

VENAMCHAM
ECONOMIC COMMITTEE
SEPTEMBER 2005

I. SUMMARY

The Stagnation of the Status Quo

At this time, the administrative departments of many companies must have finished working on and tuning the details of the 2006 budget presentation. As a mandatory requisite, this must be based on a set of economic projections – economic premises – which become prime necessity items when the budgetary task will be submitted to the judgment of the corporate authorities.

Now, we can ask ourselves how the “economic futurologists” see the macro scene in 2006:

Using the last issue of the *Latin Focus Consensus Forecast*¹, it is inferred, without many details, that there is a consensus concerning next year’s economic growth (3 to 5%), a figure very similar to the estimate made for the end of this year. This reflects, in a certain way, a relative mistrust and/or caution about the national economy because, since 2006 is presidential elections year and, traditionally, the public expenditure is huge, no growth larger than last year’s is expected.

Concerning the inflation, there are relative discrepancies between the experts. However, apparently the optimistic scenarios prevail at around 15% and push off the hyperinflation scares that came up at mid-year as a result of the announcement of the National Development Fund (Fonden).

The exchange type, perhaps the variable that generates more uncertainty, will remain the same as in 2005. The good discipline shown by the Currency Administration Commission (CADIVI) and the Central Bank of Venezuela (BCV) (approximately US\$ 60 million daily), as well as the persistence of the high oil prices (\$50-60/barrel for the Venezuelan basket), make us think that, both in terms of official values and of the parallel market, the dollar will not fluctuate substantially during 2006. And even more, many consider feasible Finance Minister Nelson Gerent’s affirmation: “in 2006, there will be no need to devalue (the national currency) in the official market.”

Without a doubt, we are faced with a status quo, since in many cases, when flipping back the page and seeing the projections made last year for 2005, we can notice practically the same numbers that are forecast for next year. The reason? It is not clear. However, it is safe to conclude that our economy has achieved a relative economic normality, which allows for stable exchange types and inflations and for a constant growth rate.

Despite this, the detail consists in determining where we are stuck in the midst of such “normality,” since we seem to have lost hope of reaching a single digit inflation or of aspiring to a higher growth rate, and why not, of dreaming of a real revaluation of the Bolivar and of not being stuck in this unprofitable uncertainty.

Beyond all exposed here, the desired figures are before our eyes, and it is possible to foresee that the hits and misses that we lived during 2005 will be repeated during 2006.

¹ LatinFocus Consensus Forecast is a monthly publication put out by LatinFocus Company, in which the economic projections of the main economic analysis departments or companies from the Latin American continent are tallied.

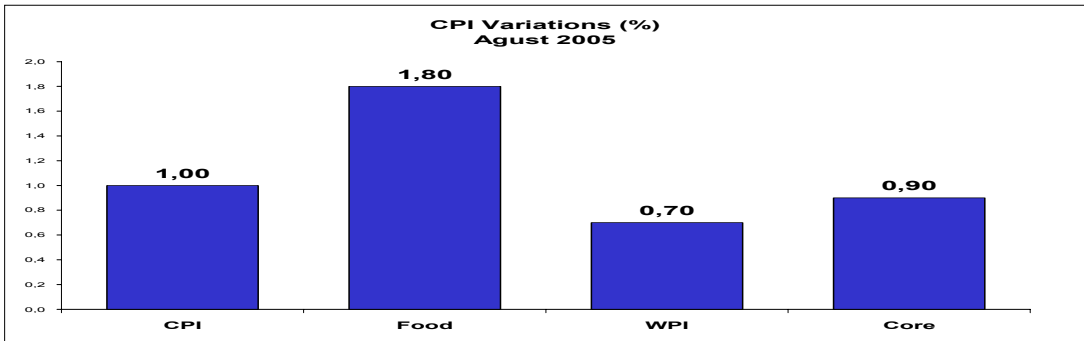
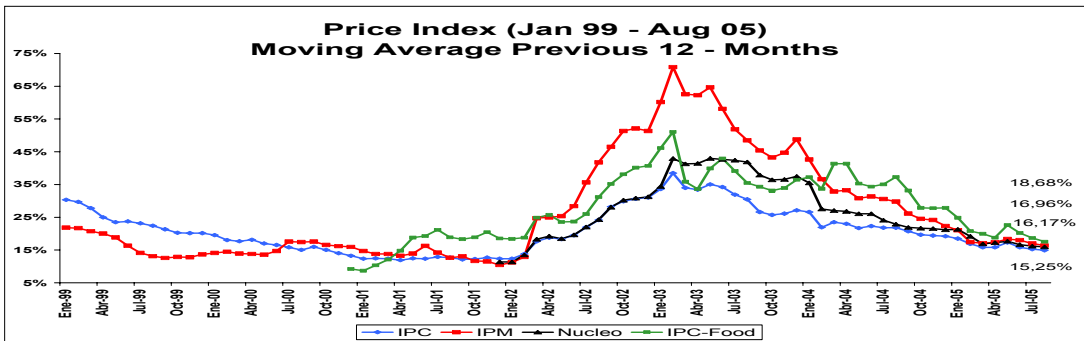
II - MACROECONOMIC INDICATORS

Prices

During the month of August, the Consumer Price Index registered a 1% recovery, which makes for an accumulated inflation of 9.9% and an annual growth of 14.9%.

It is worth analyzing, in annual terms, those categories that show the greatest change: in first place, the Restaurant and Hotel component shows a 25% increase in its price levels, which let's us guess in some way the effect that the high demand has on this category. The Transportation sector follows along the same lines, with an increase close to 21%, propelled mainly by the high increase in the prices of transportation services (29%), use and maintenance of personal transportation equipment (22%) and vehicles (15%). Then, there are the Food and Non-alcoholic Beverage and the Alcoholic Beverage and Tobacco categories, registering an increase of about 19% and 17%, respectively.

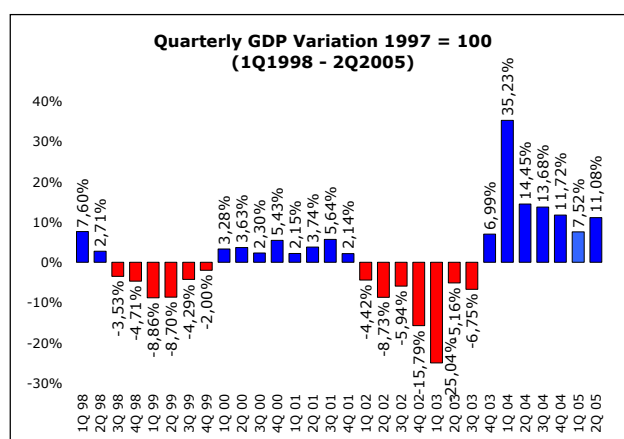
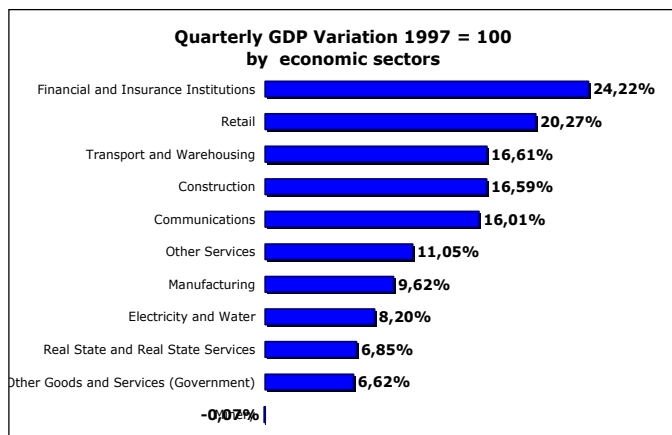
Concerning the Index that records the variations in prices at the wholesale level, there is a 16.4% annual variation, approximately 2 percentage points above the consumer inflation level, as a response to the recovery of the prices of nationally produced goods. In this sense, the increase in the prices of construction supplies continues to stand out, again as an immediate response to the increase in the demand of housing solutions, since the conditions for finding housing are less and less flexible.



Economic Activity

During the second quarter of 2005, the value of the goods produced and sold, Gross Domestic Product (PIB), reached Bs. 11,453,379 million (1997), which generated a quarterly economic growth of 11.08%

S o u r c e : B C V



In terms of semesters, the Venezuelan economy registered a 9.3% recovery.

The non-oil sector reported a growth of 10.4%, within which the growth of the following sectors stands out: financial and insurance institutions (24.2%), sales and repair services (20.3%), transportation and storage (16.6%), construction (16.6%), and communications (16.01%). The favorable behavior of the above-mentioned sectors makes total sense when we consider the chain effects derived from the increase of the public spending and of the sporadic impulse in the construction and sales sectors. The growth in the construction sector is mainly the result of the control imposed on the interest rates and of facilitating the process of obtaining credit, situation that causes an immediate increase in the demand for financial products. Meanwhile, the introduction of MERCAL in the formal commerce, added to the improvement in the nominal levels of the people's income and the reduction in the unemployment rate, among other factors, have sped up the growth rhythm of the sales and repair services sector, logically stimulating the transportation and storage sector.

Analyzing the results that refer to the compound demand, there are other elements that give more sense to the compound growth of the Venezuelan economy. During the first semester, the domestic compound demand saw a 19.3% recovery, determined by the 5.9% increase in the government's total consumer spending, 15.4% in the private total consumer spending, and an impressive 41.3% in the gross formation of fixed assets. The recovery registered by the construction activities, represented by the greatest work demand by public non-oil companies (124.9%) and by the government in general (67.3%), as well as the acquisition of nationally produced and imported machinery and equipment, justify the recuperation observed in the category concerning the gross formation of fixed assets.

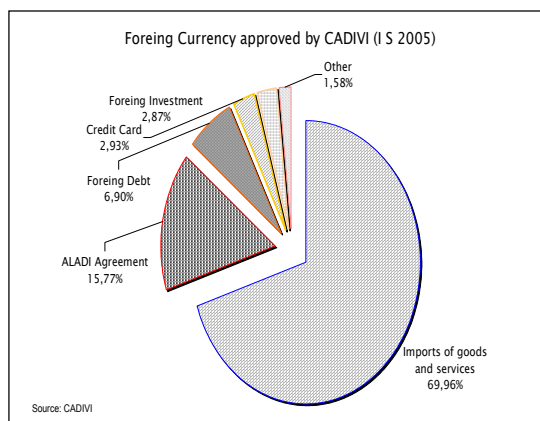
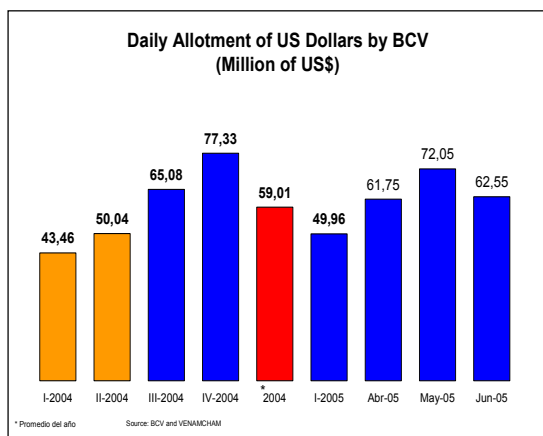
External Sector

According to figures published by the Central Bank of Venezuela (BCV), the balance of payments during the second quarter closed with an amount of US\$ 3,105 million, registering a growth of around 81% in relation to the amount reached at the closing of the first semester. This situation was the result of the surplus in the current account of US\$ 5,826 million, of the deficit in the financial and capital account of US\$ 2,338 million, and of US\$ 383 million recorded in the Errors and Omissions account.

Balance of Payments General Brief (Millions of US\$)						
	2003	2004	II Trim 2004	I Q 2005	II Q 2005	II Q 2005/ II Q 2004
Current Account	11.448	14.575	3.369	4.620	5.826	72,93%
Goods Balance	16.483	22.053	5.628	6.364	7.306	29,82%
Export of goods f.o.b.	27.170	39.371	9.471	11.333	13.154	38,89%
Import of goods f.o.b.	(10.687)	(17.318)	(3.843)	(4.969)	(5.848)	52,17%
Services Balance	(2.644)	(3.626)	(821)	(784)	(1.046)	27,41%
Income Balance	(2.411)	(3.662)	(1.381)	(889)	(415)	-69,95%
Goods, Services and Income Balance	11.428	14.765	3.426	4.691	5.845	70,61%
Current Transfers	20	(190)	(57)	(71)	(19)	-66,67%
Financial and Capital Account	(4.953)	(10.409)	(2.384)	(2.246)	(2.338)	-1,93%
Direct Investment	1.341	1.302	400	56	145	-63,75%
Portfolio Investment	(955)	(2.248)	276	1.381	837	203,26%
Errors and Omissions	(1.052)	(2.268)	(761)	(654)	(383)	-49,67%
Current and Capital Transaccions	5.443	1.898	224	1.720	3.105	1286,16%

Source: BCV

When analyzing the surplus in the current account and comparing it to the trend shown since the last semester of 2003, we find that during the second quarter of 2005 US\$ 11,251 million entered the country as a result of the oil exports, which represents an increase of 30.4% compared with the same period last year. Non-oil export grew by about 24% in relation to the second quarter of the last year, amounting to US\$ 1,903 million.



On the other hand, there was an increase of 58.5% in non-oil imports as a result of the sustained fluidity in the currency delivered by the Administrating Commission, who delivered on average, during the first semester, US\$ 57 million daily, an amount superior by 52.3% to that liquidated during the first quarter of 2004.

70% of the total currency amount approved by CADIVI during the first semester was destined to satisfy the public and private companies' needs of importing goods and services, 16% was directed to imports done through the ALADI Agreement, 7% to the payment of the foreign debt, while the remaining percentage was distributed among credit cards, foreign investment, international checkers, insurance and underwriting, remittances to family members, pensioners and retirees, and cash.

It is worth mentioning that, during the analyzed period, there was a faster approval time rate of currency destined to the payment of the foreign debt, which corresponds to the growing needs shown by private companies, which need to face up to previously acquired obligations with banks and international corporations.

Concerning the capital and financial account of the balance of payments, this showed a deficit of US\$ 2,338 million. It needs to be said that, since 1999, this account has maintained almost constant its deficit amount, which proves the movement of capital to the exterior.

II - COMMITTEE REPORTS

(The opinions of the Committees do not necessarily represent the official opinion of VENAMCHAM)

CONSUMER PRODUCTS – NON FOOD

Volume sales for August 05 were 18% above same month last year, consistent with YTD and Last Six months, both 19% above Last Year.

Value sales for August 05 was 35% above same month last year while YTD is 31% ahead Last Year and Last Six Month 38% ahead.

Areas of Concern

- Official intention to review retail controlled prices by adding some new items to the existing list.
- Although not immediately, some concerns were manifested by some members related to devaluation impact in middle term (end of 2006?), based on current official spending trend.
- "Ley de Contenidos" worries several members since "Reglamento Tecnico" has not been issued; even worse, a probable inclusion of Cable Network will make things more difficult to advertisers.

CONSUMER PRODUCTS – FOOD

This month, the processed foods committee's major concern was obtaining information on how to implement, in its companies, the necessary changes to comply with the requirements of the recently approved Constitutional Law on Accident Prevention, Work Conditions and Environment (LOPCYMAT), since it is considered to be a law with many costly sanctions for companies.

The committee has made the following recommendations:

- Diagnostic of the situations in which work accidents happen in companies: Present history and causes.
- Auditing occupational hazards by work place, delivering risk notifications to each employee and worker.
- Redefining the company's budgetary structure on matters of health, safety and recreation.
- Designing and implementing a medical exam program.
- Providing instrumentation and support to the Labor Health and Safety Committees.
- Writing and delivering to IMPASEL the program on health and safety in the workplace.

Note, see more in Corporate Finance

AUTOMOTIVE

Venezuela Mobil Program is pending due to the following reasons: implementation of electronic records and providence for the dealers to sell without VAT, which should be done by the tax office (SENIAT).

CORPORATE FINANCE

There is notable interest in the implications of the Constitutional Law on Accident Prevention, Work Conditions and Environment (LOPCYMAT).

Here are some of the committee's recommendations:

- Companies need to do an internal audit to ensure that the law is strictly followed; the idea is to determine the status of health and safety in the workplace.
- Once this step is completed, it is suggested to take the appropriate corrective measures and to cover all the requirements of the law (committees, programs, services, involvement of the workers).
- Guaranteeing the worker the full enjoyment of his vacation.
- Special attention needs to be given to overtime, night hours, and free days. Non-compliance with the dispositions concerning these issues implies sanctions per each worker.

- When processing a workplace accident or occupational illness, closing it by means of work transaction before the competent authorities once the work relationship is terminated.
- Remunerating the management on the basis of the index of occupational hazards.
- Contracting persons specialized in health and safety in the workplace, as required, according to the size of the operation.

Note: See more in Legal

CAPITAL MARKETS

Milton Guzman, Banco de Venezuela's Director of Research, made a presentation to the Committee regarding the evolution of the Venezuelan economy and its implications for the local Capital Markets over the next two years. Outcome of the presentation: economic growth to continue, 5,6% for 2006, continuation of high oil prices reduces pressure for further devaluations of the official rate, inflation to continue around 18% in 2006 when economic adjustment becomes necessary (maybe after 2007) its effects might not be as dramatic as those of previous adjustments.

Regarding the market activity:

- The CANTV dollar dropped to levels of 2,530 Bs./\$ as a result normal flows of CADIVI dollars, continuation of historically high oil prices and high levels of Central Bank reserves which were over \$32 billion. Expected approval of the Law of Illegal Foreign Exchange Practices, after the president vetoed certain aspects, is not expected to put additional pressure on the CANTV dollar.
- Finance Minister Merentes announced intent to reduce country's public debt levels to 30% of GDP by 2007 from current levels in excess of 40%, S&P announced an upgrade in Venezuela's long-term debt from B to B+.
- Continued high levels of liquidity as a result of exchange controls and increased public sector spending have pushed interest rates towards low levels. Treasury bill auctions resulted in low 9.40% rates. Bank lending rates increased slightly, the average for the six largest banks is currently around 15.82% slightly up from 15.25%. Rates on bank loans are currently similar to inflation rates.
- On Monday the 5th, the Caracas Stock Exchange Index closed at 20,669, significantly below yearend levels (29,952). The monthly volume of shares traded in the exchange continues at low levels. Seven stocks represent over 90% of trading activity. The market continues at depressed levels.

FOREING TRADE

- There was a meeting with the legal consultant and the director of Plant Health of the Autonomous Service on Agricultural Health (SASA), assigned to the Ministry of Agriculture and Lands (MAT). They gave a

report on the recently approved Decision on wood packing, emphasizing that in Venezuela only the thermal treatment will be used, as a result of signing the agreement to protect the ozone layer by not using the ethylic bromide (Decree No. 3.228 of Nov. 8, 2004), which is one of the methods used for treating wood.

- They also reported on what this organism has done to date, explaining the existent legal instruments, their objective, regulation requirements, the Ministerial Decision No. 098 of Mar. 15, 2005, the content of the treatment certificates, sanctions, marking of the wood (IPPC code), the duties of the SASA inspectors and the necessity of respecting the norms.
- Venezuela is trying, along with other countries and organizations like MERCOSUR and the Andean Community, to apply an extension till the end of the year to abide by these global regulations concerning wood packing. The authorities are asking for the support that private companies can offer to MAT-SASA so that it can avoid violating the international regulations and be alert and proactive to confront problems through bilateral agreements. Currently, the country does have the infrastructure for drying and treating the wood (Bolívar, Carabobo States and the Capital Region).

- In a meeting with the Users Committee from Vargas State, was mentioned, among other things, the problem posed by the processing of the air cargo, whose processing time is longer than that of the maritime one, and delays in SIDUNEA's processes (60% in red). Concerning this last problem, there was a proposal to write and send a communiqué to the Superintendent of SENIAT to ask for the intervention of this entity to solve the problem.
- In Puerto Cabello the capacity and congestion problem is worsening, and will only continue to worsen if no measures are taken, with the imports foreseen for the end of the year.
- The lack of garbage and/or waste products collection in the Port of La Guaira has caused the proliferation of rats, affecting the storage facilities' agreements with the food industry, which have convened to refuse the use of this port because of sanitary reasons. The director of SASA's Plant Health division mentioned that, following the Vargas landslide, they fumigated with a chemical product made with salmonella, fact that caused secondary effects in the population, reason for which there are currently studies being done on what measures to take.
- The La Guaira port authority notified of a 306% increase in the rental rates, which will cause an increase in the taxes for the use of the Port.
- There is great preoccupation concerning the inspection of SENIAT, CADIVI and SASA of the problems and delays that the deregulation of merchandise could generate.

ENERGY

National and Energy Convergence Sector Outlook:

- The Division of Tax Education and Assistance to the Taxpayer of Domestic Taxes of SENIAT's Capital Region reported the representatives of the service stations that supply fuel throughout the country that they need to issue receipts to the users.
- Among the reasons for which the Executive vetoed the Law on Illegal Currency Exchange presented by the National Assembly is that the law needs to specify that these entities are exempt from declaring the currency amounts received from exports: the Republic (only when operating through its organisms), Petroléos de Venezuela, and the companies that carry out any of the activities that the Constitutional Hydrocarbon Law refers to.
- Intevop will begin the execution of the second phase of the Baghewala Project (India), which consists of the drilling of two pilot oil wells in the Rajasthan region and includes the design of underground and surface production equipment, where after a production evaluation period, a definite exploitation plan will be implemented.
- The Energy and Oil Minister, Rafael Ramírez, informed that beginning this month, the strategic associations on the Orinoco Strip will start to pay 30% in royalties for the excessive production amounts. With this measure, oil companies will also have to cancel the additional production volumes that are retroactive since 2001.
- 8 operators accept the conditions for their transformation into mixed companies in 13 Operations Agreements. These agreements were signed by these companies: Repsol (España), CNPC (China), Harvest Vinccler (EEUU), Hocol, and the Venezuelan companies Vinccler Oil & Gas, Inemaka, Suelopetrol and Open.

Oil Sector Outlook:

- The US and the European countries are planning to use 60 million barrels from their reserves within the next 30 days (2 million barrels daily) in order to lessen the effects of Hurricane Katrina and thus to maintain stable the prices of crude oil.
- Venezuela will dispatch between 1.3 and 1.5 million barrels of fuel as part of the help for the losses suffered as a result of the passing of Hurricane Katrina on the coast of the Gulf of Mexico.
- For the first time this year, Venezuela's country risk declined under the basic 400 points, due to the forecast of extraordinary financial revenues determined by the increase in the international prices of crude and the fuel shortage in some regions on the US.
- Petrobras will increase its exploration and production activities in Venezuela as part of its 2006-2010 expansion plan.

- PDVSA's Production and Exploration Vice President, Luis Vierma, made official changes in the Eastern Division: Isaac Doni is replacing Luis Pulido as manager, who is now the National Production Director, while Jesús Figueroa becomes the new Assistant Director. He also announced the creation of a new administrative management under the direction of Francisco Jiménez.

Natural Gas Sector Outlook:

- The obvious delay in the execution plans of the gas sector projects creates an internal deficit of 1,500 million cubic feet per day. As a response, PDVSA plans to invest US\$ 56,000 million in strategic gas projects. During the second semester of 2006, there will be initiated, according to the work schedule, the drilling upstream from the Rio Caribe and Mejillones plains in the Northeast of Venezuela. Downstream, PDVSA will build the gas pipes Mariscal Sucre-Cigma, which will be connected to the Deltana Platform by mid-2009.
- It was heard, extra officially, that only 7 of the 29 companies that participated in the pre-auctioning of the first six blocks of natural gas in the Gulf of Venezuela and Northeast Falcón made solid offers to make part of the development of the outer coast.
- Shell's pullout from the Mariscal Sucre project coincided with the government's announcement that the gas from the Rio Caribe, Mejillones, Patao and Dragón fields, located in the Gulf of Paria and calculated in a total production of 1,200 million cubic feet per day, will go to the internal market, which reduces the possibility to export this product, given that the government hopes to cover the internal gas market before beginning to export.

Energy and Related Sectors Outlook:

- The Minister of Energy and Oil (MEP) authorized Termobarrancas C.A. to generate electric energy in the Central Temprana Sipororo, located in Portuguesa State, and to connect to the National Electricity System (SEN). This company will have an initial generating capacity of 80 MW, and will contain four independent, single cycle turbo generators, and will be governed by the Constitutional Law on Electric Energy (LOSE), until the National Commission on Electric Energy (CNEE) issues the technical, operational and safety regulations that will apply.
- The Inter American Development Bank approved 800 million dollars to set in motion the dam of the Tocoma hydroelectric company.
- The president of the Engineering College of Venezuela and the directors of this organism warned about the risks of entering in crisis in the case of a power rationing situation, with the subsequent damages to the equipment and installations in industry and commerce, as well as in mass public transportation system, if the requirements of investment in the interconnected electric system are not attended urgently.

ENGINEERING AND CONSTRUCTION

- PDVSA's public presentation of its Business Plan for the 2005-2012 periods constitutes an event of special importance for the future of engineering and construction companies. In this context, the investments planned for this period in oil, gas and refining represent an average of about US\$ 6,000 million per year, amount that is significantly higher than the average amount of PDVSA's investments in the last few years.
- On the other hand, the sector's biggest worry is the coming into effect of the LOPCYMAT, particularly because of the sanctions that this law establishes since, for example, it considers the number of employees as the multiplying factor for the fines, significantly increasing the amounts when compared with the repealed law.

CHEMICAL AND PETROCHEMICAL

A key concern of the Committee: Illegal currency exchange law.

- Is a law articulated with the new Law of the Central Bank of Venezuela and, in this sense there is reorganization in the monetary policy, as well as the maintenance of the exchange control.
- This law will apply to natural and legal persons who, withdrawing in their own name or in that of administrators, inspection agencies or beneficiaries of exchange operations, could contravene the law, in the agreements on exchange matters signed by the National Executive and the Central Bank of Venezuela or any other regulation of legal consequence applicable in these matters. The personal responsibility of managers, administrators, directors or dependents of a legal person subsists when their actions help prove the breaking of this law.

REAL ESTATE

- The Caracas-La Guaira highway: The National Executive approved the amount of the Bs. 182 billion for the construction of a contingent highway Caracas-La Guaira, the new viaduct and the finishing of the reinforcement works to viaduct number one, according to the announcement made by Infrastructure Minister, Ramón Carrizalez Rengifo.
- New Minister of Housing and Habitat: Engineer Luis Carlos Figueroa, who until now was the president of the Transportation and Highway Administration Institute of Miranda State (Invitrami), was appointed as the new Minister of Housing and Habitat, replacing Julio Montes. Julio Montes' resignation was caused by the public criticisms brought by President Chávez to his administration for not having achieved the goals of delivering housing solutions that the President had announced for 2005. The delay in the construction of housing solutions affects the entire economy given the huge impact that construction has on the GDP and on the companies that serve the construction sector.

- The Venezuelan manufacturing sector slowed down its growth in the second quarter of this year. According to estimates from Conindustria, the growth was of 12.4%, compared with the 25.5% obtained during the same period in 2004. This places the used industrial capacity at 57% for June 30, 2005, with the consequent slump in the marketing of industrial properties that don't serve as distribution centers or import collection.

MEDIA

- Suspension of DEA operations (Drug Enforcement Agency) in Venezuela.
- PDVSA, Chevron, Shell and others. Their present situation regarding tax conflict and their decision about engaging in international arbitration.
- 2005 Venamcham Frank Amador Award for journalism in bilateral commercial relations.
- The members of the Committee greeted the US Ambassador, William Brownfield. They discussed the relations between Venezuela and the US. The ambassador mentioned he will keep working to preserve and improve the relations with the Venezuelan government, and highlighted the common interests between the two nations. He also emphasized the US embassy will continue working with the social initiatives towards the lower classes in the capital and other cities.
- Another issue discussed during the meeting was the Media, and particularly the cases of El Universal and Telesur.
- There were also comments regarding the closing of the DEA office by the Venezuelan government. The ambassador said that there will be new efforts to improve the relations with Venezuela in this regard, and added that the US government wants to assist in this matter.
- Regarding the situation of Chevron and Royal Dutch Shell, the ambassador also recalled the case of the US Company Harvest Natural Resources Inc. based in Houston, Texas, which has announced the intention to engage in international arbitration.
- The Committee also referred to the 2005 Venamcham Frank Amador Award, which seeks to foster relations between the two countries. The ambassador said the initiative is an excellent one, and reaffirmed the embassy's support.

HUMAN RESOURCES

- INPSASEL is still not functioning yet, but it is giving a record to companies that go to register and can't do it, a proof of temporary suspension from the registry.
- They are offering courses and are very strict when it comes to imposing sanctions; their concept comes from a paternal culture.

- Employees have started to complain because they feel that the creation of INPSASEL is pressuring them. Their charging scale is entirely discretionary.
- INPSASEL is going to issue definitive clauses on domestic workers, security guards, concierges, etc. and are getting together to create regulations for the security committees.

- The ETT asked for an audience with the President of the Republic regarding the status they receive after the approval of the LOPCYMAT.
- The LOPCYMAT is being perceived by the HR management sector more like a social security law than a labor law.
- The government is working on a regulations code for the LOPCYMAT, but companies are also interested in norms that regulate some important points, like commuting or that of the ETT situation.

TOURISM

- New way to obtain business visas for the US through the embassy's website. Tourism visas are not part of this service.
- The hotel occupancy levels are above 80%, including weekends, there is a continued presence of foreign investors in hotels.
- Levels of requirement and purchase of tickets and tourism packages in travel agencies are lower than in the past months, there has been a great movement in the sector through CONATUR.
- Preoccupation in the sector because of the application of LOPCYMAT regulations, considering that some of the assigned institutes are not even functioning yet; it is considered appropriate to implement the security and environment practices as soon as possible in companies. It is important, in case of hotels, to closely evaluate its concessionaries since there is a high risk of solidarity when faced with a case that involves one of the concessionary's workers.
- The bill on the regulation project on the application of the 1% of the Tourism tax was introduced and it does not fully address the recommendations made by the private sector. As a consequence, travel agencies are faced with a delicate situation if this situation is not corrected before the regulation's final publication.

ARBITRATION

Agenda: **“The current state of recognition and feasibility of the arbitration clause and decision in Colombia”**

Speaker: **Dr. Eduardo Zuleta.** Amcham Bogotá

- In Colombia, the difference between code and conventions. There is great influence in the Colombian regulations.
- The last constitutional reform of 1991 elevates arbitration to a constitutional level, which constitutes a “crisis of the arbitration system” (Art. 116).
- Those that defend of such constitutional consecration say that it is trying to give arbitration a greater strength.

- In 1998 there was a compiling decree (1818), which is the copy of all the UNCITRAL laws and the Washington Convention on Ciadi, and therefore it reproduces regulations that had been repealed and it omits others that are in effect.
- There is no arbitration system, but rather a set of dispersed regulations and jurisprudence plays a fundamental role.

The recognition and feasibility of the arbitration clause is marked by the legalization of arbitration:

- It is supposed that the arbiters are invested with the jurisdiction of both parties. Also, there are those who say that they are judges since they have the same responsibility and disciplinary processes, but those who say it forget about the contractual component (pact) that ties in with the law.
 - It is the same as a mechanism for decongesting the courts.
 - The autonomy of will of both parties is left aside.
 - The law made clear that it is not possible to freely compromise on the procedural rules.
 - While revising the Statutory Justice Law, the Constitutional Court established that the parties could fill in the holes of the law with their own procedural rules. However, in the Termo Rio Decision, it was established that it is not possible to compromise on the procedure and that the object of the arbitration clause is the object of the procedure.
 - Another consequence of the legalization of arbitration is that in national arbitration there is the law that establishes that the clauses regulating the conflict obstruct the access to justice.
 - Interpretation of the restrictive clauses in favor of arbitration.
 - The following question is posed: if an arbitration court can be informed on a lawsuit involving an illegal contract: the tentative answer is yes, since the parties can bring the case to the arbiters.
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- Law 446 establishes that cases suspected of a compromise can be submitted to arbitration.
- Arbitration has been seen from the judicial point of view and not as the will of both parties to accept or reject it as an exercise of that will. This was influenced by a Colombian law that states that the arbitration court sets its own professional fees and, if it declares itself competent, it has the right to the full amount of the fees, and if it doesn't, it doesn't have the right to anything.

International Arbitration:

- It is an entity apart, where almost anything can be done, the parties can freely compromise and strictly legal rules do not apply. Even the fundamentalists compare it with an amicable settlement.
- 1999 case defending the arbitration clause: appealed in the Constitutional Court, which established that the Colombian party has to respect the Colombian clause, thus assuming competency in Colombia.
- The first thing that needs to be taken into consideration concerning the recognition and feasibility of decisions is the annulment appeal: designating Colombia as the headquarters will bring about the implementation of its regulations.
- There are no proper grounds for international arbitration.
- Supreme Courts are very strict when applying these grounds.
- UNCITRAL case (Ferrovías Vs. Drummond), in which the *lex arbitri* was France and the forum law. The nullity of the Colombian State was raised since the court that has the competency to decide on nullity is the French law.
- The Colombian Supreme Justice Court has not understood the New York Convention and, as a result, there is a mix of the CPC with conventions of this matter.
- The clauses to deny the recognition and feasibility need to be accumulated with the code, which implies that reciprocity needs to be proven in order to present the [exequátur] lawsuit and that the decision is being processed, which attempts against the New York Convention and it inverts the charge of proof, thus making the process much longer.
- There is the risk for foreign companies to submit to arbitration in Colombia (not because of the arbiters, but because of the legislation).
- International arbitration is longer: there is more sustained and reiterated legislation concerning the will of the parties.

LEGAL

Agenda: **“The obligations of the employer derived from LOPCYMAT”**

Speaker: **Dr. Santiago Gimón.** Gimón, Troconis, Romero Abogados

- The law has a larger application area:
 - It applies to all personal services provided where there are employers and employees, in whichever form that might be.
 - It applies to those who work in cooperatives or other associative types of companies.
 - It applies to home workers, domestic and concierge employees.

- There is a better job security protection not just for dependent work, but also through a third party. Example: port workers' cooperatives.
- There are rights and responsibilities both for the employer and for the employees. However, the rights of the employees are also converted into a responsibility for the employer, since this has to have the work for the employee to complete it, under the risk of being punished.
- The employer is the responsibility of the employer.
- There are obligations such as establishing policies, work evaluation and control, general safety and health programs in the workplace, etc., which need to be in writing so that there is a backup when an inspection comes by.
- Constituting a Committee on Safety and Health in the Workplace, together with the Prevention Delegates: this committee existed in the previous law, so we'll have to wait for the law to regulate itself to see how well this existent committee fares.
- Also, the regulations need to fill holes such as no minimum number of workers for which a committee needs to be established.

- Another obligation is to consult with the workers, their organizations and the Committee on Safety and Health in the Workplace on the measures that have to do with changes in the work organization that can affect a group of workers, or important decisions on safety and hygiene in the work environment: the fact that the word “consult” is used confers more room for action than if it said “permission needs to be obtained.”
- Prevention delegates have the right to know any detail about safety and health, however the employer is not sanctioned if he doesn't give it, but he does have to respect the recommendations made by them.
- Workers are allowed to leave their work places during an inspection.
- Every work place needs to be well specified.

- Periodic update of the information and instruction for the workers: there needs to be proof that the documentation was distributed.
- There need to be health exams for the workers and to give a report on the results (the regulations will specify the extent of it).
- Temporary agencies and temp workers need to be informed on the occupational hazards of the work they will be performing and of the necessary prevention measures.
- Contractors are not under the obligation of informing on the risk, but they need to make a revision to adapt their protocols to the company, since there is shared responsibility.
- The shared responsibility extends to contributions too.
- Sanctions:
 - Administrative
 - Compensations established by the Law in case of worker's disability
 - Legal sanctions
- Other: material damage, moral damage.
- Legal problem: extension of the legal responsibility to the employer's representative: Who are the representatives? Adoption of measures can really be recommended to those in charge of representation? In case of a professional accident on the way to work in the house, and the worker has not paid the contributions, the responsibility works like a sort of insurance, since he needs to pay the contributions plus whatever was spent on that worker in Social Security.
- There needs to be a warning on the highest risk that can be suffered.

CENTRAL REGION

Customs

- Rubén Jáuregui, specialist in customs matters, has been named as Director of the Main Maritime Customs of Puerto Cabello (previously Director of the Customs of La Guaira).
- The Director of the Puerto Cabello Customs issued a decision to make Saturday a work day, so the receiving plants need to be prepared to receive and transfer the cargo, and to carry out all the activities related to the operation of nationalization and dispatch of merchandise.

SASA Regulating Program

This is to urgently notify those concerned that, on August 30, 2005, the SASA Regulating Program was published in the Official Bulletin No. 38.261 by the Ministry of Agriculture and Lands, which establishes

December 31, 2005, as the deadline for the mandatory certification for wood packing required by the Autonomous Service on Agricultural Health (SASA).

Port

Although we are still waiting for the results of the Master Plan that will develop Puerto Cabello, it is known that there are private projects very close to being authorized for the execution of placing port cranes that will facilitate the unloading of ships and thus make the cargo transfer service more effective.

Inspection agencies

The Official Bulletin published a repealing Decree concerning the regulations for the cargo inspection agencies. This legal instrument provides legal security by annulling the requirement for prior cargo inspection. Official Bulletin No. 38.262 of August 31, 2005. Decree No. 3853 of August 29, 2005, which repeals the Regulations on the Prior Inspection or Verification of Imports.

Exporters:

Critical situation since they cannot control the situation for the recuperation of the VAT.

- Within the regulations for the recuperation of the VAT, they are trying to impose a series of additional requirements that are not included in this regulations code.
- 35% of the sales of Cindu de Venezuela come from exports and the majority of raw materials are national, which causes great losses in terms of recuperation of the VAT.
- In March of 2005, 14 pilot companies, including Danaven and Ford Motors, initiated the evaluation and testing of the CADIVI system.
- It was suggested to present information for the creation of a database for exporting companies:
 - % of the sales from exports
 - % of the recuperation / total amount to be recovered

Paper manufacturers:

During August, there was an important increase in the paper demand on the Venezuelan market. This was caused mainly by the official start of the 2005 school season for wholesale retailers and distributors. Concerning the price levels, given the high domestic and foreign competition of paper products and the progressive drop in prices that paper has been experiencing at the international level, these prices have decreased by 3% when compared with the same period last year. This price decrease, added to a domestic inflation of 24%, has caused drops of up to 50% in the sector's profits for the first semester of 2005 compared with the same period last year.

Paper imports are still persisting, in spite of the fact that the price difference between imported vs. nationally produced paper is of about 14%. Let's remember that this spread reached 60% about 9 months ago. INVEPAL is continuing its production, manufacturing 56 grms brown and white paper at the Morón plant in Carabobo State, and stapled and sewn notebooks in its Maracay plant, Aragua State. This last offer will be entirely destined to satisfy social plans through the Mercal network managed by the national government. This has caused some fears among retailers, who have decided to postpone purchasing to observe the effect that Mercal could have in their commercial area.

Graphic arts:

The Venezuelan graphic arts sector went through a quiet period in August. The demand of cases for the food sector has increased, which caused a growth in the production and internal demand of cardboard. Cardboard is still being imported and there is a 10% price difference compared with the locally produced one. The proportion of usable material of imported vs. national cardboard opens a little more the price difference, which ensures a good participation of the first one on the market. A German plant in particular has started to offer cardboard at highly competitive prices, which has generated a small price war in the sector with the purpose of ensuring new orders, taking advantage of this price difference by companies that import cardboard.

Environment:

Concerning the consulting services, demand has increased during July and August by approximately 35% compared with the January-June period. The majority of these services are related to technical and legal diagnoses, given the changes in the environmental legislation and that concerning the occupational health and safety.

There has also been an increase in the demand of services related to the implementation of management systems (ISO 14001, ISO 9001, OHSAS 18001, SA-8000). This is because of the pressure from the big companies that are certified so that their providers and contractors become aligned under a regulated management concept.

Alianza Social:

The consulting services on matters of social responsibility have increased, due to the new vision of corporate social investment, which in many cases have been categorized by the government as social benefits, while in other cases they were not considered as initiatives of social responsibility, but rather as social help to specific sectors.

ZULIA REGION

- VENEZUELA STARTS AUCTION OF OFFSHORE OIL AND NATURAL-GAS TRACTS. August 31, 2005 14:48 EDT -- Venezuela, the world's fifth-largest oil exporter, said it kicked off an auction of offshore oil and natural-gas tracts that are being made available to private companies.
- VENEZUELA TO ANNOUNCE WINNERS OF NATURAL GAS BLOCK NEXT WEEK. Venezuela next week will announce companies that have placed winning bids to develop offshore natural gas acreage, the Energy and Petroleum Ministry said on Wednesday. The OPEC nation's government has received offers for six blocks in the Gulf of Venezuela put up for auction in April as part of an effort to increase natural gas production to supply the domestic market.

"The winning companies will be announced next week after the Ministry of Energy and Petroleum finalizes its review of the offers. The final approval will be given at the end of September," the ministry said in a statement.

Venezuela, the world's fifth largest oil exporter, wants to use natural gas discovered in the Gulf of Venezuela to plug a supply deficit in the west.

"The gas produced will be primarily used to satisfy local demand, with the rest for export," the ministry said.

Gas is needed in part for household use and to feed the 940,000 barrel per day (bpd) Amuay-Cardon refining complex and a petrochemical plant.

Major oil firms including U.S. Exxon Mobil, Conoco-Phillips, Chevron-Texaco, French Total, British BP, Anglo-Dutch Royal Dutch/Shell, and Italy's ENI purchased the data packages.

Companies from countries with which Venezuelan President Hugo Chavez has been promoting stronger energy ties also bought packs, including Russia's Lukoil and Gazprom, Brazil's Petrobras and India's state-run Oil and Natural Gas Corp (ONGC).

Analysts say recent moves by the government to increase tax payments made by foreign oil companies and unilateral changes made to their contracts could hurt investor interest in the Gulf of Venezuela plan, which has been named the "Rafael Urdaneta Project".

- SISDEMS PUBLISHES SEVERAL ADS IN LOCAL NEWSPAPERS FOR SEVERAL WORKS.
- PDVSA WILL INVEST US\$56 BILLION TO INCREASE PRODUCTION.
- REPSOL WILL CANCEL THE MMMBs 750 DEBT WITH THE COL (EASTERN LAKE COAST MUNICIPALITIES).

After a meeting with REPSOL YPF representatives, Baral municipal mayor announced that the international oil company will cancel the tributary debt it has with the municipality. He explained that the 750 million Bolívares correspond to the taxes for the last two months on the Mene Grande oil field.

He explained that the trans-national refusal to honor the compromise would have diminished three milliards Bolivars from the municipal's investment plan. "But the major problem would be in the future, because the same situation could occur on other Eastern Lake Coast localities."

- NO MEAT IN MARKETS. SUPERMARKETS DECLARE "EMERGENCY" DUE TO MEAT SHORTAGE.

Four establishments were sanctioned with 72 hours closure for selling livestock meat at prices in excess of Bs. 10.000,00 per kilo.

The Zulia's Supermarkets' Association vice-president informed that the distribution network is registering actually an alarming shortage of meat products, caused by the State price control.

"The Zulia's supermarkets' chain representative warned that until the national Government doesn't evaluate the costs structure from its root and sits to have a dialogue with the affected parties so as to find satisfactory answers for all of them, the meat shortage will persists.

- In Zulia State there have taken place various meetings and forums to discuss and comment the LOPCYMAT (Labor Prevention, Conditions and Environment Organic Law) setting in practice, which has caused a lot of interest among the companies in regards the text and the law application.

- In regards the SISDEM (Employment Democratization System) application, some important meetings have been held between the Venezuelan Petroleum Chamber Zulia Chapter and Western PDVSA Corporate Labor Relations Management to solve, clear up, certain inconveniences that have come up in regards the operators' personnel recruitment.

- There are two quite relevant themes on the considerations with the region's situation Outlook, that is: the famous, or infamous?, LA VUELTA (the latest financial scandal that has involved included supposedly PDVSA), and has caused quite a commotion with the moneys' amounts handled, and the entities supposedly involved, and the local reaction to the considerable amounts of money that are being set in motion by the central government with their famous Missions.

The LA VUELTA case, given its nature of large sums of money requirement, has had a rather limited effect to groups with access to those sums, that is, quite restricted. So that, from the economics' viewpoint, its effect has been localized, nor general. One could say rather, that its impact could be related to the political and social areas. Not that many people have the economic possibilities to venture on high risk speculative investments. Even so, it is estimated that some 700 families have been affected by this scandal, which has ramifications overseas, specifically in Florida, U.S.A.

The Sixth Control Court has ordered the Banks Superintendence to block the personal and companies accounts of those charged with this fraud.

- The other aspect, as the result of the petroleum bonanza, is circulating through out the country, and surely reflects on the region. You can appreciate it in the supermarkets, in the stores, as well in the increase of properties rent as well as an apparent reactivation of the housing construction.