USDA Foreign Agricultural Service

GAIN Report

Global Agriculture Information Network

Template Version 2.09

Voluntary Report - Public distribution

Date: 10/30/2008

GAIN Report Number: VE8082

Venezuela

Agricultural Situation

Foreign Exchange Control

2008

Approved by:
Randall Hager
U.S. Embassy

Prepared by:
Luis Mulet

Report Highlights:
The Foreign Exchange Commission (CADIVI) has approved USD 3.743 billion in currency to the food sector in 2008 to October 21, 2008, an increase of 107 percent over the same period in 2007. Since early 2003, when foreign exchange controls were reintroduced in Venezuela, U.S. exporters and their Venezuelan importers have had to deal with their consequences. This report provides an overview of Venezuela's foreign exchange system.

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

Table of Contents

Executive Summary 3
Exchange Control Overview 3
The Process for Venezuelan Importers 4
What the Venezuelan Importer Typically Needs from the U.S. Exporters 4
The Law that Defines the Penalties 5
Regulations and Declarations 5
Exchange Crimes 5
Priority items 5
Table 1 CADIVI Authorizations 6

Executive Summary

This year, the Foreign Exchange Commission (CADIVI) has approved USD 3.743 billion for the food sector by October 21, 2008. This amount represents an increase of 107 percent in relation to the same period in 2007. Food sector imports were mainly in the following commodities: whole powdered milk (USD 268 million); cakes and other residues of soybean oil (USD 126.7 million); yellow corn (USD 74.6 million), and wheat (about USD 100 million). These five commodities covered 75.4 percent of CADIVI's allocations under the "Pago a la Vista" (payment on sight) mechanism, between March and September 2008. For more information on these requirements and payment on sight which reduces the number and extent of the procedures needed to obtain foreign exchange, please see GAIN reports VE8048 and VE8057.

CADIVI has authorized USD 19.2 million in foreign exchange for other dairy products as well. All authorizations for dairy products this year to date have surpassed authorizations for the period January-December 2007, when USD 269.9 million were authorized. Likewise, the meat sector has received allocations for USD 43.2 million under the "Pago a la Vista" mechanism. Beef deboned, fresh or frozen, is the most heavily imported meat product. Other products acquired in international markets are: fertile eggs, soybean oil, palm oil, and milk.

The exchange control requirement is an inconvenience, but over USD 20.6 billion in exports to Venezuela as of October 21, 2008 testifies to the fact that many U.S. exporters have succeeded in building this requirement into their business plans in Venezuela. Arguably, the two major considerations for the U.S. exporter are to factor the delay in receiving payment into the business transaction equation and to be certain that one is working with a Venezuelan importer who can do the CADIVI paperwork properly.

Exchange Control Overview

By re-implementing foreign exchange controls in February 2003, the Venezuelan Government prohibited the free circulation of foreign currency. To administer the controls, the Venezuelan Government created a Foreign Exchange Commission, Comisión de Administración de Divisas, (CADIVI), which functions as the official agency responsible for authorizing the purchase and sale of foreign currency.

Any resident of Venezuela needing foreign currency for either personal or commercial purposes has only two legal options for obtaining it. One can request authorization from CADIVI at the official exchange rate of USD1/Bolivar 2.15 or one can purchase Venezuelan sovereign bonds and shares exchangeable in foreign stock markets. It is illegal to obtain foreign currency in the parallel market, and the "Foreign Exchange Crime Law" of September 2005 clarified some of the penalties for obtaining foreign currency illegally.

The administration of exchange controls has seen various stages since February 2003. CADIVI was an entity that had to be created from scratch in response to new legislation. Without staffing, an information system, or procedures in place – but soon deluged with requests for exchange approvals – CADIVI faced considerable initial organizational challenges, and delays resulted. However, the process now works relatively better, especially for cases involving settlement for imports of food on CADIVI's Priority List.

Getting approval for dollar purchases for repatriation of profits, royalty payments, and payments for some services seem more problematic. In addition, a Venezuelan company must have a current "solvencia laboral" (a certification that the company is fulfilling its social responsibilities) in order to obtain CADIVI approvals.

In general, however, although the settlement process takes longer as a result of the exchange controls, Venezuelan importers of foreign goods have typically found the CADIVI process to have become relatively more predictable, at least for the food sector.

The primary impact on U.S. exporters of the exchange controls is the requirement that Venezuelan importers obtain CADIVI approval in advance for settling an import transaction in dollars.

The burden for obtaining CADIVI approval to settle a dollar denominated account falls on the Venezuelan importer. Only the Venezuelan company can apply for and obtain CADIVI approval. Most experienced Venezuelan importers know the CADIVI system. This being the case, the main issue for a U.S. exporter working with a new Venezuelan importer is to establish that the Venezuelan importer has experience working through the process.

The Process for Venezuelan Importers

The U.S. exporter cannot initiate or manage the CADIVI process. It is only the Venezuelan importer who can apply to CADIVI. But knowing the process puts the exporter in a better position to understand the importer's situation and to negotiate transactions accordingly.

There are two aspects of the process of key importance to the U.S. exporter: 1) the CADIVI process does not allow Venezuelan importers to pay in advance and 2) it takes time to receive CADIVI approval for each individual transaction. Generally, the process is as follows:

<u>Step 1.</u> The importer needs to register the company on CADIVI's web site: After registration, the company will be assigned an ID number that will be used every time the company requests authorization to obtain foreign currency.

<u>Step 2.</u> The importer fills out a form on the CADIVI web site for each import transaction or pro-forma invoice received by the exporter in order to request foreign currency. The importer needs to check, again on CADIVI's web site, the appropriate ruling according to the transaction (e.g. import of goods, royalty payment, etc.) to determine the information it needs to submit to the authorized foreign exchange operator (a local bank). The importer does not deal directly with CADIVI; instead, a foreign exchange operator (generally a local bank) is the importer's liaison to CADIVI.

<u>Step 3.</u> The importer delivers the documentation required. The importer furnishes its local bank (authorized foreign exchange operator) the forms and documentation stipulated in the ruling for that particular type of import transaction.

<u>Step 4.</u> CADIVI issues approval and authorization to liquidate. Once CADIVI receives the files and has reviewed all the information submitted, it will approve or reject the Authorization of Foreign Currency Liquidation (Autorización de Liquidación de Divisas, or ALD). This authorization permits the bank to settle the dollar denominated demand. (The importer is able to monitor the status of requests through CADIVI's web site.)

What the Venezuelan Importer Typically Needs from the U.S. Exporters

Venezuelan firms going through CADIVI usually require the following documents from the U.S. exporter:

- A detailed invoice (specifying merchandise or service provided, providing Harmonized Code of item if known, the quantities involved, and mentioning the form of payment). The importer may request that the invoice be notarized.

- Documentation of freight cost information (only if the U.S. firm is paying for the shipment of the merchandise or has agreed to negotiate transportation costs)
- Documentation of shipment insurance
- Explanation of any commissions or any additional fees over the value of the merchandise at factory point.

Because of the exchange control mechanisms in place, U.S. exporters must work particularly closely with their Venezuelan importers to ensure that documentation is complete and that the terms of payment are clearly specified in all invoices.

The Law that Defines the Penalties

Regulations and Declarations

"Article 4. Individuals or bodies corporate who import or export foreign exchange, from or into the territory of the Bolivarian Republic of Venezuela in an amount in excess of ten thousand dollars of the United States of America (USD 10,000), or the equivalent thereof in another foreign currency, are under the obligation to declare the amount and the nature of the respective operation to the appropriate administrative authority."

Exchange Crimes

"Article 6. Whosoever, acting in violation of the Constitution of the Bolivarian Republic of Venezuela, this law, agreements signed by the Republic, or any other statute governing the foreign administration of foreign exchange on the date on which the crime is committed, whether by means of one or several transactions taking place within the same calendar year, were to purchase, sell, or in any other manner offer, dispose of, transfer, receive, export or import foreign exchange in an amount between ten thousand one dollars (USD 10,001) up to twenty thousand dollars (USD 20,000) of the United States of America, or the equivalent thereof in other foreign currencies, shall be fined the Bolivar equivalent of twice the excess amount of the transaction.

Anyone committing the same crime described above for an amount beginning at twenty thousand one dollars (USD 20,001) of the United States of America, or the equivalent thereof in other foreign currencies, shall be punished with imprisonment for a term of two to six years and fined the Bolivar equivalent of twice the excess amount of the transaction."

Priority items

In foreign exchange control regimes, imports are frequently subject in effect to two types of controls: 1) the types of imports the authorizations can be granted for, and 2) the specific authorization itself to purchase foreign currency.

In the Venezuelan exchange control regime, certain types of imports have been designated "priority items" and consequently deemed eligible for CADIVI applications. Since the original re-imposition of the controls, a number of trade items have been added to the list of imports eligible for foreign exchange, including intangibles such as services. The "Priority Lists" change and are updated very frequently. To view CADIVI's Priority Lists visit http://www.cadivi.gob.ve/normativa/lista.html

The following list provides a breakdown of the types of imports for which CADIVI has granted importers authorizations to purchase foreign currencies.

Table 1 CADIVI Authorizations

USD Dollar Millions
January 1, 2008- October 21, 2008

ECONOMIC SECTOR	CADIVI AUTHORITATION	BCV PAYMENT	(%) CADIVI
Food	3,816.39	3,742.85	17.11%
Health	2,343.69	2,271.30	10.50%
Automotive	3,149.32	3,221.70	14.12%
Commerce	3,452.86	2,835.79	15.48%
Machinery and Equipment	1,501.77	1,347.44	6.73%
Chemical	1,130.98	1,060.09	5.07%
Telecommunications	1,466.77	1,255.68	6.57%
Information Technology (computer)	926.04	797.61	4.15%
Metallurgist	982.29	976.09	4.40%
Rubber and Plastic	502.25	482.95	2.25%
Domestic Appliance	421.64	379.53	1.89%
Services	428.49	366.24	1.92%
Electrical	272.99	239.68	1.22%
Electronic	375.75	333.09	1.68%
Non Metallic Minerals	193.14	182.17	0.87%
Construction	305.87	281.22	1.37%
Textile	391.62	273.06	1.76%
Paper-Carton-Wood	188.20	173.15	0.84%
Graph	179.64	171.44	0.81%
Tobacco – Alcoholic Drinks	20.67	22.82	0.09%
Bookshop and School Supplies	108.70	94.72	0.49%
Science and Technology	43.45	38.32	0.19%
Communications - Press	83.10	82.65	0.37%
Veterinarian	25.65	25.16	0.11%
Total 2008	**22,311.28**	**20,654.75**	**100%**

Source: www.cadivi.gob.ve