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Venezuela

Agricultural Situation

Consumer Defense Law

2008

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Report Highlights:

Venezuela's new Consumer Defense Law has important implications for agricultural products traders, processors, and retailers. Post provides an informal summary of the Law, and will continue to monitor its effects.

Includes PSD Changes: No
Includes Trade Matrix: No
Trade Report
Caracas [VE1]
[VE]

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Executive Summary

On July 31st, 2008, the last day that the Enabling Law (a document that gives the Executive significant power to legislate) was in force, a set of 26 laws were enacted by the President. The Law for the Defense of the People in the Access to Goods and Services is one of the most important of these for the agriculture sector.

In summary, the objective of this Law is “the defense, protection and safeguard of individual and collective rights and interests in the access of people to goods and services for the satisfaction of their needs... and to establish penalties, sanctions and compensation for injury; as well as to regulate its application ... with the active participation of communities.”

This new law revokes “the Special Law for Popular Defense against Hoarding, Speculation, and Boycott” and any other behavior affecting the consumption of food and products submitted to price control and their reforms thereafter from May 2004; as well as the “Law of Consumer and User Protection” from May 1995.

Main Innovations

Change of Name for Monitoring Authorities

The former INDECU (Institute for the Defense of Consumer) is now called INDEPABIS (Institute for the Defense of People’s Access to Goods and Services). The new Institute loses its character of an autonomous institute and stays under the Ministry of Popular Power for Light Industries and Commerce.

Subjects of the law

The Law’s application scope goes even further than suppliers and consumers, to include all natural or legal (importers, producers, distributors, traders, wholesalers, warehouses, transporters, etc.) persons that take part in any phase of the production, distribution and consumption chain, thereby making them responsible not only directly but also collectively in case a violation is committed under the Law. This Law will also regulate hoarding, boycott, and speculation that may affect the access to goods and services. This Law obligates service providers to create a Complaint Office and those complaints must be reviewed within a fifteen (15) days maximum period.

First Need Goods and Services

According to article 5 of the Decree for the Defense of the People in the Access to Goods and Services, the Government defines as “first need goods and services” those items considered essential and indispensable for the population, because they support the right of life and the security of the State, and are determined expressively through a Presidential Decree (also see GAIN VE8086)

The Executive is granted the power to expropriate goods of public use and social interest that may be necessary for developing production, manufacture, importation, inventory, transportation, distribution and commercialization of food products, goods and services declared of first need, without a “prior public use” or “social interest” statement from the National Assembly.

Information on Food Products

This law introduces new labeling requirements. The information on the label can no longer be on stickers, but must be stamped, sealed or printed with indelible ink. However the use of the computer technology for labeling is allowed. Suppliers continue having the obligation to inform the purchaser about the characteristic of the goods, but now they must also indicate the percentages of the components and ingredients of the products to the consumers. (For more information see also GAIN reports VE8068 and VE8081)

Popular Participation and Organization

The Communal Councils (Consejos Comunales) have an important role in this Law, because through the Social Audit Committee for Supply (SACS) (Comités de Contraloría Social para el Abastecimiento) and other organizations, they may carry out control, survey, verification, and surveillance of first need goods and service supply. They may also monitor any other goods of collective interest through the whole distribution, production and consumption chain. Wide powers are given to INDEPABIS' officials for imposing preventative measures and for conducting inspections.

Sanctions

One of the main changes of this law is linked to the introduction of jail sentences, the ability to close a business, and the power to restrict merchants to engage in business for a period up to ten years. Previous Laws only allowed for fines to be applied. Monetary fines were increased from an amount of 100 to 5000 TU (tributary units).