

GLOBALPANDI

Circular for P & I Clubs

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Correspondents for:

North of England P&I Club, The Steamship Mutual P&I Club, The American Club, The London Club, Nordisk Defence Club (Through Sabatino Pizzolante), British Marine Managers, Charterers P&I Club, Through Transport Club (TTC), ITIC, Raets Club and Navigators.

The Organic Law Reserving to the State Assets and Services related to Oil Primary Activities allows the expropriation of vessels at Lake Maracaibo

The Organic Law Reserving to the State Assets and Services related to Oil Primary Activities (Ley Orgánica que Reserva al Estado Bienes y Servicios Conexos a las Actividades Primarias de Hidrocarburos), published in Official Gazette No. 39,173 dated 7th May 2009, is fully enacted.

Through the intended law (Article 1) the activities described there are reserved to the State, and will be executed directly by the Republic, PDVSA or its filial to be designated, or mixed companies under the control de PDVSA.

As per article 2 the assets and services under the scope of the law are:

1. Water, steam and gas injection facilities that enhance reservoir recovery.
2. Gas compression.
3. Assets linked with activities in Lake Maracaibo: Boating for the transport of personnel, divers and maintenance, barges for the transport of supplies, diesel, industrial waters, etc., tugs and barges for the laying of pipes and cables, workshops for maintenance of vessels and dry docks of any nature.

The Ministry of Petroleum will determine, via a resolution, which assets and services of companies or services will fall under the reservation prescribed by the Law.

According to article 3 contracts relating to the assets and services subject to the reservation shall be deemed as administrative law contracts. Such contracts will automatically expire upon the enactment of the resolution that lists the assets and services that fall under the reservation set forth in the Law.

As per article 4, following enactment of this legal instrument, PDVSA will enter into possession of the assets and will take control of the operations referred to. Pursuant to article 5 assets and services connected to primary oil activities are declared as a public utility, while article 6 states that the National Executive through PDVSA could expropriate partially or totally the shares and the property of the companies rendering the services above mentioned, through the Law of Expropriation for Public or Social Utility, subject to the payment of the value in books of the goods, deducted the labor and environmental passives. Loss of profit will not be compensated. Time of possession of the assets will be taken into account to calculate the compensation. Payment may be made in cash or with delivery of governmental debt or bonds. The assets will be transferred on a tax-free basis. Ministry of Petroleum will determine which employees PDVSA or its affiliates will retain as a consequence of the asset transfer, as stated in article 10. Finally, as per article 11 the facts, activities and contracts object of the present law will be governed by the laws of the Bolivarian Republic of Venezuela and the controversies will be dealt with exclusively and in excluding way by the domestic courts.

The Ministry of Petroleum through Resolution No. 051 and Resolution No. 067 published the list numbering 73 companies affected with the new regulations, and consequently PDVSA entered into possession of its assets (personnel and supply boats, tugs, barges, etc) and undertaking the operations.

There is great concern by many private companies that this is a sudden move which has to do with the financial and current position of PDVSA unable to honor its contracts due to the falling down of oil prices. There is also the perception that the move taken by the National Executive in Maracaibo has political motivations aimed to debilitate the private sector there, as a way to cut financial resources that could eventually help the Governor and the Major of the city of Maracaibo, from one of the main opposition party.

Should you need any assistance or further information regarding the topic stated above, please feel free to contact:

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