

August 17, 2007

Flash Report

NATIONAL CONSTITUTION Draft Amendments

On the evening of Wednesday, August 14, 2007, the President of the Republic, Hugo Chávez Frías, presented the National Assembly with his draft of the amendments he is suggesting be made to the Constitution of the Bolivarian Republic of Venezuela that was enacted in December 1999.

This draft will go through three readings by the National Assembly and will then be voted on in a People's Referendum. The National Assembly has already begun the first reading and official spokesmen are aiming at Sunday, December 9, 2007 as the date for the Referendum.

This new text provides for fundamental changes of an ideological, political, structural, geometrical, economic and monetary nature, and touches on issues involving employment and the Armed Forces.

Below is a brief summary of the fundamental changes being proposed, especially those having to do with economic, labor and monetary affairs:

1. Economic

On the whole, the new text provided for a socialist economy.

- 1.1 Instead of the principle of freedom to engage in the economic activity of one's choice, the new Constitution requires that the State works on developing an intermediate, diversified and independent economic production model based on humanistic values where the common interest prevails over individual interests.
- 1.2 The ban on monopolies is reinforced.
- 1.3 The ban on large landholdings (*latifundios*) is reinforced
- 1.4 The sectors of the economy reserved for the State are expanded to include basic sectors together with goods and services considered in the public interest and strategic, among others the exploitation of gaseous hydrocarbons.
- 1.5 The Constitution recognizes and guarantees five types of property:

- a) public (government entities)
- b) social (direct and indirect, for the people as a whole and future generations)
- c) collective (social groups or groups of people)
- d) mixed (combinations of public, social, collective and private); and
- e) private (in the case of **goods for use and consumption, and legitimately acquired means of production**)

Notes:

- Private property is restricted to certain types of goods.
- The wording regarding expropriation and/or confiscation of assets remains the same as in the current Constitution.
- In the event of a dispute, public, social or collective interests prevail over private interests.

2. Labor

- 2.1 The Constitution provides that the working day (day shift) is not to exceed six hours per day or 36 hours per week; in the case of the night shift, is to be no more than six hours per day and 34 hours per week.
- 2.2 Employers are under the obligation to plan and organize mechanisms for workers to use their spare time for education; overall training; and human, physical, spiritual, moral, cultural and technical training.
- 2.3 It also calls for the creation of rights for non-dependent workers and protection of the latter by the establishment of a “Social Stability Fund.”

3. Monetary

- 3.1 The Central Bank of Venezuela (BCV) will cease to be autonomous.
- 3.2 The functions of the BCV are to be shared with the National Executive.
- 3.3 The country’s international reserves will be managed by the BCV under the administration and orders of the President of the Republic.
- 3.4 The President of the Republic, in coordination with the BCV, will determine the size of the reserves and the use to be made of surplus reserves.
- 3.5 The National Executive will determine the allocation to be made of surplus reserves for productive investment, development and infrastructure, financing the missions and, in general, for the comprehensive, endogenous, humanist and socialist development of the nation.

Note: On the matter of exchange controls, in his speech the president did mention that they might be eased at some point in time, but that there are no plans to lift them.

4. Political, structural and miscellaneous aspects.

- The president's term in office is lengthened to seven years.
- The President of the Republic may be re-elected for an unlimited number of terms.
- The president's powers are increased and strengthened.
- The president will be allowed to appoint vice-presidents for different geographical areas of the country.
- The new Constitution calls for profound changes in the territorial divisions within the country.
- The political structure of the country will be based on People's Power, in the form of Community Councils (Consejos Comunales).
- A special law is to be passed to create the political-territorial unit of the city of Caracas, to be called the Birthplace of Bolívar and Queen of Guaira Repano.
- The name of the National Armed Force will be changed to Bolivarian Armed Force, which will have five components: The Bolivarian Army, the Bolivarian Navy, the Bolivarian Air Force, the Bolivarian Territorial Guard, and the Bolivarian People's Militia. Its duties will include, inter alia, keeping internal order and playing an active role in plans for the economic, social, scientific and technological development of the nation.

Please do not hesitate to contact us if you have any doubts or questions.

Yours truly,

BENSON, PEREZ MATOS, ANTAKLY & WATTS

Farid Antakly K.