

Energy and Mines

The Ministry of Energy and Petroleum issued Resolution No. 097, whereby it approved the declaration of commerciality of the non-associated natural gas proven reserves of the area called *Cardón Bloque IV, Sub-Bloque Oeste*, with an area of 458.47 Km², located in Venezuelan territorial waters, in the **Gulf of Venezuela, Rafael Urdaneta Project**, which have been certified by the Ministry of the Popular Power for Petroleum and Mining and the volume of which amounts to 9.51 TCF. The Resolution was published in Official Gazette of August 15.

Resolution No. 034 of the Ministry of the Popular Power for Electric Energy was published in Official Gazette of August 27. Said Resolution establishes the rules for the granting of permits for importation and exportation of radioactive sources and equipment that generates ionizing radiations. The rules establish the procedures to be followed by the individuals in order for them to be authorized to perform **activities of importation and/or exportation of radioactive sources and equipment that generates ionizing radiation**. The importation and exportation permits granted by the competent authority **will be valid for** one (1) year and two (2) years, respectively, as from the date of their granting. This Resolution became effective upon its publication in the Official Gazette.

Banking and Finance

Resolution No. 099-12, issued by the Superintendence of the Banking Sector ("SUDEBAN") was published in Official

Gazette of August 13. Said Resolution issues the rules that allow to determine the compliance with the moral and ethical requirements to be met for exercising the banking activity. The purpose of the Resolution is to **fix** the general criteria and **information requirements** allowing to determine the moral and ethical quality **required of the individuals designated to hold the positions** of directors, presidents, vice-presidents, legal representatives, or to hold administrative or managerial positions, among other positions **at bank institutions**. The Resolution establishes that all designations made by the bank institutions **must be notified to SUDEBAN within eight (8) bank business days** following the date of the relevant designation and in accordance with the requirements established in the Resolution. The individuals designated will **only take upon their duties** once they have complied with the legal formalities, after SUDEBAN's pronouncement has been received. The bank institutions **must inform** SUDEBAN if any of the individuals designated is disqualified or prohibited from fulfilling his/her functions according to the Decree-Law and the legislation in force, **within a period of time not exceeding two (2) business days** as from the time when the institution becomes aware of said situation. Resolution No. 340.08, published in Official Gazette of January 30, 2009, was partially **repealed** and Resolution No. 199.11, published in Official Gazette of July 15, 2011, was **repealed**. The Resolution became effective upon its publication in the Official Gazette.

SUDEBAN and the National Bank of Housing and Habitat ("*Banco Nacional de Vivienda y Hábitat*" - BANAVIH) issued a Joint Resolution that establishes the guidelines to be considered

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by the bank institutions for granting mortgage loans for principal family-dwelling units. According to the Resolution, the **bank institutions**, considering debtor's payment capacity and without prejudice to the applicable provisions, **may grant mortgage credits for principal family-dwelling units for up to 100%** of the value of the real property given as guarantee, with resources from the mandatory credit portfolio for housing and resources from the Mandatory Savings Fund for Housing (*Fondo de Ahorro Obligatorio para Vivienda*) and the Voluntary Savings Fund for Housing (*Fondo de Ahorro Voluntario para Vivienda*). The granting of these credits will be aimed at the acquisition, self-construction, enlargement, or improvement of the principal family-dwelling units. The Resolution became effective on August 30, date of its publication in the Official Gazette.

Through Official Notice published in the Official Gazette of August 7, the Venezuelan Central Bank ("VCB") established the interest rates for the calculation of the indemnity for seniority (16.20% and 15.35%); the interest rates for the acquisition of vehicles under the "balloon payment" method (16.20%); the interest rates for transactions with credit cards (29% and 17%); and the interest rates for credit transactions intended for the tourism sector (10.50%).

Exchange Control

A Joint Resolution issued by the Ministries of Planning and Finance, for Trade, of Industries, for Agriculture and Lands, for Health, of Petroleum and Mining, and for Nourishment, that **determines**, in the lists mentioned in the same, the **goods that do not require a Certificate of Insufficiency or a Certificate of No National Production** and the goods that do require said Certificates was published in the Official Gazette of August 7,

2012, for the purposes of the granting of the Authorization for Acquisition of Foreign Currency (*Autorización de Adquisición de Divisas – AAD*) by the Foreign Currency Administration Commission ("CADIVI").

Tax

Administrative Ruling No. 086/2012, issued by the National Institute of Sports, was published in Official Gazette of August 31. Said Ruling **extends until September 30, 2012, the single period of time** for filing the estimated return and making the relevant payment to the National Fund for Development of Sports, Physical Activity, and Physical Education established in Ruling No. 071/2012 published in Official Gazette of July 13, 2012. The extension of the period of time applies to the contributors subject to such obligation, always provided that their fiscal years ended before March 15, 2012, including said date. The Ruling became effective upon its publication in the Official Gazette.

The National Integrated Service of Customs and Tax Administration (SENIAT) issued Administrative Ruling No. 0042, whereby it established the rate applicable to the calculation of late payment interest of the month of July 2012. The Ruling establishes that **the weighted average interest rate for loans** of the six (6) principal commercial and universal banks of the country with the highest volume of deposits, excluding portfolios with prime rates, set by the Venezuelan Central Bank **for July 2012 is 17.30%**. Therefore, said rate is to be increased 1.2 times for the calculation of late payment interest accrued during July 2012. The Ruling was published in the Official Gazette of August 17.

Consumer Protection

The National Superintendence of Costs and Prices (*Superintendencia Nacional de Costos y Precios* – SUNDECOP) issued Administrative Ruling No. 184. According to said Ruling, the persons/entities subject to the application of the Ruling that produce, import, distribute and/or commercialize the 19 products regulated by Administrative Ruling No. 059 (i.e. compotes, mineral water, pasteurized juices, diapers, personal hygiene and house cleaning products), **are bound to provide notice of their costs**. The purpose of the Ruling is to establish the obligation to notify SUNDECOP, through two (2) loading processes, the **accounting information** about the production, importation, distribution, and/or commercialization costs corresponding to the closing of the last fiscal period of year 2011 and the first semester of the fiscal period of year 2012. The notification of the costs must be made by the persons/entities subject to the application of the Ruling, **within a period of thirty (30) calendar days** after the publication of the Ruling in the Official Gazette, which period ended on September 7, 2012. The Ruling became effective on August 8, date of its publication in the Official Gazette.

Administrative Ruling No. 187, issued by the National Superintendence of Costs and Prices (*Superintendencia Nacional de Costos y Precios* - SUNDECOP) was published in the Official Gazette of August 15, 2012. Said Ruling **establishes the obligation to give notice of the costs and prices of medicines**. According to said Ruling, the entities/individuals that produce, import, distribute, and/or commercialize medicines that have been registered with and/or authorized by the Ministry of the Popular Power for Health as Brand-name Drug (*Especialidad*

Farmaceutica – E.F.), Generic Brand-name Drug (*Especialidad Farmaceutica Genérica* – E.F.G), and Biological Product (*Producto Biológico* - P.B.), pursuant to the Law on Medicines, and are actually being commercialized at the time of publication of the Ruling, are under the obligation to notify SUNDECOP through two (2) loading processes (i) the **accounting information** about the production, importation, distribution, and/or commercialization costs corresponding to the closing of the last fiscal period of year 2011 and the first semester of the fiscal period of year 2012, and (ii) the **prices of sales** to their different distribution or commercialization channels in effect on the date of publication of the Ruling. The notification of sales prices and production, importation, distribution and/or commercialization costs of the medicines subject to this regulation must be given by the entities/individuals subject to the application of the Ruling, **from the date of entry into force of the Ruling up to and including Friday, August 31, 2012**. The Ruling became effective upon its publication in the Official Gazette.

The SUNDECOP issued Administrative Ruling No. 189, whereby it **extends for thirty (30) business days, as from August 31, 2012**, the period of time referred to in article 5 of Administrative Ruling No. 187, published in the Official Gazette of August 15, 2012, in order for the entities/individuals subject to the application of the Decree with the Status, Value, and Force of Law of Fair Costs and Prices (the “Decree”) that produce, import, distribute, and/or commercialize the medicines indicated in the same to notify to SUNDECOP the accounting information referred to the production, importation, distribution, and/or commercialization costs corresponding to the closing of the last fiscal period of year 2011 and the first semester of the fiscal period of year

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2012, as well as the prices of sales to their different distribution or commercialization channels in effect on the date of publication of said Administrative Ruling. The Ruling became effective on August 31, date of its publication in the Official Gazette.

Administrative Ruling No. 190 issued by the SUNDECOP was published in the Official Gazette of August 31. It **extends for thirty (30) business days, as from September 6, 2012**, the period of time referred to in article 3 of Administrative Ruling No. 184, published in Official Gazette of August 8, 2012, in order for the entities/individuals subject to the application of the Decree that produce, import, distribute, and/or commercialize any of the 19 products regulated by Administrative Ruling No. 059 (i.e. compotes, mineral water, pasteurized juices, diapers, personal hygiene and house cleaning products), to notify to SUNDECOP the accounting information referred to the production, importation, distribution, and/or commercialization costs corresponding to the closing of the last fiscal period of year 2011 and the first semester of the fiscal period of year 2012. The Ruling became effective upon its publication in the Official Gazette.

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Registration with or Updating of the National Registry of Contractors.

Ruling No. DG/2012/C-0003, issued by the National Contracting Service, was published in Official Gazette of August 28, 2012. The Ruling **establishes the legal, technical, and financial requirements** to be met by the individuals and legal entities interested in **being registered or updating their registration with the National Registry of Contractors (Registro Nacional de Contratistas - "RNC")**.

The Ruling establishes (i) the individuals and legal entities that must be registered; (ii) the common requirements and the legal, technical, and financial documents that must be filed, and (iii) the requirements that are not common and are to be considered by cooperatives, foreign companies domiciled in Venezuela, insurance companies and socio-productive organizations. The Ruling **repeals** Administrative Ruling No. DG/2012/C-0001 dated April 3, 2012. It became effective upon its publication in the Official Gazette.

Rules contained in the Law against Real Estate Fraud

Resolution No. 165, issued by the Ministry of the Popular Power for Housing and Habitat, was published in Official Gazette of August 23. Said Resolution **develops the rules** contained in the Law against Real Estate Fraud and **establishes rules to govern the mandatory mortgage portfolio**. The Resolution establishes that constructors, contractors, producers, housing promoters, and other civil and non-governmental organizations engaged in the construction, sale, and pre-sale of housing units **must be registered with the relevant national registry**, regardless of the price of the housing units and of the financing method used for their execution. The Resolution **establishes obligations** for housing unit constructors, promoters, producers, and civil organizations; **the liability** of the financial entities granting the credits, **as well as the pre-sales and sales prices** to the public of the housing units being constructed or not constructed yet. The Resolution became effective upon its publication in the Official Gazette.

Product Registry Validity

The National Institute of Integral Agricultural Health (Instituto Nacional de Salud Agrícola

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Integral - “INSAI”) issued Administrative Ruling No. 21, which **modifies the periods of validity of the registries of products** of agricultural, livestock, animal, and vegetable use granted by the extinct Autonomous Service of Farming Health (*Servicio Autónomo de Sanidad Agropecuaria* - “SASA”). In addition to the modification of the period of validity of the registries of the products indicated therein, the Ruling establishes that **those interested in regularizing the registry** of products of agricultural and livestock use **must present the documents** lacking in the files subject to the registration process and covered by Administrative Ruling No. 21, **from July 1, 2012 to December 31, 2012**. This Ruling became effective on August 29, date of its publication in the Official Gazette.

The INSAI issued Administrative Ruling No. 26. This Ruling **corrects the determination of the products** for which Administrative Ruling No. 21 of the INSAI, published in Official Gazette of August 29, modified the periods of validity of their registries. This Ruling was published in Official Gazette of August 31.

Civil Liability – Air Transportation

Decision No. 1.126 of the Constitutional Chamber of the Supreme Tribunal of Justice, dated August 3, 2012, analyzed the **unlawful character of overbooking** and established the concurrent legal grounds of the contractual and extracontractual liability of air transportation agents in the cases in which damages have been caused to the passengers for willful misconduct or negligence of the airlines’ employees or representatives. The Chamber established that **overbooking constitutes a malicious behavior of the airline** that implies a deliberate breach of the contract, due to which it has to answer for the immediate and mediate damaging consequences that such behavior may have caused to the passengers. The Chamber establishes that if the directors, subordinates, or employees of the air operators commit malicious or negligent actions that cause any damage to the passenger, the air operators may **not benefit from the limits of liability established in the Law of Civil Aeronautics (“LAC”)** and must repair any damage that they may have caused, assuming not only contractual but also extracontractual liability. This decision is binding on all Courts of the Republic.

Caracas, September 10, 2012.

NOTE: THIS NEWSLETTER SHOULD NOT BE CONSTRUED AS LEGAL ADVICE ON ANY SPECIFIC MATTER AND ITS CONTENT ARE INTENDED AS A MANAGEMENT ALERT AS TO CURRENT DEVELOPMENTS IN VENEZUELA, ANY SPECIFIC LEGAL QUESTIONS REGARDING THE POSSIBLE APPLICATION OF NEW OR PROPOSED LEGISLATION TO PARTICULAR SITUATIONS SHOULD BE ADDRESSED TO TRAVIESO EVANS ARRIA RENGEL & PAZ.