, and their staying power remains unproven, increasing uncertainty in the investment climate.

U.S. and multinational firms contemplating business in Venezuela should weigh carefully the risks posed by a flagging, inflationary economy, a heavily (if unevenly) regulated operating environment, and a foreign exchange regime that strictly limits access to hard currency.

1. Openness To, and Restrictions Upon, Foreign Investment

Venezuela's legal and regulatory regime reflects the GBRV's ambiguous posture toward foreign direct investment (FDI). The legal framework generally provides for equal treatment of foreign and local investment. However, the GBRV's history of expropriations and interventions in the economy signal its ambivalence toward foreign investors.

The Venezuelan constitution of 1999 treats investment as a means of promoting development of the national economy. Article 301 of the constitution adopted international standards for the treatment of private capital, with equal treatment of local and foreign capital. Article 302 reserves for the state certain strategic sectors, including petroleum and natural resources.

Decree 2095 of 1992 (Gazette No. 34.930, 1992) provides the legal framework for foreign investment in Venezuela. Decree 2095 implemented Andean Community Decisions 291 and 292 and lifted most restrictions on foreign participation in the economy. Article 13 of the decree guarantees foreign investors the same rights and imposed the same obligations applied to national investors "except as provided for in special laws and limitations contained in this Decree." Decree 2095 also provides foreign investors the right to repatriate 100 percent of profits and capital, including proceeds from the sale of shares or liquidation of a company, and allows for unrestricted reinvestment of profits. Most investors, however, have been unable to repatriate dividends since 2008 due to Venezuela's exchange controls (see section 2 regarding Conversion and Transfer Policies). Between April 2006, when Venezuela first withdrew from the Andean Community, and April 22, 2011, when its withdrawal was finalized, the GBRV continued to apply some Andean Community norms in the absence of other regulations. Venezuela's formal withdrawal from the Andean Community, however, has added to the uncertainty regarding Venezuelan laws based on Andean Community decisions.

Under Decree 2095, foreign investors need to register with the Superintendent of Foreign Investment (SIEX) within 60 days of the date of their investment. Investors need not seek SIEX approval prior to investing. Registration requirements include: an application for registration and classification of the company as national, mixed, or foreign; a copy of the company's articles of incorporation or by-laws translated into Spanish by an official translator and authenticated by a Venezuelan consulate in the country of origin; and a power of attorney for a local representative of the foreign investor(s). Foreign companies may also open offices in Venezuela without prior authorization from SIEX as long as they do not engage in certain sales or business activities that would require registration. No prior authorization is required for technical assistance, transfer of technology, or trademark-use agreements provided they are not contrary to existing legal provisions. More information on registering foreign investments with SIEX is available (in Spanish) at http://www.siex.gob.ve/.

Decree 2095 reserved three areas of economic activity to "national companies": (1) broadcast media, (2) Spanish-language newspapers, and (3) professional services regulated by national laws. These professional services include law, architecture, engineering, medicine, veterinary medicine, dentistry, economics, public accounting, psychology, pharmacy, and management. A "national company" (as defined in Article 1 of Andean Community Decision 291) is a company in which Venezuelan nationals hold more than 80 percent of the equity. Foreign capital is therefore restricted to a maximum of 19.9 percent in the areas noted above. The Investment Promotion and Protection Law of October 1999 (Gazette No. 5.390, 1999), whose regulations were published in July 2002, maintained the same reserved sectors. Foreign professionals are generally free to work in Venezuela—provided that they possess a government-issued identity card or government-approved work permit—but they must first revalidate their certification at a Venezuelan public university. Consulting services under contract for a specific project are not subject to this requirement.

Venezuela became the fifth full member of the Southern Cone Common Market (MERCOSUR), at a July 2012 summit in Rio de Janeiro. Venezuela will have four years from its date of accession to adopt the MERCOSUR Common External Tariff (CET) and to provide duty-free treatment to its four MERCOSUR partners on all goods, with sensitive products allowed a two-year extension. On April 1, 2014, Venezuela adopted phase II of the CET, representing 49 percent of the goods in its tariff schedule. Venezuela is scheduled to adopt the CET for 14 percent more goods on April 1, 2015, and the 37 percent on April 1, 2016, to reach full implementation.

In January 2014, President Maduro used decree powers to promulgate the Fair Costs and Prices Law (Gazette No.40.340, 2014), which regulates the private sector by capping profits, authorizing price controls throughout the economy, and imposing criminal penalties for non-compliance. The law created a new GBRV regulator, the National Superintendent for the Defense of Socio-Economic Rights (SUNDDE) by fusing together the former Superintendent for Fair Costs and Prices (SUNDECOP) and the Institute for the People's Defense for Access to Goods and Services (INDEPABIS). SUNDDE is empowered to establish economy-wide price controls and cap private-sector profits at 30 percent. The law criminalizes the sale of regulated goods or services at unregulated prices, mislabeling merchandise, and vaguely defined conduct, such as hoarding, speculation, boycott, and usury. Penalties for non-compliance include imprisonment for two to 14 years, fines, temporary or permanent closure of a business, expropriation, or revocation of permits related to the acquisition of hard currency (see Conversion and Transfer Policies). SUNDDE has primarily audited food processing and consumer goods businesses since its inception.

Energy and Mining

Some sectors are regulated by special laws that supplement the constitution and affect the business environment. These sectors include banking, hydrocarbons, insurance, mining, and telecommunications. Of these, the hydrocarbons sector has the greatest restrictions on foreign investment.

The GBRV has made changes in royalty, tax policies, and contracts that have expanded state control of the hydrocarbons sector and increased uncertainty for foreign petroleum companies operating in Venezuela. The 2001 Hydrocarbons Law (Gazette No. 37.323, 2001) did not expressly grandfather contracts executed under earlier legislation. Specifically, it did not include the 33 operating service contracts awarded for "marginal" or inactive oilfields resulting from three bidding rounds in the 1990s, exploration and production profit-sharing agreements awarded in 1996, and four so-called "strategic associations"—legal entities with majority private ownership and minority ownership by state oil firm Petroleos de Venezuela (PDVSA)—formed in the 1990s to extract and upgrade extra-heavy oil in Venezuela's Orinoco Heavy Oil Belt, or "Faja" region. The GBRV argued in 2001 that no grandfather provision was necessary because retroactive application of legislative provisions was forbidden by the constitution.

The 2001 hydrocarbons law reserved the rights of exploration, production, "gathering," and initial transportation and storage of petroleum and associated natural gas for the state. Under this regime, primary activities must be carried out directly by the state, by a 100 percent state-owned company such as PDVSA, or by a joint-venture company with more than 50 percent of the shares held by the state. The law left refining ventures open to private investment as well as commercialization activities under a license and permit regime. It also stipulated that any arbitration proceedings would henceforth be in domestic, not international, venues.

In October 2004, the GBRV eliminated a nine-year royalty holiday ceded to the strategic associations, arguing that this action was allowable under earlier hydrocarbons legislation. In 2005, the GBRV informed companies with operating service contracts that they had to transfer their contracts to joint ventures in conformance with the 2001 Hydrocarbons Law. It threatened to seize fields operating under the services contracts on December 31, 2005, if oil companies had not signed transition agreements to migrate their contracts. Sixteen oil companies signed memoranda of understanding, converting their contracts to joint ventures on March 31, 2005. In January 2008, ENI and Total, two companies that had not signed MOUs in 2005, reached an agreement with PDVSA.

In contrast to the legal framework for petroleum, the 1999 Gaseous Hydrocarbons Law (Gazette No. 36.687, 1999) offered more open terms to investors in the unassociated natural gas sector. This law opened the entire natural gas sector to private investment, both domestic and foreign, and created a licensing system for exploration and production regulated by the former Ministry of Energy and Mines (now the Ministry of Petroleum and Mining). The state retained ownership of all natural gas *in situ*, but PDVSA involvement was not required for gas development projects (although the law allows PDVSA to back into 35 percent ownership of any natural gas project once the private partners have declared commerciality). The law prohibited complete vertical integration of the gas business from the wellhead to the consumer.

On September 18, 2008, the Organic Law on the Restructuring of the Internal Liquid Fuels Market (Gazette No. 39.019, 2008) came into effect. The law mandated government control of domestic transportation and wholesale of liquid fuels and set a 60-day period for negotiations with the affected companies. The law does not define the term “liquid fuels,” which created uncertainty as to whether it applies to products other than gasoline and diesel fuel, such as motor oils or lubricants. This law affected several foreign companies that had investments in the downstream sector.

On May 7, 2009, Venezuela enacted the Organic Law that Reserves to the State the Assets and Services related to Hydrocarbon Primary Activities (Gazette No. 39.173, 2009). The law specifically affected petroleum service companies involved in the injection of water, steam, or gas as secondary recovery methods, as well as services rendered for the performance of primary activities on Lake Maracaibo. It provided for the “extinction” of contracts executed in the past between PDVSA and private companies and stipulated that all contracts and activities governed by the law would be subject to Venezuelan law and to the exclusive jurisdiction of Venezuelan courts. Under the provisions of this law, the GBRV nationalized more than 75 companies, including three U.S. firms. There are no reports that the GBRV has paid any compensation for these nationalizations to date.

Several international and domestic oilfield services companies have agreed since 2009 to create joint-venture oilfield services companies with PDVSA. As majority PDVSA-owned enterprises, the new joint ventures do not have to follow many of Venezuela’s public contracting and solicitation regulations, affecting competition in the sector. The number of services companies operating in Venezuela has shrunk considerably due to the problem of late payments from PDVSA that began in late 2008, nationalizations, and internal company risk assessments.

On July 10, 2009, Venezuela's Organic Law for the Development of Petrochemical Activities (Gazette No. 39.203, 2009) entered into force. The Petrochemicals Law reserves basic and intermediate petrochemical activities for the state as well as the assets and facilities required for their handling. It allows the state, through the Ministry of Petroleum and Mining, to create mixed companies in which the GBRV will control at least 50 percent of the shareholder equity and exercise effective control over company decisions. Such mixed companies can only exist for a maximum of 25 years, extendable for periods of 15 years by mutual agreement of the parties and with national assembly approval. Upon the expiration of the term of a mixed company, its works, ancillary facilities, and equipment revert to the state, free of encumbrance and without indemnity. The legislation mandates certain obligations concerning technology transfer, industrial development, infrastructure, facility maintenance, social contributions, and import substitution. The petrochemicals law gives priority to the supply of the domestic market.

The GBRV has modified some laws and regulations, and adjusted some loan terms with foreign oil companies, to encourage investment in the energy sector. The GBRV revised in February 2013 the Law of Special Contributions for Extraordinary and Exorbitant Prices (Gazette No. 40.114, 2013), commonly called the "windfall profit tax." Such taxes, paid by PDVSA and mixed companies, help finance the GBRV's primary para-fiscal fund, Fonden. The revision reduced the measure's tax burden by raising the price per barrel at which a graduated scale of tax rates would apply. Table 1 represents the windfall profit tax rates for 2014 under the new law. Foreign oil companies involved in joint ventures to develop the Orinoco Heavy Oil Belt have sought GBRV clarification regarding whether the new windfall profit tax rates would apply to the joint ventures' production of extra-heavy crude.

TABLE 1: Windfall Profit Tax Rates

Price per Barrel, U.S. Dollars	Windfall Profit Tax Rate, Percent
60-80	20
81-100	80
101-110	90
> 110	95

The GBRV also enacted regulations (Gazette No. 40.387, 2014) permitting PDVSA, mixed companies, and oilfield service companies in joint ventures with PDVSA to sell dollars for direct investments through a new alternative foreign exchange mechanism, called SICAD II (see Conversion and Transfer Policies). SICAD II offers a depreciated bolivar/dollar exchange rate—compared to the official exchange rate previously applied to such investment inflows—which would reduce, in dollar terms, the oil companies' bolivar-denominated costs.

In addition, foreign oil company minority partners in oil production joint ventures with PDVSA have found that loss of operational control, along with PDVSA's financial constraints and decision-making practices, has made investment to maintain production in mature oil fields costly and inefficient. As a result, since 2013 some of the minority partners and PDVSA have signed loan agreements under which the minority partner loans PDVSA its share of the joint venture's expenditures in exchange for operational control for the minority partner and for PDVSA's agreement to place the revenues from those joint ventures' production into offshore trusts that service the minority partner's loan to PDVSA.

Table 2 provides Venezuela's most recent rankings for various investment climate benchmarks.

TABLE 2

Measure	Year	Rank or Value
Transparency International Corruption Perceptions Index	2013	160 of 177
Heritage Foundation Economic Freedom Index	2013	175 of 178
World Bank Doing Business Report	2014	185 of 189
Global Innovation Index	2013	114 of 142
World Bank GNI per capita	2012	$12,460

2. Conversion and Transfer Policies

Venezuela's foreign-exchange (FX) regime is in flux. Since October 2013 the GBRV has been promulgating new laws and regulations modifying its FX regime. The GBRV has implemented the new rules to varying degrees, creating uncertainty and confusion regarding its FX regime. The GBRV has maintained a strict currency exchange controls since 2003. Venezuelan law now sanctions three FX mechanisms to sell dollars to private-sector firms and individuals (Gazette No. 6.126, 2014). From February 2003 to March 2014 the primary mechanism was the Commission for the Administration of Foreign Exchange (CADIVI)), which sold dollars to the private sector at the official exchange rate. The GBRV has eliminated CADIVI and folded its responsibilities into a new body, the National Center for Foreign Commerce (CENCOEX).

CENCOEX oversees two of the GBRV's three official FX mechanisms. The first mechanism, called CENCOEX (after its parent body), operates much as CADIVI did, selling dollars at the official exchange rate (currently 6.3 bolivars/dollar) for imports of specific goods and services deemed national priorities, including: food, medicine and medical supplies, housing, education, overseas travel, airlines and civil aviation services, information technology (IT) and intellectual property (IPR), capital goods, and international investments. As with CADIVI, firms and individuals soliciting dollars from CENCOEX must register with the body and obtain supporting documentation from various GBRV ministries, e.g., certificates of non-national production of the proposed imports and statements of good standing with the tax authorities. Venezuelan law now provides, however, that CENCOEX dollar sales at the official exchange rate will be limited to the GBRV's highest priorities, including food, medicine, housing, and education. January 2014 FX regulations (Gazette No. 6.122, 2014) provide that

CENCOEX sales to other priority sectors will utilize a weaker exchange rate, derived from the CENCOEX-operated complementary FX mechanism (see next paragraph).

CENCOEX convokes periodic dollar auctions through the second mechanism it oversees—the Complementary System of Foreign Exchange Administration (SICAD I)—for specific priority sectors it identifies on an ad hoc basis (Gazette No. 40.201, 2013). Firms and individuals who wish to place bids for SICAD I dollars must separately register themselves for this system. The GBRV has said it would hold weekly SICAD I auctions for roughly $200 million, but thus far in 2014 the sales have been irregular and 5-10 times oversubscribed. SICAD I has sold dollars for 10-12 bolivars. January 2014 FX regulations state that CENCOEX will sell dollars for certain priority sectors—such as aviation, overseas travel, IT, IPR, capital goods, international investments, and insurance—through CENCOEX's normal procedures, i.e., those like the former CADIVI, but use the prevailing exchange rate from the most recent SICAD I sale, instead of the official exchange rate, which such sectors were previously accorded. More information about SICAD I is available at http://www.bcv.org.ve/c5/sicad/c9/tme01.asp. The GBRV has said CENCOEX will provide the private sector in 2014 a national FX budget of $42.7 billion dollars, with roughly 73 percent sold through CENCOEX proper and 27 percent through SICAD I auctions.

The GBRV has also created a third FX mechanism, the Alternative Foreign Exchange System (SICAD II) (Gazette No. 40.368, 2014). The Venezuelan central bank (BCV) and finance ministry jointly operate SICAD II. PDVSA, its mixed companies with foreign partners, some oil field services contractors, the BCV, and other authorized public- and private-sector firms and individuals can offer for sale dollars or dollar-denominated bonds to Venezuelan firms, individuals, and local subsidiaries of multinational corporations. The regulations provide that SICAD II will operate daily, with no limitations on the dollar volumes to be sold or the exchange rates they might command. The regulations also provide, however, that the BCV can "intervene" in SICAD II to prevent "erratic fluctuations" in the SICAD II exchange rate, raising questions among analysts regarding the mechanism's eventual flexibility. SICAD II has sold dollars for roughly 50 bolivars/dollar since it commenced operations in March 2014. SICAD II participants place offers and bids for FX transactions through Venezuelan banks and brokerages, acting as intermediaries, and the BCV clears the trades and publishes SICAD II's average exchange rate on a daily basis. Participants need to identify themselves and provide account information to their bank or brokerage intermediary, but they need not register with the BCV or the finance ministry. Analysts' forecasts vary, predicting SICAD II might sell $30-60 million daily at 20-60 bolivars/dollar. It remains unclear whether PDVSA and other public-sector dollars sold through SICAD II will represent funds reallocated from, or in addition to, the CENCOEX $42.7 billion national FX budget for 2014. More information about SICAD II is available at http://www.bcv.org.ve/c5/sicad2/sicad2-02.asp.

The GBRV has reduced its overall dollar sales to the private sector since 2012, and ongoing changes to the FX regime have created uncertainty and confusion. GBRV officials have also said publicly that Venezuela's FX mechanisms suffer from corruption. Venezuelan importers routinely do not receive dollars, despite good-faith efforts to acquire them through CENCOEX or SICAD I. Successful applicants under CENCOEX's predecessor, CADIVI, often waited 180-270 days to receive dollars, and some firms continue to wait, despite having had their applications approved. Foreign (including U.S.) investors in Venezuela have also struggled to convert their bolivar earnings into dollars, notwithstanding laws and regulations permitting earnings repatriation. CADIVI virtually ceased selling dollars for earnings repatriation in 2008, and CENCOEX has not honored such requests. Independent analysts have valued at roughly

$25 billion CENCOEX's combined arrears to firms that received authorization to import goods or services on credit, but have not received dollars, and firms that hold un-repatriated bolivar earnings. Details remain vague, but Venezuelan rule changes indicate the GBRV might honor various CENCOEX arrears at the prevailing SICAD I exchange rate (Gazette No. 6.l22, 2014) and other CENCOEX arrears at the SICAD II exchange rate (Gazette No. 40.368, 2014). Several publicly traded U.S. and other multinational firms have announced accounting losses incurred by writing down the dollar value of their trapped bolivar earnings to the SICAD I exchange rate.

There is also a parallel, unofficial market for dollars. Venezuela's 2010 FX regime law criminalized the buying or selling, in Venezuela, of dollars in the parallel market, as well as the publication of a parallel exchange rate. Venezuela's 2014 FX regime law (Gazette No. 6.126, 2014) does not expressly criminalize such conduct. Private websites outside of Venezuela publish the parallel exchange rate. The rate has been fluctuating around 80 bolivars/dollar since January 2014.

The OECD's Financial Action Task Force (FATF) announced in February 2013 that Venezuela was no longer subject to FATF's global anti-money-laundering/combatting terrorist finance (AML/CFT) monitoring process. FATF noted Venezuela would continue to work with the Caribbean FATF regional body to address AML/CFT deficiencies identified in Venezuela's mutual evaluation report.

3. Expropriation and Compensation

The GBRV has expropriated businesses as a pillar of its project of institutionalizing socialism in Venezuela. The affected sectors have included: agribusiness, chemicals, construction, energy and mining, finance, food processing and packaging, information and communication technology, metals manufacturing, ports, real estate, and transportation. The GBRV has cited the following reasons for its nationalizations: abusive charges for services or products, economic sovereignty, excessive profits, food security, monopolistic behavior, public utility, and strategic importance.

The GBRV has maintained that it will compensate investors for expropriations. The process to establish compensation has been slow and opaque, however, leading some companies to seek settlement through international arbitration. The legal framework used to carry out expropriations includes the Law of Expropriations (Gazette No. 37.475, 2002), the Land and Agricultural Development Reform Law (Gazette No. 5.771, 2005), the Urban Land Law (Gazette No. 5.933, 2009), and the Emergency Law of Urban Lands and Housing (Gazette No. 39.599, 2011).

Former President Chavez issued a decree in February 2007 requiring the four strategic associations to convert to joint ventures in which PDVSA would hold a 60 percent stake. The decree established an April 30, 2007, deadline for completing the conversion. ConocoPhillips and ExxonMobil refused to transfer their investment stakes in the three of the four associations in which they had equity, and the GBRV took control of their investments. Both companies filed international arbitration claims against the GBRV. In 2012 each company received a favorable ruling from the International Chamber of Commerce's arbitration tribunal: ConocoPhillips was awarded $66.8 million in September, while ExxonMobil confirmed an award of $907.6 million in January. Both firms still have cases pending with the World Bank's International Centre for the Settlement of Investment Disputes (ICSID). ICSID determined in September 2013 that it had jurisdiction to hear the ConocoPhillips dispute and that the GBRV was liable to the firm for expropriation, having failed to negotiate with ConocoPhillips in good faith. ICSID has reached no judgment regarding damages in that case.

The GBRV has expropriated more than 1,284 private businesses since 2002, according to Venezuelan trade association Conindustria. The GBRV expropriated two snubbing units (oil services equipment) operated by the U.S. firm Superior Energy Services in November 2013, after the firm had ceased operations due to lack of payment for services rendered to PDVSA. In November 2013 the GBRV placed home goods store Daka under indefinite state supervision for alleged violations of consumer rights laws.

Venezuela's 2005 land and agricultural development law calls for the redistribution of "unproductive" land. The GBRV continues to nationalize large tracts of land, including farms, which has hurt agricultural production. The GBRV national land institute (NLI), which oversees expropriated agricultural property, claimed in June 2013 that the GBRV had seized over 8.9 million acres of land since 2002. The GBRV's 2014 budget contains funding to seize an additional 865,000 acres. The NLI claimed in January 2014 to have compensated landowners for roughly 5 million acres of seized land.

4. Dispute Settlement

Venezuela's legal system is available to foreign entities seeking to resolve investment disputes. The legal system, however, is generally slow and inefficient, and critics, such as Human Rights Watch and Amnesty International, have said it suffers from corruption and a lack of independence from the executive branch. Venezuelan lawyers say routine commercial disputes take up to five years to litigate in Venezuelan courts, limiting foreign investors' legal recourse for protecting their interests.

Decree 2095 allows for the arbitration of disputes as "provided by domestic law." The Commercial Arbitration Law (Gazette No. 36.430, 1998) eliminated previous requirement for judicial approval of arbitration; arbitration agreements involving national or international firms can therefore be automatically binding. The law also allows state enterprises to subject themselves to arbitration in contracts with private commercial entities, but requires that they first obtain the approval of the "competent statutory body" as well as the "written authorization" of the responsible minister. As noted above, however, the 2001 hydrocarbons law prohibits PDVSA from entering into agreements providing for international arbitration, although the company appears to have done so in recent years with certain partners.

Former President Chavez announced on January 8, 2012, that the GBRV would not recognize any ICSID decision related to ExxonMobil's claim and stated that his government would withdraw from ICSID. On January 24, 2012, the GBRV withdrew from the ICSID Convention, and Venezuela's exit from ICSID became effective on July 25, 2012. At least 29 ICSID cases against Venezuela are currently pending, making Venezuela the country with the largest number of pending ICSID claims. All cases involving Venezuela pending before ICSID prior to Venezuela's withdrawal remain in process, notwithstanding Venezuela's rejection of the body. Investors cannot, however, as of July 25, 2012, file new ICSID claims against Venezuela.

5. Performance Requirements and Incentives

Foreign companies receive the same tax treatment as domestic companies, with the exception of the non-associated natural gas sector where foreign investors receive preferential tax treatment. Performance requirements related to workforce composition are discussed in the labor section below. PDVSA seeks to maximize local content and hiring in its negotiations with foreign companies: new deals require technology transfers and also social contributions from companies.

The Law for Communal Management of Responsibilities and Services (Gazette No. 39.945, 2012) outlined preferential treatment for companies that cooperate with the "communal state," including: access to the government's distribution and commercialization network; guarantees of technical assistance; access to GBRV's direct purchasing plans (i.e., closed bidding); access to credits and funds for production encouragement; preferential rates and conditions on manufacturing credits; access to technology; tax exemptions; and exemption from the "Law of Public Contracts" (Gazette No. 39.503, 2010)—which, among other things, gives the GBRV the right to expropriate a government contractor's equipment if the firm breaches its agreement.

Public procurement is governed by the Partial Tender Reform Act (Gazette No. 5.556, 2001) and the Law of Public Contracts (Gazette No. 39.181, 2009). The 2001 tender law sought to increase participation by small- and medium-sized enterprises. The 2009 law of public contracts sought to enhance the role of communal councils in public procurement. Public contracts executed pursuant to international agreements are exempt from the requirements of the public contract law. Venezuela is not a signatory to the WTO Agreement on Government Procurement.

6. Right to Private Ownership and Establishment

There are legal limits on foreign ownership in certain sectors, such as banking, insurance, and media, as noted in the 1999 constitution, Decree 2095, and special laws (see Openness To, and Restrictions Upon, Foreign Investment).

7. Protection of Property Rights

Real Property

Foreign investors may pursue property claims through Venezuela's legal system. See also the Expropriation and Compensation section for discussion of expropriation of real property rights and the Dispute Settlement section for a discussion of the legal system.

A November 2013 a presidential decree law (Gazette No. 40.305, 2013) capped commercial rental rates at 250 bolivars/square-meter, which represented 50-75 percent reductions from prior market prices. The transitory law prohibits: commercial rent contracts in any currency other than bolivars; private arbitration for the resolution of conflicts between landlords and tenants; and foreign companies administering commercial rental contracts. The law is transitory and is expected to be abrogated by a permanent law, but it is unclear if such a law will materialize and what changes it would stipulate.

Intellectual Property Rights

Venezuela's intellectual property rights (IPR) regime provides limited protection for foreign investors. The World Economic Forum's World Competitiveness Report 2013-2014 ranked Venezuela last (148 out of 148 countries) in strength of IPR protection.

Article 98 of the 1999 constitution provides for state protection for intellectual property rights "in accordance with the conditions and exception established by law and the international treaties executed and ratified by the Republic in this field." Under the 1999 constitution, intellectual property rights are classified as cultural and educational rights rather than economic rights as they were previously.

Venezuelan legislation distinguishes between industrial property rights and creative works. Industrial property rights include patents and trademarks and fall under Venezuela's 1955 Industrial Property Law (Gazette No. 25.227, 1955). Creative works include literature, graphic arts, audio and visual productions and fall under the August 1993 Copyright Law (Gazette No. 4.638, 1993). In December 2010, the National Assembly passed the Law on the Crime of Smuggling (Gazette No. 6.017, 2010), which aims to combat piracy by criminalizing and punishing acts relating to smuggling goods in or out of the country with higher penalties of 10-14 years. The autonomous intellectual property service (SAPI) is the regulatory authority for patents, trademarks, and copyrights. Venezuela became a member of MERCOSUR in July 2012, but SAPI had not begun implementing, as of April 2014, the trade bloc's protocol on intellectual property, which deals with trademarks and geographic indicators.

Venezuela is a member of the World Intellectual Property Organization (WIPO). It is a signatory to: the Berne Convention for the Protection of Literary and Artistic Works; the Geneva Phonograms Convention; the Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms; the Universal Copyright Convention; the Rome Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organizations; and the Paris Convention for the Protection of Industrial Property. Venezuela has not ratified the WIPO Copyright Treaty or the WIPO Performances and Phonograms Treaty, nor is it a party to the Madrid Protocol on Trademarks or the Patent Law Treaty.

Venezuela was listed on the Priority Watch List in the U.S. Trade Representative's 2013 Special 301 Report. Key concerns cited in the report relate to the deteriorating environment for the protection and enforcement of IPR in Venezuela.

Patents and Trademarks

Venezuela's 1955 industrial property law provides that patents of an invention, improvement, model, or industrial drawing can last five or ten years, depending on the will of the filer. Patents for technologies developed abroad may last five years or until the original foreign patent term expires, whichever is shorter. Patent durations under the 1955 law violate the 20-year patent-term standard provided under the TRIPs agreement. Article 15 of the 1955 industrial property law excludes the following items from patent protection: food and drink, including animal feed; medicine; financial systems and plans; naturally occurring substances or forces; second-uses for known objects, substances or elements; industrial processes; speculative or theoretical inventions; the juxtaposition of elements already in the public domain; published inventions. The 1955 law's exemption of medicines from patent protection contravenes Article 27 of the TRIPs agreement.

In April 2014 SAPI had not issued patents of any kind since 2007 and had not issued a pharmaceutical patent since 2004. Since 2002, Venezuela's food and drug regulatory agency has approved the commercialization of generic drugs without requiring unique test data. These drugs are the bioequivalent of innovative drugs that have already received market approval. This practice thereby denies innovative drug companies protection against unfair use of their test data as required by the TRIPs agreement.

Trademarks must be filed with SAPI and published in one of two government-oriented newspapers. SAPI grants trademarks for 15 years, and they may be renewed for successive 15-year periods. Trademarks are valid from the date SAPI publishes them in its bulletin. The registration process averages 12-14 months, but can take significantly longer if a third party opposes the registration or if the trademark contains geographical indications. SAPI rejects applications for trademarks bearing geographical indications under Article 33 of the 1955 industrial property law. Trademark rights can be enforced through civil, administrative, and criminal actions. In civil actions, a registered trademark owner may be entitled to relief at the discretion of a judge. A trademark may be cancelled at the request of any interested third party if it has not been used in Venezuela for two consecutive years. It is advisable not to have agents or distributors do so because the agent can then claim that he/she is the registered owner of the trademark in question.

Venezuela does not automatically recognize foreign patents and trademarks or logotypes, so foreign investors must register patents and trademarks in as many categories as may be applicable. In 2012, the Supreme Court accepted a 2009 request from the Venezuelan pharmaceutical chamber to decide if ten articles from the 1955 industrial property law were in conflict with existing WTO treaties. As of April 2014, the case was under consideration.

Copyrights

Creative works are protected under the 1993 copyright law, the Berne Convention, and the Universal Copyright Convention. The 1993 copyright law is modern and comprehensive and extends copyright protection to all creative works, including computer software. SAPI has responsibility for registering copyrights and ensuring respect for rights-holders.

Enforcement

Low GBRV motivation, lengthy legal processes, inexperienced judges, and insufficient investigative and prosecutorial resources hamper IPR enforcement in Venezuela. In 2010, the GBRV abolished the Venezuelan copyright and trademark enforcement branch of the federal police. The GBRV dedicates only one prosecutor to IPR enforcement cases. IPR enforcement actions can only take place after a rights holder files a complaint. The complainant is then responsible for any storage costs of illicit goods—costs that may continue for years given the slowness of court proceedings. Prosecutors may only pursue violators operating at a fixed location, effectively shielding street vendors from sanctions.

The December 2010 anti-smuggling law criminalized contraband trade and strengthened customs controls. The law imposed penalties, such as imprisonment for customs officials convicted of smuggling, broadened the definition of contraband, and authorized the GBRV attorney general to carry out investigations of smuggling crimes along with SENIAT, the armed forces, and the national police. Venezuelan IP attorneys say constant rotation of personnel at SENIAT hinders the tax authorities' capacity to enforce IPR-related disputes and investigations. Copyright piracy and trademark counterfeiting remain widespread, including piracy over the internet. Pirated software, music, and movies are readily available throughout the country.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en/.

Resources for Rights Holders:

- Embassy Caracas Economic Section, CaracasEcon@state.gov, 58-0212-975-6411.
- The U.S. Commerce Department has positioned IP attachés in key markets around the world. You can get contact information for the IP attaché who covers Venezuela at: albert.keyack@trade.gov.
- The Venezuela-American Chamber of Commerce: www.VenAmCham.org.
- United States Patent and Trademark Office (USPTO): 1-800-786-9199.
- For information on obtaining and enforcing intellectual property rights and market-specific IP Toolkits visit: www.StopFakes.gov.

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en/.

8. Transparency of the Regulatory System

Venezuela's regulatory system lacks transparency and suffers from corruption. The GBRV's ruling United Socialist Party of Venezuela (PSUV) and its allies control the National Assembly and the judiciary. Proposed laws are generally presented for two rounds of discussion in the National Assembly, but opposition parties are limited in their ability to influence legislative outcomes. Ministries and executive agencies generally develop and promulgate implementing regulations without consulting private-sector representatives of the affected sectors.

The GBRV adopted two laws in the early 1990s to promote free competition and prevent unfair trade practices: a Law to Promote and Protect Free Competition (Gazette No. 34.880, 1992) and an Antidumping Decree (Gazette No. 4.441, 1992). In 1997, the GBRV created an agency, Pro-Competencia, under the Trade Ministry, to implement the 1992 competition law. Pro-Competencia's current stated mission is to democratize economic activity and promote social and economic equality.

9. Efficient Capital Markets and Portfolio Investment

Venezuela's financial services are heavily regulated. In 2010 the GBRV passed laws to reform the financial sector, including: the Organic Law of the National Financial System (Gazette No. 39.447, 2010), which is the regulatory framework for banks, insurance companies, and the capital markets; the Law for Insurance Activity (Gazette No. 5.990, 2010); the Capital Markets Law (Gazette No. 39.489, 2010), a law to create a state-run securities exchange, the Bicentennial Public Securities Exchange (BPVB) (Gazette No. 5.999, 2010); and the Law of Banking Sector Institutions (Gazette No. 6.015, 2010).

The Venezuelan financial services sector accounts for a relatively small but growing share of GDP. According to BCV data, financial services represented 7.5 percent of GDP in the first three quarters of 2013. Much of the growth has been driven by increasing monetary liquidity (M2) resulting from government spending and loose monetary policy. M2 increased roughly 75 percent in 2013 in nominal terms.

Venezuelan capital markets are underdeveloped and thinly traded. The Economist Intelligence Unit estimated that Venezuelan's total stock-market capitalization was 6.6 percent of GDP in 2012. The leading Caracas stock market index, the Caracas Stock

Exchange Index, was up roughly 310 percent in bolivar terms, year on year, in April 2014. Private analysts attribute the rise to government-spending driven increases in M2 and currency controls that trap the liquidity in Venezuela. Activity in Venezuela's stock markets has decreased in recent years due to nationalizations of previously listed firms and the GBRV's seizure of 51 brokerages, since 2010, mostly on charges of illegal trading in a now defunct foreign exchange market.

Venezuela's primary stock market is the Caracas Stock Exchange (BVC). On January 31, 2011, the GBRV launched the BPVB, under the November 2010 securities market law, to sell government and corporate bonds and to compete with the BVC. The BPVB was empowered to trade both bolivar- and dollar-denominated securities, but as of April 2014 it had only traded bolivar-denominated debt. Private brokerages have not been allowed to participate in the BPVB, and as of November 2012 only nine of the BPVB's own employees were licensed to act as brokers. Trading volumes in both the BCV and the BPVB are low and dominated by fixed-income public- and private-sector securities offering negative real interest rates due to an excess of bolivar liquidity trapped in Venezuela by currency controls.

Foreign investors can buy or sell stocks and bonds in Venezuelan capital markets as long as they have registered with the stock market regulator, the Superintendent of Securities (SNV). Foreign investors may also buy shares directly in Venezuelan companies. No prior registration is required before making foreign investments, but subsequent registration with SIEX is required. Venezuela's currency controls and difficult investment climate have discouraged foreign investors from investing in Venezuela's stock markets.

Venezuelan credit markets are also heavily regulated. The BCV and the Superintendent of Banks (SUDEBAN) regulate Venezuela's banking sector. The 2010 law of banking sector institutions describes banking as a public service and banks as public utilities, permitting the GBRV to nationalize financial institutions without National Assembly approval. The public sector's share of total bank assets has grown in recent years, primarily through GBRV nationalizations. According SUDEBAN data, in April 2014 there were 35 banking institutions—25 private and 10 public—down from 59 in November 2009. Public-sector banks held an estimated 33 percent of total banking sector assets in April 2014.

The BCV sets maximum and minimum interest rates banks can charge. Recent limits included 24 percent on commercial and personal loans, 29 percent on credit cards, and 16 percent on car loans. With inflation ranging between 20 and 55 percent since 2009, real interest rates have generally been negative. Banks are required to allocate roughly 59 percent of their portfolio for loans to the housing, agriculture, small business, manufacturing, and tourism sectors, at preferential interest rates that have been negative, in real terms, since 2012. Universal and commercial banks are prohibited from making commercial loans for terms longer than three years. The BCV also regulates interest rates on savings accounts and time deposits. Recent limits have included 16 percent on savings account balances from 0 to 20,000 bolivars, 12.5 percent on savings account balances above 20,000 bolivars, and 14.5 percent on certificates of deposit. Such rates have been negative, in real terms, since 2009, discouraging household saving, while incentivizing domestic consumption and the purchase of dollars in the parallel market as a more stable store of value. Faced with negative real interest rates on bank deposits and bolivar-denominated fixed income-securities, multinationals with bolivar earnings trapped in Venezuela have increasingly invested in commercial real estate in an attempt to mitigate inflation risks.

The majority of banking sector assets is concentrated in the country's five largest banks. Total banking assets, at roughly $260 billion (at the official exchange rate), grew 66 percent from February 2013 to February 2014. Public and private universal and commercial banks control 99 percent of total banking sector assets. The three largest private universal banks are: Banesco, with 14 percent of total sector assets in February 2014; Banco Provincial, with 13 percent; and, Banco Mercantil, with 12 percent. Banesco and Banco Mercantil are Venezuelan-owned, while Banco Provincial is majority-owned by BBVA of Spain. Citibank is the only U.S. universal bank with a presence in Venezuela. The two largest state universal banks are Banco de Venezuela and Banco Bicentenario. The GBRV nationalized Banco de Venezuela from Spain-based Banco Santander in May 2009. Banco de Venezuela is now the country's largest bank, with 16 percent of total sector assets in November 2012. Banco Bicentenario was formed in 2010 through the nationalization of four private banks; it held 11 percent of assets as of November 2012. Universal and commercial banks enjoyed return on equity of roughly 50 percent in the twelve months to February 2014, driven by government-spending fueled M2 growth and currency controls that trap liquidity in Venezuela.

The BCV promulgated regulations in September 2012 (Gazette No. 40.002, 2012) outlining conditions under which businesses and individuals may open dollar-denominated bank accounts at Venezuelan universal and commercial banks. Venezuelan residents may use such accounts for international transfers, overseas debit card transactions, and transactions through Venezuela's alternative FX mechanisms, SICAD I and SICAD II (see Transfer and Conversion Policies). Venezuelans may not withdraw dollars from such accounts in Venezuela, however. They may only withdraw bolivars at the SICAD II rate.

10. Competition from State-Owned Enterprises (SOEs)

Private firms are at a disadvantage when competing with public enterprises, specifically in terms of accessing foreign currency at the official exchange rate. SOEs, in some cases, do not need to go through CENCOEX to request hard currency at the official exchange rate, while private companies struggle with the official mechanisms' limitations and process delays (see section 2 regarding Conversion and Transfer Policies).

In March 2012 the GBRV amended its customs and tax regimes to favor government imports over those of the private sector. The new rules exempt SOE importers from providing certain customs documentation and grant waivers on value-added taxes, customs duties, and fees on a broad range of imported products. The exemptions do not generally apply to the private sector. The GBRV has extended such benefits to certain private-sector firms.

SOEs are dominant in diverse sectors of the Venezuelan economy, including agribusiness, food, hydrocarbons, media, mining, telecommunications, and tourism. The GBRV does not encourage its SOEs to adhere to the OECD Guidelines on Corporate Governance for SOEs. The CEO of PDVSA is also the Minister of Petroleum and Mining and the Vice President for the Economy, and the rest of PDVSA's board members are appointed by the President. GBRV direct appointment of SOE executives is commonplace, such as in the Venezuelan Corporation of Guayana (CVG), a state holding company that includes firms in basic industries such as aluminum, iron ore mining, electricity generation, and steel.

11. Corporate Social Responsibility (CSR)

The GBRV does not encourage foreign and local enterprises to follow generally accepted CSR principles, such as the OECD Guidelines for Multinational Enterprises. Article 135 of the

Venezuelan constitution declares a general duty for all non-state actors to respect laws regarding social responsibility. Various Venezuelan laws set forth requirements intended to advance principles generally included under the rubric of CSR. GBRV regulation and enforcement of these laws is, however, uneven. For example, the Law of Social Services (Gazette No. 38.270, 2005) sets out broad protections for human, civil, economic, cultural, religious, educational, environmental, and other rights for all persons; the Law for Disabled Persons (Gazette No. 38.598, 2007) requires businesses to reserve at least 5 percent of their payroll for the disabled; the Organic Law of Science and Technology (Gazette No. 39.575, 2010) requires businesses to devote between 0.5 percent and 2 percent of revenues to training, research, and development or to contribute to social projects; the Income Tax Law (Gazette No. 38.628, 2007) provides for tax deductions for donations to social responsibility projects; the Law Against Illicit Traffic in Narcotic and Psychotropic Drugs (Gazette No. 38.377, 2005) requires companies with more than 50 employees to contribute to anti-drug social programs; and the Organic Environment Law (Gazette No. 5.833, 2006) requires businesses to develop and implement projects to promote sustainable development and the prudent use of natural resources.

The Venezuelan-American Chamber of Commerce (VenAmCham), for its part, promotes CSR though its Social Alliance program, which organizes CSR-themed events and workshops and sponsors university leaders CSR training with Rotary Club. In 2013, VenAmCham hosted 23 CSR workshops and held its eighth annual symposium on CSR entitled "Educating for Peace and Reconciliation." It also held its ninth annual university competition entitled "Promoting Socially Responsible Leaders," co-hosted with Rotary Club, where 131 students from over 30 schools participated in projects promoting CSR. The Venezuelan Federation of Chambers of Commerce (Fedecamaras) promotes CSR through a standing working group devoted to the dissemination of best practices and an annual award to recognize CSR excellence.

12. Political Violence

Venezuela's political climate is polarized between supporters and opponents of the GBRV and policies of the PSUV. There were, however, no major incidents of political violence that specifically targeted foreign-owned companies or installations through April 2014.

13. Corruption

Transparency International's 2013 Corruption Perceptions Index ranked Venezuela 160 out of 177 countries, the lowest ranked country in Latin America. Venezuela has anti-corruption laws that criminalize accepting bribes. Venezuela singed the UN Convention Against Corruption on December 10, 2003, and ratified it on February 2, 2009. Venezuela has not adopted the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions.

14. Bilateral Investment Agreements

Venezuela has concluded the following bilateral investment agreements as of April 21, 2014:

TABLE 3

Partner	Date of Signature	Date of entry into force

Argentina	16-Nov-93	1-Jul-95
Barbados	15-Jul-94	31-Oct-95
Belarus	6-Dec-07	13-Aug-08
Belgium and Luxembourg	17-Mar-98	29-Apr-04
Brazil	4-Jul-95	---
Canada	1-Jul-96	28-Jan-98
Chile	2-Apr-93	25-May-95
Costa Rica	17-Mar-97	2-May-01
Cuba	11-Dec-96	15-Apr-04
Czech Republic	27-Apr-95	23-Jul-96
Denmark	28-Nov-94	19-Sep-96
Ecuador	18-Nov-93	1-Feb-95
France	2-Jul-01	30-Apr-04
Germany	14-May-96	16-Oct-98
Iran, Islamic Republic	11-Mar-05	7-Jun-06
Italy	14-Feb-01	---
Lithuania	24-Apr-95	1-Aug-96
Netherlands*	22-Oct-91	1-Nov-93
Paraguay	5-Sep-96	14-Nov-97
Peru	12-Jan-96	18-Sep-97
Portugal	17-Jun-94	7-Oct-95
Russian Federation	7-Nov-08	---
Spain	2-Nov-95	10-Sep-97

Sweden	25-Nov-96	5-Jan-98
Switzerland	18-Nov-93	30-Nov-94
United Kingdom	15-Mar-95	1-Aug-96
Uruguay	20-May-97	18-Jan-02
Vietnam	30-Apr-09	---

*Effective November 1, 2008, Venezuela revoked its Bilateral Investment Treaty with the Netherlands. Revocation did not have immediate consequences for investments made prior to the date of revocation. The BIT remains in force for these investments for a period of 15 years.

The United States and Venezuela have a bilateral tax treaty, signed in 1999 and effective since 2000.

15. OPIC and Other Investment Insurance Programs

OPIC programs in Venezuela were suspended in 2005 as a result of Venezuela's decertification for failure to cooperate in suppressing international narcotics trafficking. The certification process is an annual event, and in 2013 President Obama determined that Venezuela “failed demonstrably” to make sufficient or meaningful efforts to adhere to its obligations under international counternarcotics agreements and conventions. However, President Obama also issued a national interests waiver in 2013, determining that support for programs to aid Burma and Venezuela are vital to the national interests of the United States. Under this waiver, Venezuela is eligible for OPIC programs.

The Export-Import Bank of the United States (Ex-Im Bank) has not provided new financing for projects in Venezuela since formally placing Venezuela "off cover" for new lending in April 2003. Both OPIC and the Ex-Im Bank still have significant exposure in Venezuela contracted prior to suspending operations.

16. Labor

Several factors make human resources a challenge for domestic and foreign investors alike: heavily regulated labor markets; talent flight, as skilled Venezuelans have sought employment abroad due to domestic political and economic uncertainty; government programs that support poorer Venezuelans making it more difficult for companies to attract unskilled labor; and declining traditional trade unions, as the GBRV has supported the establishment “parallel” unions aligned to government interests. Roughly 10 percent of the total workforce is unionized. The GBRV extended in December 2013 a firing freeze in place since 2002 that shields most private-sector workers from termination through December 31, 2014.

In April 2012, former President Chavez used his decree law power to pass a long-pending Organic Law of Labor and Workers (Gazette No. 6.076, 2012). The law replaced a 1997 labor law, expanding workers’ rights and benefits. The law prohibits employer discrimination on the basis of race, sex, age, civil status, religion, political beliefs, social class, nationality, sexual orientation, union membership, criminal record, or disability. The law prohibits termination without legal justification and requires employers to consult labor courts regarding the lawfulness of a termination. The law also prohibits employers from hiring third-party contractors to perform ongoing, regular duties as a means of avoiding legal obligations owed to those on one's payroll (but this provision is not scheduled to go into effect until May 2015). The law guarantees a retirement pension for workers in both the formal and informal sectors.

The law reduced the legal work week from 44 to 40 hours and guaranteed workers 15 days of vacation, plus one day for each additional year of employment, up to a total of 45 days per year. The law also introduced new rights for female workers with children, including: 26 weeks of paid maternity leave for mothers (six pre- and 20 post-natal); two breaks per day for mothers who are breastfeeding their babies; and access to a lactation room, if they work for an employer with more than 20 employees. The law created guidelines for temporary workers, who can work 10-hours daily with a labor inspector's permission; shift workers may not work more than 42 hours per week, on average, over any eight-week period. The GBRV promulgated regulations implementing the new labor law in May 2013.

In 2013, Venezuela saw continued protests and work stoppages by unions across the public and private sectors. Union protests in the state of Guayana have stopped operations at the Venezuelan Corporation of Guayana (CVG), the largest state-owned industrial conglomerate in the country. The GBRV has delayed negotiations over collective bargaining agreements for workers in the public sector, leaving more than two million public employees without collective contracts, including teachers and electrical workers. In February 2014, PDVSA and unions representing oil and gas industry employees agreed on a new collective bargaining agreement for the period of 2013-2015.

The GBRV's National Institute of Statistics (INE) estimated the unemployment rate at 7.2 percent in February 2014. The INE estimated 39 percent of the employed worked in the informal sector and 61 percent in the formal sector.

17. Foreign Trade Zones/Free Ports

The Free-Trade Zone Law (Gazette No. 34.772, 1991) provides for free-trade zones and free ports. The three existing free-trade zones, created in subsequent Gazette decrees, are located in: the Paraguana Peninsula, in the state of Falcon, which also has a tourism investment promotion provision; Atuja in the state of Zulia; and the municipalities of Libertador, Campo Elias, Sucre; and Santos Marquina in the state of Merida, but only for cultural, scientific, and technological goods. These zones provide exemptions from most import and export duties and offer foreign-owned firms the same investment opportunities as Venezuelan firms. Venezuela has two free ports that also enjoy exemptions from most tariff duties: Margarita Island (part of Nueva Esparta state) and Santa Elena de Uairen in the state of Bolivar.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

The BCV, Venezuela's primary official source for macroeconomic data, does not publish figures on FDI by country of origin. Such data are only available through U.S. or international sources.

TABLE 4: Key Macroeconomic data, U.S. FDI in host country/economy

	Host Country Statistical source*		USG or international statistical source		USG or international Source of data (Source of Data: BEA; IMF; Eurostat; UNCTAD, Other)
Economic Data	Year	Amount	Year	Amount	
Host Country Gross Domestic Product (GDP) (*Millions U.S. Dollars)*	2012	380,337	2012	380,118	Venezuelan Central Bank (BCV): http://www.bcv.org.ve UNCTAD: http://unctadstat.unctad.org
Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country (*Millions U.S. Dollars, stock positions)*	N/A	N/A	2012	15,034	BCV: http://www.bcv.org.ve BEA: http://www.bea.gov
Host country's FDI in the United States (*Millions U.S. Dollars, stock positions)*	N/A	N/A	2012	4,683	BCV: http://www.bcv.org.ve BEA: http://www.bea.gov
Total inbound stock of FDI as % host GDP (*calculate)*	2012	12.8	2012	12.9	BCV: http://www.bcv.org.ve UNCTAD: http://unctadstat.unctad.org

TABLE 5: Sources and Destination of FDI

Venezuela, 2012

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations (U.S. Dollars, Millions)					
Inward Direct Investment			Outward Direct Investment		
Total Inward	34,817	100%	Total Outward	N/A	N/A

Netherlands	8,423	24%	N/A	N/A	N/A
United States	5,050	15%	N/A	N/A	N/A
France	3,365	10%	N/A	N/A	N/A
Spain	2,428	7%	N/A	N/A	N/A
Switzerland	1,939	6%	N/A	N/A	N/A
"0" reflects amounts rounded to +/- USD 500,000					

Source: http://cdis.imf.org

TABLE 6: Sources of Portfolio Investment

Venezuela, June 2013

Portfolio Investment Assets								
Top Five Partners (U.S. Dollars, Millions)								
Total			Equity Securities			Total Debt Securities		
All Countries	9,217	100%	All Countries	65	100%	All Countries	9,152	100%
United States	5,607	61%	United States	58	89%	United States	5,549	61%
UK	914	10%				UK	914	10%
Germany	650	7%				Germany	650	7%
Switzerland	441	5%				Switzerland	441	5%
Australia	313	3%				Australia	313	3%

Source: http://cpis.imf.org/

Section 5 - Government

Chiefs of State and Cabinet Members:

For the current list of Chief of State and Cabinet Members, please access the following - Central Intelligence Agency online directory of Chiefs of State and Cabinet Members of Foreign Governments

Legal system:

civil law system based on the Spanish civil code

International organization participation:

Caricom (observer), CD, CDB, CELAC, FAO, G-15, G-24, G-77, IADB, IAEA, IBRD, ICAO, ICC (NGOs), ICCt, ICRM, IDA, IFAD, IFC, IFRCS, IHO, ILO, IMF, IMO, IMSO, Interpol, IOC, IOM, IPU, ITSO, ITU, ITUC (NGOs), LAES, LAIA, LAS (observer), Mercosur, MIGA, NAM, OAS, OPANAL, OPCW, OPEC, PCA, Petrocaribe, UN, UNASUR, UNCTAD, UNESCO, UNHCR, UNIDO, Union Latina, UNWTO, UPU, WCO, WFTU (NGOs), WHO, WIPO, WMO, WTO

Section 6 - Tax

Exchange control

Exchange controls are currently in effect. Foreign currency transactions are controlled by the Commission of Administration of Currency (CADIVI). Also all foreign currencies entering the territory were to be mandatory sold to the Central Bank of Venezuela. Financial institutions cannot engage in a foreign exchange business without prior approval of CADIVI and/or Central Bank of Venezuela.

Treaty and non-treaty withholding tax rates

	Dividends	Interest	Royalties
	%	**%**	**%**
Non Treaty Countries	34	4.95	15/34(1)
Treaty Countries:			
Andean Community	0	0	0
Austria	5/15	4.95/10	5
Barbados	5/10	5/15	10
Belarus	5/15	5	5/10
Belgium	5/15	10	5
Brazil (Not effective)	10/15	15	15
Canada	5/15	10	10
China	5/10	5/10	10
Cuba	10/15	10	5
Czech Republic	5/10	10	12
Denmark	5/15	5	10
United Arab Emirates	5/10	10	10
France	5/15	5	5

Germany	5/15	5	5
Indonesia	10/15	10	20
Iran	5/10	5	5
Italy		10	107/10
Korea	5/10	5/10	5/10
Kuwait	5/10	5	20
Netherlands	0/10	5	5/7
Norway	5/10	5/15	12
Portugal	10/15	10	12
Qatar (Not effective)	5/10	5	5
Russia	10/15	5/10	10/15
Spain	10	4.95/10	5
Sweden	5/10	10	7/10
Switzerland	10	5	5
Trinidad and Tobago	5/10	15	10
United Kingdom	10	5	5/7
United States	5/15	4.95/10	5/1
Vietnam	5/10	10	10

(1) On 90% of the gross payment.

Methodology and Sources

Section 1 - General Background Report and Map

(Source: CIA World Factbook)

Section 2 - Anti – Money Laundering / Terrorist Financing

	Lower Risk	**Medium Risk**	**Higher Risk**
FATF List of Countries identified with strategic AML deficiencies	Not Listed	AML Deficient but Committed	High Risk
Compliance with FATF 40 + 9 recommendations	>69% Compliant or Fully Compliant	35 – 69% Compliant or Fully Compliant	<35% Compliant or Fully Compliant
US Dept of State Money Laundering assessment (INCSR)	Monitored	Concern	Primary Concern
INCSR - Weakness in Government Legislation	<2	2-4	5-20
US Sec of State supporter of / Safe Haven for International Terrorism	No	Safe Haven for Terrorism	State Supporter of Terrorism
EU White list equivalent jurisdictions	Yes		No
International Sanctions UN Sanctions / US Sanctions / EU Sanctions	None	Arab League / Other	UN , EU or US
Corruption Index (Transparency International) Control of corruption (WGI) Global Advice Network	>69%	35 – 69%	<35%
World government Indicators (Average)	>69%	35 – 69%	<35%
Failed States Index (Average)	>69%	35 – 69%	<35%
Offshore Finance Centre	No		Yes

Section 3 - Economy

General Information on the current economic climate in the country and information on imports, exports, main industries and trading partners.

(Source: CIA World Factbook)

Section 4 - Foreign Investment

Information on the openness of foreign investment into the country and the foreign investment markets.

(Source: US State Department)

Section 5 - Government

Names of Government Ministers and general information on political matters.

(Source: CIA World Factbook / https://www.cia.gov/library/publications/world-leaders-1/index.html)

Section 6 - Tax

Information on Tax Information Exchange Agreements entered into, Double Tax Agreements and Exchange Controls.

(Sources: OECD Global Forum on Transparency and Exchange of Information for Tax Purposes PKF International)

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